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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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VIRGINIA REGISTER OF REGULATIONS

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Symbol Key

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

BOARD FOR ACCOUNTANCY

Title of Regulation: VR 105-01-03. Continuing Professional Education Sponsor Registration Rules and Regulations.

Statutory Authority: §§ 54.1-201(5) and 54.1-2002 C of the Code of Virginia.

Public Hearing Date: July 16, 1991 - 11 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation (i) includes entry requirements for CPE sponsors; (ii) establishes standards for CPE program development; (iii) establishes standards for CPE program presentation; (iv) establishes standards for CPE program measurement; (v) establishes standards for CPE reporting; (vi) establishes fields of studies; (vii) establishes renewal and reinstatement requirements; and (viii) establishes standards of practice.

VR 105-01-03. Continuing Professional Education Sponsor Registration Rules and Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Board" means the Board for Accountancy continued by the provisions of Chapter 20 (§ 54.1-2000 et seq.) of Title 54.1 of the Code of Virginia and established by its predecessor under prior laws.

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Continuing professional education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

"Fields of study" means the primary knowledge and skill areas needed by accounting professionals to perform professional services in all fields of employment.

"Formal program of learning" means a process that is designed and intended primarily as an educational activity and that complies with the applicable standards as defined by § 2.4 A 1 of these regulations.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Informal learning" means a process that is not designed and intended primarily as an educational activity. Informal activities include but are not limited to on-the-job training, reading professional publications, and serving on committees.

"Instructional design" is a plan that specifies the learning objectives of the program; the content of the program; the methods of presentation, such as case studies, lectures, work group, programmed instruction, use of audio or visual aids or group participation; and, if practical, the manner of evaluating whether the learning objectives were achieved. Adequacy of technical knowledge or skill in instructional design may be demonstrated by appropriate experience or education.

"Interactive self-study program" means a program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or administrative systems that provide significant ongoing, interactive feedback to the learner regarding his learning process. Evidence of satisfactory completion of each program segment by the learner is often built into such programs. These programs clearly define lesson objectives and manage the student through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities are used that, based on student response, provide appropriate ongoing feedback to the student regarding his learning progress through the program.

"Knowledge, skills and abilities" means the proficiency areas or human attributes, or both, required for maintaining or increasing professional competence. These proficiencies entail the understanding of technical accounting information, the ability to apply technical information to work situations, and an awareness of the limitations of technical information problem solving.

"Learning objectives" means specifications of what participants are expected to be able to perform as a result

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of completing a CPE program. They also help program developers decide on the appropriate instructional methods and determine how much time to devote to certain subjects in the program.

“Level of knowledge” means the nature and depth of knowledge, skill, and ability in a particular subject. The levels shall be described as:

Basic which covers fundamental principles and skills. This level is for individuals with limited or no exposure to the subject(s).

Intermediate which builds on the level or upon fundamental principles and skills and focuses on their application. This level is for individuals with some exposure to the subject(s).

Advanced which focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. This level is for individuals with significant exposure to the subject(s).

Update which provides a general overview of new developments. It is for individuals with a background in the subject(s) who wish to be kept up to date.

“Noninteractive self-study program” means any self-study program that does not meet the criteria for interactive self-study programs.

“Program developer” means the individual or organization responsible for setting learning objectives and creating program materials to achieve such objectives.

“Self-study program” means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

“Sponsor agreement” means the document supplied by the board and signed by the approved sponsor agreeing to comply with established standards.

“Virginia approved sponsor” means an individual or business approved by the board to offer continuing professional education in accordance with these regulations.

PART II STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION SPONSORS.

§ 2.1. Entry.

Individuals seeking registration as a Virginia approved sponsor shall apply on a form provided by the board and submit an application fee of \$175. All fees are nonrefundable.

A. Each applicant shall agree as a condition of

registration to abide by the provisions set forth:

1. The sponsor shall possess the financial resources, sound administration, competent supervision and an effective and supportive organizational structure.

2. Programs shall contribute to the professional competence of participants. Acceptable subjects include the fields of study identified in § 2.6 of these regulations.

3. CPE credit hours are allowed only for formal programs of learning.

B. Failure of the sponsor to comply with the requirements relating to criteria for continuing education programs and responsibilities of program sponsors may result in the termination by the board of approved sponsor designation.

§ 2.2. Standards for CPE program development.

Each sponsor that submits an application to the board shall accept and abide by these provisions:

1. Program developers shall state learning objectives and specify the level of knowledge of the program.

Learning objectives shall specify what participants will be able to perform upon completing a program. program may have more than one objective, but ea. objective shall be written to be consistent with the program's specified level of knowledge. Levels of knowledge shall be described as basic, intermediate, advanced or updated.

2. Program developers shall state the prerequisites for education, experience, or both for all programs. All programs shall clearly identify prerequisites, if any. Prerequisites shall be written in precise language so that potential participants can readily ascertain whether they qualify for the program or whether the program's specified level of knowledge is appropriate for them.

3. Program developers shall be qualified in the subject matter and be knowledgeable in instructional design.

Qualification in subject matter and a knowledge of instructional design may be obtained through appropriate practical experience or education or both. The level of technical competence and instructional design skills that the developer shall possess will vary depending on certain characteristics of the program, such as the number of times it will be presented, the length of the program, the complexity of the subject matter, and the number of participants.

4. Program materials shall be technically accurate, current, and sufficient to meet the program's learning objectives.

5. Program materials shall be reviewed before the materials are used, by a qualified person or persons other than the person(s) who developed them, in order to assure the program's technical accuracy, currency, and sufficiency to achieve the learning objectives.

a. In order to meet this standard, the program materials must be prepared in advance of presentation. The nature and extent of review will vary depending on characteristics of programs. The level of technical competence and instructional design knowledge of a reviewer shall be at least equal to those of the developer of the program.

b. Program materials shall be updated periodically to ensure compliance with this standard.

§ 2.3. Standards for CPE program presentation.

Each sponsor that submits an application to the board shall accept and abide by these provisions:

1. Program sponsors shall inform participants in advance of learning objectives, prerequisites, level of knowledge of the program, program content, nature and extent of advance preparation, teaching method(s) to be used, recommended CPE credit, and relevant administrative policies.

a. Brochures or other announcements shall disclose all policies and procedures concerning registration, payment of fees, refunds, attendance, and certificates of completion.

b. When CPE programs are offered in conjunction with noneducational activities, or when several CPE programs are offered concurrently, an appropriate schedule of events indicating those components that are recommended for CPE credit shall be made available to participants.

2. Program sponsors shall encourage participation only by individuals with appropriate education, experience, or both.

Sponsors shall comply with the spirit of this standard by encouraging enrollment only be eligible participants, by ensuring timely distribution of materials, and by encouraging completion of any advance preparation by participants.

3. Program sponsors shall select instructors qualified with respect to both program content and teaching methods used.

a. Qualified instructors are those who are capable, through background, training, education, or experience, of communicating effectively and providing an environment conducive to learning. They shall be competent in the subject matter,

skilled in the use of the appropriate teaching method(s), and prepared in advance. Instructors are responsible for informing participants of any changes necessary to make the program current.

b. Sponsors shall evaluate instructors' performance at the conclusion of each program to determine their suitability to continue to serve as instructors.

4. Program sponsors shall ensure that the number of participants and physical facilities are appropriate for the teaching method(s) specified by the developer.

5. Program sponsors shall provide an effective means for evaluating the quality of the program.

a. Evaluations shall be solicited from both participants and instructors. At a minimum, programs shall be evaluated to determine whether:

(1) Learning objectives have been met.

(2) Prerequisites were necessary or desirable.

(3) Program materials contributed to the achievement of the learning objectives.

(4) The program content was timely and relevant.

b. Group program shall be evaluated in addition to determine whether:

(1) The instructor's knowledge and presentation skills were effective.

(2) Facilities were satisfactory.

c. Evaluations may include questionnaires completed after a program, oral feedback from participants, or tests for the effectiveness of a program.

d. Sponsors shall periodically review the evaluation process to ensure its effectiveness.

§ 2.4. Standards for CPE program measurement.

Each sponsor that submits an application to the board shall accept and abide by these provisions:

1. Continuing professional education credit shall be recommended only for formal programs of learning that maintain or increase the professional competence of the individual.

A formal program of learning is a process that is designed and intended primarily as an educational activity. All other competence-building and learning activities are considered to be informal.

2. All programs shall be measured in 50-minute contact hours. The shortest program for CPE credit

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purposes shall consist of one contact hour.

The purpose of this standard is to develop uniformity in the measurement of formal CPE programs. A contact hour is 50 minutes of participation in a group program. Under this standard, credit is granted only for full contact hours. A group program lasting 100 minutes shall count for two contact hours while a program lasting between 50 and 100 minutes would count for one contact hour. For programs in which individual segments are less than 50 minutes, the sum of the segments shall be considered one total program. Five 30-minute presentations shall equal 150 minutes and shall be counted as three contact hours.

Sponsors are encouraged to monitor group programs in order to accurately record the appropriate number of contact hours for participants who arrive late or leave before a program is completed.

3. Self-study programs shall be pre-tested to determine average completion time.

a. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. An interactive self-study program that takes an average of two contact hours to complete shall be recommended for two CPE credit hours. A noninteractive self-study program that takes an average of two contact hours to complete shall be recommended for one CPE credit hour.

b. Developers shall keep appropriate records of how the average completion time was determined.

4. Instructors or discussion leaders shall be given CPE credit for their preparation and presentation time if the programs increase their professional competence and qualify for CPE credit for participants. Credit for instructors or discussion leaders shall be measured in contact hours.

Instructors and discussion leaders shall receive CPE credit for both preparation and presentation. The first time they present a program, they shall receive credit for actual preparation hours up to two times the number of presentation hours. For repeat presentation, instructors shall receive no credit unless they can demonstrate that the program content involved was substantially changed and such change required significant additional study or research.

§ 2.5. Standards for CPE reporting.

Each sponsor that submits an application to the board shall accept and abide by these provisions:

1. The sponsor shall provide to course participants in a group or self-study program upon successful

completion of each course, a certificate of completion, indicating location, date, CPE credit hours, sponsor identification number, and title of course.

2. The sponsor shall maintain for a period of five years records of participation, copy of the program materials, date(s), location, instructor, number of CPE contact hours, summary of program evaluations and evidence of compliance with responsibilities set forth in these standards.

3. Sponsors shall be permitted some latitude in complying with the standards when programs are two hours or less. A coordinated series of courses by the same sponsor shall be treated as one program. As an absolute minimum, all sponsors shall meet the following requirements:

a. An agenda or written outline shall be prepared and distributed.

b. Instructors shall be qualified.

c. Program shall be at the appropriate level for the participants.

d. Sponsors must provide a certificate of completion to participants upon successful completion and such certificate shall include the sponsor identification number, date of course, place, and CPE credit hours received.

e. Courses shall be a minimum of 50 minutes in length.

f. Attendance records shall be maintained for five years.

g. The facilities shall be adequate.

h. Sponsors shall maintain in their files copies of all program materials provided to participants (including completed evaluations) for five years.

§ 2.6. Fields of study.

Each sponsor that submits an application to the board may offer courses for CPE credit in the following subject areas:

1. Accounting and auditing which includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilations, and review.

2. Advisory services which includes all advisory services provided by professional accountants – management, business, personal, and other. Includes also Management Advisory Services and Personal Financial Planning Services. This section also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. The systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organization, as well as business advisory services and personal financial planning.

3. Management which includes the management needs of individuals in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and foreign operations. For licensees in governments, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in federal, state and local governmental entities. In general, the emphasis in this field is on the specific management needs of licensees and not on general management skills.

4. Personal development which includes such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also treated.

5. Specialized knowledge and applications which includes subjects related to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is defined as specialized if it is unusual in its form of organization, economic structure, source(s) of financing, legislation or regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues.

6. Taxation which includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

PART III. RENEWAL.

§ 3.1. Requirement for renewal.

Each sponsor registration shall be renewed biennially as follows:

1. The board will mail a registration renewal application to all sponsors 90 days prior to its expiration date. Completed renewal applications must be submitted 30 days prior to the expiration date of the sponsor's registration. Sponsors shall be required to provide updated information regarding name, address, contact person, location of records, and fields of study in which courses are to be offered.

2. The renewal fee charged to each sponsor shall be determined on the following schedule:

Approved	Expire	Fee
Oct 91	Sep 30, 1992	\$ 85
Nov 91	Dec 31, 1992	\$100
Dec 91	Mar 31, 1993	\$115
Jan 92	Jun 30, 1993	\$130
Feb 92	Sep 30, 1993	\$145
Mar 92	Dec 31, 1993	\$160
Apr 92	Mar 31, 1994	\$175
May 92 and after	Two Years	\$175

a. Beginning May 1, 1992, all new registrations shall expire two years from the last day of the month in which issued.

b. The fee for renewal shall be \$175.

c. All fees are nonrefundable.

PART IV. STANDARDS OF CONDUCT.

§ 4.1. The board reserves the right to initiate an investigation of an approved sponsor based on a complaint or other information.

§ 4.2. Upon a finding of any violation of the board's rules and regulations, the board may assess a fine, deny renewal, suspend or revoke the registration.

Commonwealth of Virginia
 Department of Commerce
 Board for Accountancy

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 Richmond, VA 23230-4917
 (804) 367-8500

Application for Virginia Approved Sponsor of Continuing Professional Education

Fee \$175 - All Fees Are Nonrefundable

1. Sponsor Organization Name _____ (the sponsor)

Address _____

City _____ State _____ Zip _____

Phone _____ FAX _____

2. Individual Completing Application

Title _____ Phone Number _____

Address (if different from above) _____

City _____ State _____ Zip _____

3. Individual Responsible for the Administration of CPE

Length of Service with Sponsor and in Current Position _____

4. Describe the overall qualifications of the individual responsible for the administration of CPE.

5. Type of Organization:

Recognized national or state accounting organization or a local chapter thereof.

A Virginia CPA firm, VA office of a CPA firm, or CPA Professional corporation.

A group of VA CPA firms presenting programs. (Submit an attachment listing firms/names and states where licensed or registered.)

An educational foundation related to a recognized national or state accounting organization.

Other: (please describe)

TYPED ATTACHMENTS MAY BE INCLUDED IF MORE SPACE IS NEEDED

6. Please provide three business references.

(1) Name of Business Contact Person _____

Name of Business _____ Address _____

City, State, Zip _____ Phone _____

(2) Name of Business Contact Person _____

Name of Business _____ Address _____

City, State, Zip _____ Phone _____

(3) Name of Business Contact Person _____

Name of Business _____ Address _____

City, State, Zip _____ Phone _____

7. How long has the organization been sponsoring courses? How many courses has the organization conducted?

8. Check the item(s) below which best describe the nature of the sponsor's role in providing CPE programs.

Develops and administers all programs offered.

Develops programs for administration by other organizations.

Administers programs developed by other organizations.

Other: (briefly describe)

9. Indicate the fields of study in which courses will be offered.

All of the subject areas listed below

Accounting and Auditing Advisory Services Management

Personal Development Taxation Specialized Knowledge and Applications

10. Are you currently registered as an approved provider of continuing professional education with a state board of accountancy?

yes no If yes, list the state board(s) and sponsor registration or identification number(s):

11. Describe the overall size and intended scope of the organization's CPE activities in the following areas:

- A. Projected number of live CPE courses per year: _____
- B. Projected number of CPE hours awarded per year for live courses: _____
- C. Projected number of self-study programs per year: _____
- D. Projected number of CPE hours awarded per year for self-study courses: _____
- E. Describe the facilities typically used for live CPE programs: _____

12. Attach to this application the most recent catalog, advance notice or promotional material of courses or programs. Include all known courses to be presented this year within the designated fields of study. For each course provide the title, number of credit hours, dates offered, delivery mode, content description, location (city), and field of study.

TYPED ATTACHMENTS MAY BE INCLUDED IF MORE SPACE IS NEEDED

13. Describe the overall qualifications of the instructional staff members. Describe the criteria used for the selection of instructors.

14. Describe the guidance provided to instructors in support of their instructional responsibilities.

15. Describe how instructors' performance is monitored and evaluated. Append a sample of documents used.

16. Describe in detail the procedure that is used to determine the amount of credit to award for courses.

17. Describe in detail the procedure that is used to determine the amount of credit to award for self-study courses. Include information regarding how self-study courses are pretested to determine the average completion time and how participants' learning is assessed.

18. Describe how participants' attendance and successful completion of programs are verified. Append a sample of the form used to record attendance and credits awarded.

19. Describe the methods used for maintaining records for the required five years.

20. Describe the procedures used to manage complaints and/or grievances.

21. Describe the sponsor's policy regarding cancellation of programs.

22. Describe the methods used to evaluate the effectiveness of your continuing education activities and their overall quality, and indicate the ways these data are used. Append a sample of the evaluation forms used by participants.

23. Below is a list of attachments the sponsor must include with the completed application and agreement form.

- 1. The most recent catalog or list of courses or programs.
- 2. Sample of form used to monitor and evaluate instructors.
- 3. Sample of form used to record attendance and credits awarded.
- 4. Sample of certificate of completion.
- 5. Sample of evaluation forms completed by participants.

SPONSOR AGREEMENT

24. The sponsor _____ agrees to comply with the requirements of the Rules and Professional Regulations for Continuing Education Sponsors and to cooperate with the Board in monitoring compliance with this Agreement including maintenance of appropriate documentation.

25. The sponsor agrees to maintain the following records for each CPE program:

- a. The date and location of the presentation.
- b. The names of each instructor and his/her qualifications.
- c. A listing of participants and the CPE hours earned for each presentation.
- d. An outline of the presentation.
- e. Evaluation forms or a summary of the evaluations completed by the participants. (If summaries of evaluations are prepared, a sample of actual participant evaluations must also be available for review.)

26. The sponsor agrees upon successful completion of each course to provide participants with a certificate of completion indicating location, date, CPE credits and sponsor identification number.

27. As part of the application and complaint investigation process, the sponsor understands and agrees that the above records will be subject to review by the Board, and agrees to make these records available to the Board or its representative on the date(s) of presentation or during normal office hours at any other time. The sponsor further agrees to respond to any Board inquiry regarding these records.

28. The sponsor agrees that upon acceptance of the Agreement by the Board, to inform course participants of having entered into an agreement with the Board by use of the following language only:

"Name of Sponsor is registered with the Virginia Board for Accountancy as an approved sponsor of continuing professional education. Complaints or comments regarding registered sponsor may be addressed to the Virginia Board for Accountancy, 3600 West Broad Street, Richmond, VA 23230-4917."

The sponsor agrees to use only the above approved language in promotional materials to inform potential participants of its agreement with the Board.

29. The sponsor understands and agrees that if they fail to comply with this agreement, or fail to meet acceptable standards in the conduct of its programs, the Agreement may be terminated by the Board and that notice of such termination may be given to licensees. The sponsor further agrees that upon such termination to cease and desist the use of the language included in paragraph twenty-eight (28) of the Agreement.

In the event a lawsuit is instituted on behalf of the board to obtain compliance of a sponsor whose Agreement has been terminated to cease and desist use of the approved language, the sponsor agrees to pay such sums as the court may adjudge for reasonable attorney fees and to pay all costs and disbursements incurred therein.

_____ hereby agrees with
(Organization Name)
all of the foregoing terms and conditions.

Signature of CEO or authorized individual responsible for administration of CPE _____ Title _____

Name _____ Date _____

* * * * *

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

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

Public Hearing Date: July 16, 1991 - 11 a.m.
(See Calendar of Events section
for additional information)

Summary:

Pursuant to § 54.1-201(5) and in accordance with § 9-6.14:7.1 of the Code of Virginia, the Board for Accountancy proposes to amend its regulations by establishing continuing professional education requirements for qualifying for licensure and license renewal.

The proposed amendments (i) include a requirement of completion of 40 hours of CPE credit to include eight hours in accounting and auditing and eight hours in tax within the preceding 12 months prior to application; (ii) require an annual renewal; (iii) allow for individuals who are licensed in another jurisdiction to apply for licensure in Virginia by submitting 40 hours of CPE acceptable in the jurisdiction issuing the current license; (iv) increase the license renewal fee to cover the cost for administering the CPE program; (v) increase the late penalty fees; (vi) provide the board the authority to deny renewal of a license if the CPE requirement is not complied with; (vii) require effective January 1, 1992, that all licensed CPAs complete 40 hours of CPE credit to include eight hours in accounting and auditing and eight hours tax to have their license renewed on September 30, 1993; (viii) establish acceptable CPE; (ix) establish penalties for late filing of the CPE; (x) establish criteria for the board to waive the CPE requirement and penalties; and (xi) establish acceptable CPE subject areas.

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

**PART I.
GENERAL.**

§ 1.1. Definitions.

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

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

and Schools; and Western Association of Schools and Colleges.

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

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

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

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

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Continuing Professional Education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

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

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Holding out" means any representation that a regulant is a certified public accountant, made in connection with an offer to practice public accounting. Any such representation is presumed to invite the public to rely upon the professional skills implied by the title "certified public accountant" in connection with the services offered to be performed by the regulant. For the purposes of this definition, a representation shall be deemed to include any oral or written communication conveying that the regulant is a certified public accountant, including without limitation the use of titles on letterheads, professional cards, office doors, advertisements and listings; but, it does not include the display of the original (but not a copy) of a currently valid certificate. A person who holds a valid certificate granted to him by the board may refer to himself as a certified public accountant or CPA but is not empowered to practice public accountancy until he obtains a valid license to do so.

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“Individual firm name” means a name different from the name in which the individual’s license is issued.

“Interactive self-study program” means a program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or administrative systems that provide significant ongoing, interactive feedback to the learner regarding his learning process. Evidence of satisfactory completion of each program segment by the learner is often built into such programs. These programs clearly define lesson objectives and manage the student through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities are used that, based on student response, provide appropriate ongoing feedback to the student regarding his learning progress through the program.

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

“License” means a license to practice public accounting issued under the provisions of Chapter 20 (§ 54.1-2000 et seq.) of Title 54.1 of the Code of Virginia.

“Noninteractive self-study program” means any self-study program that does not meet the criteria for interactive self-study programs.

“Performance of accounting services” means the performance of services by a regulant requiring the use of accounting and auditing skills, and includes the issuance of reports or financial statements, the preparation of tax returns, the furnishing of advice on accounting, auditing or tax matters, or the performance of operational or compliance audits.

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

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

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

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

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

“Self-study program” means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

“Virginia approved sponsor” means an individual or business approved by the board to offer continuing professional education in accordance with these regulations.

PART II. ENTRY.

§ 2.1. Qualifications for certification.

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

A. Character.

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

B. Education.

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

a. A baccalaureate or higher degree from a four-year accredited institution. The applicant shall have completed the following courses or their equivalent at an accredited institution:

Courses	Semester Hours
Principles of Accounting (or introductory level Financial Accounting and Managerial Accounting)	6
Financial Accounting/Accounting Theory (above the introductory level)	9
Cost/Managerial Accounting (above the introductory level)	3
Auditing	3
Taxation	3
Business (Commercial) Law (exclusive of Legal Environment of Business)	3

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Computer Information Systems	3	Cost/Managerial Accounting	3
Principles of Economics	3	Auditing	3
Principles of Management	3	Taxation	3
Principles of Marketing	3	Commercial Law (not to exceed six semester hours) ...	3
Business Finance	3	Business Electives	15
Total	42	Total	60

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

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

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

..... Semester Hours	
Principles of Accounting	6
Principles of Economics	3
Principles of Marketing	3
Principles of Management	3
Finance	3
Information Systems	3
Statistics	3
Business Policy	3
Financial Accounting and Accounting Theory	6

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

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

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

3. Education prerequisite to examination. The education requirements shall be met prior to examination. An applicant may, however, be admitted to the May examination if he will have completed the education requirements by the succeeding June 30, and to the November examination if he will have completed the education requirements by the succeeding December 31, and has filed evidence of enrollment in the required courses as specified by the board.

C. Examination.

1. Each applicant for an original CPA certificate in Virginia must pass a basic four-part, written national uniform examination in auditing, business law, theory of accounting, and accounting practice. Applicants who have no unexpired examination credits must sit for all parts of the basic examination. Each part of the basic examination must be passed with a grade of 75. The board may use all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants to assist it in performing its duties.

The fee for examination shall be ~~\$100~~ \$117. The fee for reexamination shall be ~~\$100~~ \$117. The fee for proctoring out-of-state candidates shall be \$75. Fees shall not be prorated and are nonrefundable except in accordance with § 2.1 C 7.

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

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

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

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

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

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

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

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

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

The board may, at its discretion, excuse an applicant for an examination until the next examination for

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

§ 2.2. Original CPA certificate.

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

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

§ 2.3. Certificate by endorsement.

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

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

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

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

a. The applicant has five years of experience in the performance of accounting services within the 10 years prior to application, or

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

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

§ 2.4. License/certificate maintenance.

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

§ 2.5. Licensure.

Each certified public accountant who is engaged in or holding himself out to be engaged in the practice of public accountancy in Virginia must hold a valid license. This provision applies to professional staff who are eligible for licensure as set forth in § 2.7 as well as to sole proprietors, partners and shareholders. Professional staff required to, but who do not, hold a license on the effective date of these regulations shall be deemed to be in compliance hereunder if an application for license is made no later than March 1, 1991, and is subsequently approved by the board.

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

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

§ 2.6. Requirement for licensure; exception.

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

§ 2.7. Experience.

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

1. Completion in accordance with Part V of these regulations 40 credit hours of Continuing Professional Education with a minimum of eight CPE credit hours in accounting and auditing and eight CPE credit hours in taxation within the preceding 12 months prior to application of licensure, and

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

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

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

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

c. Experience in the planning of the program of

audit work including the selection of the procedures to be followed; and

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

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

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

5. Three years of teaching experience in upper level courses in accounting, auditing, and taxation at an accredited institution in conjunction with no less than five months experience with a public accounting firm with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services.

B. Continuing professional education substitution.

Applicants holding a current license to practice public accounting from another jurisdiction shall meet the requirements of § 2.7 A 1 submitting 40 CPE credit hours acceptable in the jurisdiction issuing the current license.

C. Education substituted for experience.

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

§ 2.8. Registration of professional corporations.

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

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

B. All registered professional corporations shall meet the standards set forth in § 54.1-2005 of the Code of Virginia and Part IV of these regulations.

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PART III. RENEWAL/REINSTATEMENT.

§ 3.1. Requirement for renewal.

~~Each license to practice public accounting, CPA certificate maintenance or registration certificate of a professional corporation shall be renewed biennially. Effective September 30, 1992, each license to practice public accounting, CPA certificate maintenance or registration certificate of a professional corporation shall be renewed annually.~~

A. Each license or registration certificate of a professional corporation shall expire on September 30 of each even-numbered year. *Effective September 30, 1992, each license to practice public accounting or registration certificate of a professional corporation shall expire annually on September 30.* Maintenance fees for CPA certificates shall be due on the same date. The board will mail a renewal notice to the regulant at the last known address of record. Failure of the regulant to receive written notice of the expiration does not relieve him of the requirement to renew or pay the required fee.

B. Renewal fees are as follows:

1. The fee for renewal of a CPA license to practice public accounting shall be ~~\$50~~ \$55 .
2. The fee for renewal of the registration certificate of a professional corporation shall be \$50.
3. The CPA certificate maintenance fee shall be \$20.
4. All fees are nonrefundable and shall not be prorated.

C. If the required fee is not received by October 30 of ~~each even-numbered year~~, an additional fee of ~~\$10~~ \$20 for certificate maintenance, ~~\$25~~ \$55 for license renewal and ~~\$25~~ \$50 for professional corporation registration shall be required.

D. Applicants for renewal of the CPA certificate maintenance or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A.

Applicants for renewal of the license to practice public accounting shall meet the requirements of Part V. Failure to comply with Part V will result in the denial of the license renewal.

E. The board, in its discretion, and for just cause, may deny renewal of a license to practice public accounting , registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held in accordance with the provisions of the Administrative Process Act.

§ 3.2. Requirement for reinstatement.

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

B. The fee for reinstatement of the license to practice public accounting shall be \$150, the fee for reinstatement of the professional corporation registration shall be \$100 and the fee for reinstatement of the certificate maintenance shall be \$50. All fees are nonrefundable and shall not be prorated.

C. Applicants for reinstatement of the CPA certificate or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A.

D. If the regulant has failed to renew his license to practice public accounting for a period of 12 months or longer he shall be required in accordance with Part V of these regulations to complete 40 credit hours of Continuing Professional Education (CPE) with a minimum of eight CPE credit hours in accounting and auditing and eight CPE credit hours in taxation within the preceding 12 months prior to application.

~~D. E.~~ E. The board, in its discretion, and for just cause, may deny reinstatement of a license to practice public accounting , registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held in accordance with the provisions of the Administrative Process Act.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Regulant accountable for service rendered.

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

§ 4.2. Use of terms.

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

contact with work in Virginia and who meet the qualifications for licensure, currently hold a valid Virginia license.

§ 4.3. Notification of change of address or name.

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

§ 4.4. Sole proprietor name.

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

§ 4.5. Partnership name.

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

§ 4.6. Corporate name.

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

§ 4.7. Notification of changes in firm.

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

1. The formation of a firm and its name, location and names of partners or shareholders;
2. The admission of any new shareholder or partner;
3. The change in the name of any partnership or professional corporation;
4. The change in the supervisor of any branch office;
5. The change in the number or location of Virginia offices;

6. The opening of a new office in Virginia and the name of the supervisor; and

7. Any event which would cause the firm not to be in conformity with the provisions of these regulations.

§ 4.8. Sharing an office.

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

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

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

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

Nothing shall be contained in a firm's name or in any firm letterhead, publication, form, card, etc., which states or implies an ability, relationship, or condition that does not exist.

§ 4.11. Independence.

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

1. Had or was committed to acquire any direct or material indirect financial interest in the entity; or
2. Held the position of trustee, executor, or administrator of any trust or estate, if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the entity; or
3. Held ownership of any joint closely-held business investment with the entity or any officer, director, or principal stockholder thereof which was material in relation to the net worth of the licensee; or
4. Had a relationship with the entity as a promoter, underwriter, or voting trustee, director or officer, or in any capacity equivalent to that of a member of management or of an employee; or
5. Had any loan to or from the entity, or from any

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officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm or its licensees.

§ 4.12. Integrity and objectivity.

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

§ 4.13. Commissions.

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

§ 4.14. Contingent fees.

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

§ 4.15. Incompatible occupations.

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

§ 4.16. Competence.

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

§ 4.17. Auditing standards.

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

§ 4.18. Accounting principles.

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

§ 4.19. Other technical standards.

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

§ 4.20. Forecasts or projections.

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

§ 4.21. Confidential client information.

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

§ 4.22. Client's records.

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

1. A copy of the client's tax return; or
2. A copy of any report, or other document, issued by the regulant or his firm to or for the client and not formally withdrawn by the regulant or his firm prior to the request; or
3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant or another member of his firm removed from the client's premises or had received for the client's account; or

4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. Examples would include worksheets in lieu of books of original entry or general or subsidiary ledgers such as a list of accounts receivable or depreciation schedule. All journal entries and supporting details would also be considered client's records.

§ 4.23. Acting through others.

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

§ 4.24. Advertising.

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

1. A misrepresentation of fact; or
2. Failure to make full disclosure of any relevant fact; or
3. Representation of services of exceptional quality not supported by verifiable facts; or
4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results.

§ 4.25. Solicitation.

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

§ 4.26. Response to board communication.

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

§ 4.27. Revocation, suspension, and fines.

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

§ 4.28. Practice inspection and continuing professional

education.

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

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

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

§ 4.30. Ownership of records.

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

§ 4.31. Acts discreditable.

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

§ 4.32. Single act.

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

PART V. CONTINUING PROFESSIONAL EDUCATION.

§ 5.1. CPE requirements for license renewal.

Proposed Regulations

Effective January 1, 1992, all licensed CPAs shall be required to complete 40 credit hours of continuing professional education (CPE) within the calendar year, to be reported annually by January 31 of each succeeding year. The hours reported to the board shall include a minimum of eight hours in accounting and auditing and eight hours in taxation as defined in § 5.5. A maximum of eight hours may be in personal development and management courses as defined in § 5.5. Effective September 30, 1993, no CPA license will be renewed unless the regulant has met the CPE requirement.

In order to receive CPE credit for a license renewal, all credit hours shall be from an approved sponsor as set forth in § 5.4.

The board shall approve sponsors of CPE courses and not particular courses. A CPE course provided by an approved sponsor shall meet the CPE requirements set forth in the Rules and Regulations for Continuing Professional Education Sponsors and will be so designated. An investigation of an approved sponsor may be initiated based on a complaint or other information.

§ 5.2. Requirements for retaining records.

It is the responsibility of the licensee to retain evidence of satisfactory completion of CPE credit hours for a period of five years. Such documentation shall be in the form of the certificate of completion provided by the approved sponsor or verification from the accredited institution offering the course. If upon request, the licensee cannot provide such documentation, the licensee shall be subject to a fine which shall not exceed \$1,000 in accordance with § 54.1-202 of the Code of Virginia.

§ 5.3. Requirements for reporting credit hours.

All CPE credit hours will be reported to the board on a form provided by the board and subject to a possible audit.

Failure to complete or report CPE credit hours by January 31 of each succeeding year will result in the following late filing penalty fees:

1. A \$100 late filing penalty fee shall accompany all reporting forms if the date of receipt by the board is after January 31.
2. A \$250 late filing penalty fee shall accompany all reporting forms when the date of receipt by the board is after May 31.
3. A \$500 late filing penalty fee shall accompany all reporting forms when the date of receipt by the board is after July 31. A license renewal shall be issued to the regulant upon receipt by the board of the late filing fee and evidence of compliance with § 5.1.
4. Individuals failing to meet the CPE requirements

may be subject to requalification including possible reexamination and submission of experience qualifications.

5. The board may, at its discretion, waive or defer CPE requirements and penalties for licensees who suffer documented serious illness or injury, or who are prevented from meeting those requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board.

§ 5.4. Acceptable continuing professional education credit.

The board shall recognize the following as acceptable CPE credit:

1. Courses from sponsors approved by the board in accordance with the board's Rules and Regulations for Continuing Professional Education Sponsors; or
2. Courses from sponsors of continuing professional education programs listed in good standing with the National Registry of CPE Sponsors maintained by the National Association of State Boards of Accountancy (NASBA); or
3. Courses from accredited institutions as defined by § 1.1 of these regulations when offering college courses in the regular course curriculum. CPE credit for completing a college course in the college curriculum will be granted based on the number of credit hours the college grants for successful completion of the course. One semester hour of college credit is 15 CPE credit hours; on quarter hour of college credit is 10 CPE credit hours; or
4. Auditing of college courses from accredited institutions as defined by § 1.1 of these regulations. Licensees auditing a college course shall be granted one CPE credit hour for each 50 minutes contact of courses within the fields of study outlined in § 5.5 of these regulations. Attendance at two-thirds of scheduled sessions of audited courses shall be documented by the course instructor to receive CPE credit for the hours attended; or
5. Service as a lecturer or instructor in a continuing professional education program provided the discussion meets subject matter requirements as defined in § 5.5 and is performed for an approved sponsor. One credit hour shall be given for each 50-minute period of service. For the instructor's preparation time, there will be awarded two additional hours of CPE for each credit hour of instruction. The instructor shall retain evidence to support the request for credit. The instructor shall be given no credit for subsequent sessions involving substantially identical subject matter. The maximum credit given for preparation as an instructor may not exceed 50% of the annual CPE requirement; or

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6. Successful completion of a self-study course offered by an approved sponsor. CPE credit hours will be established by the sponsor according to the type of CPE self-study program and pre-tests to determine average completion time. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. An interactive self-study program that takes an average of two contact hours to complete shall be recommended for two CPE credit hours. A noninteractive self-study program that takes an average of two contact hours to complete shall be recommended one CPE credit hour.

§ 5.5. Acceptable CPE subject areas.

A. All CPE credit hours shall be in the fields of study within the following CPE subject areas:

1. Accounting and auditing which includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and on the reporting on the results of audit findings, compilations, and review.

A minimum of eight hours in accounting and auditing shall be completed in each reporting cycle.

2. Advisory services which includes all advisory services provided by professional accountants, management, business, personal, and other. Includes also Management Advisory Services and Personal Financial Planning Services. This section also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. The systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organization, as well as business advisory services and personal financial planning.

3. Management which includes the management needs of individuals in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting,

and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and foreign operations. For licensees in governments, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in federal, state and local governmental entities. In general, the emphasis in this field is on the specific management needs of licensees and not on general management skills.

A maximum of eight hours may be reported in personal development and management courses in each reporting cycle.

4. Personal development which includes such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also treated.

A maximum of eight hours may be reported in personal development and management courses in each reporting cycle.

5. Specialized knowledge and application which includes subjects related to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is defined as specialized if it is unusual in its form of organization, economic structure, source(s) of financing, legislation or regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues.

6. Taxation which includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

A minimum of eight hours in taxation shall be completed in each reporting cycle.

§ 5.6. NASBA approved sponsors.

A. The board shall annually review the NASBA Registry's Standards for Approval.

B. A NASBA approved sponsor removed from the Registry for failure to comply with NASBA standards will no longer qualify as a Virginia approved sponsor. In such cases, the sponsor may apply to the board for approval.

NOTICE: The forms used in administering the Board for

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Accountancy Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Commerce, 3600 W. Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Instructions for Completing Continuing Education Reporting Form

Continuing Education Reporting Form

Application for Uniform CPA Examination

Reexamination Application for Uniform CPA Examination

Application for Original CPA Certificate (rev. 8/6/90)

Application for License to Practice Public Accountancy in Virginia (VSBA-5, rev. 8/6/90)

Record of Experience (VSBA-6, rev. 8/6/90)

Application for a Virginia CPA Certificate by Endorsement (VSBA R-1, rev. 8/6/90)

Certification (VSBA R-2)

Endorsement (VSBA R-3)

Grade Certification (VSBA 7)

Application for Registration as a Professional Corporation Practicing Public Accountancy (rev. 8/6/90)

Application for Reinstatement of License to Practice Public Accountancy, Maintenance of CPA Certificate or Registration of Professional Corporation (VSBA-2, rev. 8/6/90)

Application for Licensing of a Virginia CPA (VSBA-9, 3/22/90)

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulation: VR 325-02. Game.
VR 325-02-18. Rabbit and Hares.

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

Proposed Effective Date: October 1, 1991.

Summary:

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

VR 325-02. GAME.

VR 325-02-18. RABBIT AND HARES.

§ 4. Trapping with box traps.

It shall be lawful to trap rabbits with box traps from October 15 through January 31, both dates inclusive ; ; provided , *that* no traps shall be set on the lands of another without written permission ; *provided further, that it shall be lawful to live-trap rabbits for release or restocking purposes in Virginia at any time .*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-06. Virginia Statewide Fire Prevention Code/1990.

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

Public Hearing Date: July 15, 1991 - 10 a.m.
(See Calendar of Events section
for additional information)

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 proposed amendments to this regulation are

necessary to incorporate permit fees to store, handle and use explosive materials in areas where the State Fire Marshal's Office has jurisdiction and to authorize fees for the statewide certification of persons conducting blasting operations. The new provisions are substantially the same as emergency amendments to the Code which became effective January 1, 1991.

VR 394-01-06. Virginia Statewide Fire Prevention Code/1990.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

SECTION F-100.0. GENERAL.

F-100.1. Title. These regulations shall be known as the Virginia Statewide Fire Prevention Code. Except as otherwise indicated, SFPC or code shall mean the 1990 edition of the Virginia Statewide Fire Prevention Code.

F-100.2. Authority. The SFPC is adopted according to regulatory authority granted the Board of Housing and Community Development by the Statewide Fire Prevention Code Act, Chapter 9, Title 27, §§ 27-94 through 27-101 of the Code of Virginia.

F-100.3. Adoption. The SFPC was adopted by order of the Board of Housing and Community Development on January 28, 1991. 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-100.4. Effective date. The SFPC shall become effective on April 15, 1991.

F-100.5. Effect on other codes. The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia. The SFPC shall supersede the fire prevention regulations previously adopted by local government or other political subdivisions. When any provision of this code is found to be in conflict with the Uniform Statewide Building Code, OSHA, or applicable laws of the Commonwealth, that provision of the SFPC shall become invalid. Wherever the words "building code" appear, it shall mean the building code in effect at the time of construction.

F-100.6. Purpose. The purpose of the SFPC is to provide statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located.

F-100.7. Application to post-Uniform Statewide Building Code (USBC) buildings. Egress facilities, fire protection, built-in fire protection equipment, and other fire safety features in such buildings shall be maintained in accordance with the requirements of the USBC in effect at the time the building or structure was constructed.

F-100.8. Application to pre-Uniform Statewide Building Code (USBC) buildings. Pre-USBC buildings are those buildings that were not subject to the USBC when constructed. Such buildings shall be maintained in accordance with the Virginia Public Building Safety Regulations (VR 394-01-05) which are hereby incorporated into this code by reference, and other applicable requirements of this code.

Note: The Virginia Public Building Safety Regulations (VR 394-01-05), which were formerly contained in Addendum 2 of this code, are available from the Professional Services Office (DHCD), 205 North Fourth Street, Richmond, VA 23219-1747.

F-100.9. Special provisions. The fire official shall require that buildings subject to the requirements of Section 109.0 of the Uniform Statewide Building Code, Volume II - Building Maintenance Code, 1990 Edition, shall comply with the provisions of that section.

F-100.10. Exemptions for farm structures. Farm structures not used for residential purposes shall be exempt from the provisions of the SFPC.

SECTION F-101.0. REFERENCED STANDARDS AND AMENDMENTS.

F-101.1. Adoption of model code. The following model code, as amended by Sections F-101.2 and F-101.3, is hereby adopted and incorporated in the SFPC.

The BOCA National Fire Prevention Code/1990 Edition, published by: Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60477.

F-101.2. Administrative and enforcement amendments to the referenced model code. All requirements of the referenced model code and standards that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the SFPC.

F-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 Fire Prevention Code/1990 Edition.

F-101.4. Limitation of application of model code. No provision of the model code shall affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

SECTION F-102.0.

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ENFORCEMENT AUTHORITY.

F-102.1. Enforcement. Any local government may enforce the SFPC. The local governing body may assign responsibility for enforcement of the SFPC to the local agency or agencies of its choice. The State Fire Marshal shall have authority to enforce the SFPC in jurisdictions in which the local governments do not enforce the code. The State Fire Marshal's office shall be notified by the local government when the fire official has been appointed. The terms "enforcing agency" and "fire official" apply to the agency or agencies responsible for enforcement. The terms "building official" or "building department" apply only to the local building official or building department.

F-102.1.2. Modifications to the Virginia Public Building Safety Regulations. In those localities enforcing the SFPC, the fire official shall have the same authority to grant modifications of the Virginia Public Building Safety Regulations as is delegated to the Chief Fire Marshal.

F-102.2. Qualifications. The local government shall establish qualifications for the fire official and assistants.

Note: It is recommended that the fire official have at least five years of fire prevention experience. The certification programs offered by the Department of Housing and Community Development, Department of Fire Programs, and ETS/NFPA should be considered when establishing qualifications.

F-102.3. Maintenance inspections. The fire official may inspect all buildings, structures and premises to assure compliance with this code or any other ordinance affecting fire safety.

Exceptions:

1. Single family dwellings.
2. Dwelling units in multi-family dwellings.

F-102.4. Right of entry. The fire official may enter any structure or premises when there is reasonable cause to believe that an unsafe condition exists. Proper credentials shall be presented before entering occupied structures or premises. Legal assistance may be requested if entry is refused.

F-102.5. Coordinated inspections. The fire official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate with the local building department on those inspections required by the USBC, Volume I, for new construction, when involving provisions of the BOCA National Fire Prevention Code, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders. Whenever the fire official or an authorized representative observes an apparent or actual violation of the provisions of another law, ordinance or code, not within the inspector's authority to enforce, the

inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

Note: Section 110.6 of the USBC, Volume I, requires the building official to coordinate those inspections with the local fire official.

F-102.6. Records. The local fire official shall keep records of fires, inspections, notices, orders issued, and other matters as directed by the local government. Fire records shall include information as to the cause, origin and the extent of damage. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (a) after twenty years in the case of arson fires, (b) after five years in nonarson fires, and (c) after three years in the case of all other reports, notices, and orders issued.

F-102.7. 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 an employee. The fire official or his subordinates shall not be personally liable for costs in an action, suit or proceedings that may be instituted in pursuance of the provisions of the SFPC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as an employee, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed in the discharge of the SFPC may be defended by the enforcing agency's legal representative. The State Fire Marshal or his subordinates shall not be personally liable for damages or costs sustained by any person when the State Fire Marshal or his subordinates are enforcing this code as part of their official duties under Section F-102.1.

F-102.8. Local regulations. Local governments may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

F-102.9. Procedures or requirements. The local governing body may establish such procedures or requirements as may be necessary for the enforcement of the SFPC.

F-102.10. 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 State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.*

SECTION F-103.0. DUTIES AND POWERS OF THE FIRE OFFICIAL.

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

F-103.2. Notices and orders. The fire official shall issue all necessary notices or orders to ensure compliance with the SFPC.

F-103.3. Delegation of duties and powers. The fire 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 this code.

SECTION F-104.0. PERMITS.

F-104.1. General. The fire official may require notification prior to activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; or to conduct processes which produce conditions hazardous to life or property; or to establish a place of assembly.

F-104.1.1. State permits. The State Fire Marshal will not issue permits under the SFPC except those required that annual permits shall be issued under Article 26, Explosives, Ammunition and Blasting Agents.

F-104.1.2. Local permits. In those jurisdictions that enforce the SFPC, the Fire Official shall issue permits as required by Article 26, Explosives, Ammunition and Blasting Agents.

F-104.2. Permits required. The local fire official may require permits to be obtained as specified in the model code. Permits shall be made available to the fire official upon request.

F-104.3. Application for permit. Application for a permit shall be made on forms prescribed by the local fire official.

F-104.4. Issuance of permits. Before a permit is issued, the local fire official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made complies with the provisions of this code.

F-104.5. Conditions of permit. A permit shall constitute permission to store or handle materials, or to conduct processes in accordance with the SFPC and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked, or for such period of time specified on the permit. Permits are not transferable.

F-104.6. Approved plans. Plans approved by the fire official are approved with the intent that they comply in

all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

F-104.7. Revocation of permit. The local fire official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

F-104.8. Suspension of permit. A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

F-104.9. Fees. A permit shall not be issued until any required fees have been paid. Inspection or permit fees may be levied by the local government enforcing agency in order to defray the cost of enforcement and appeals in accordance with § 27-98 of the Code of Virginia. The fees listed in Table F-104.9 shall be levied on those permits issued in accordance with F-104.1.1.

Table F-104.9.

FEE SCHEDULE FOR EXPLOSIVES PERMITS ISSUED BY THE STATE FIRE MARSHAL

Type of Permit	Fee
To possess, store or dispose of explosives or blasting agents	\$50.00 per year
To use explosives or blasting agents	\$75.00 per year

SECTION F-105.0. LOCAL BOARD OF APPEALS.

F-105.1. Local board of appeals. Each local government shall have a local board of appeals as required by § 27-98 of the Code of Virginia, or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency, approved by the Department of Housing and Community Development to act on appeals.

F-105.2. Membership. The local board of appeals shall consist of at least five members appointed by the local government. Members may be reappointed.

Note: In order to provide continuity, it is recommended that the terms of the local board members be staggered so that less than half of the terms expire in any one year.

F-105.3. Qualifications of board members. Board members shall be qualified by experience and training to rule on matters pertaining to building construction and fire prevention. Employees or officials of the local government

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appointing the board shall not serve as board members.

F-105.4. Officers of the board. The board shall select one of its members to serve as chairman. The agency enforcing the SFPC shall designate an employee from its agency to serve as secretary to the board. The secretary shall keep a detailed record of all proceedings in accordance with Section F-102.6.

F-105.5. Alternates and absence of members. The local government may appoint alternate members who may sit on the board in the absence of any regular members of the board and, while sitting on the board, shall have the full power and authority of the regular member. A procedure shall be established for use of alternate members in case of absence of regular members.

F-105.6. Control of conflict of interest. A member of the board shall not vote on any question involving their business or personal interests.

F-105.7. 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 30 calendar days of the filing of an appeal.

F-105.8. Application for appeal. The owner or occupant of any building, structure or premises may appeal a decision of the fire official, by submitting written application within 10 calendar days of the decision, when it is claimed that:

1. The fire official has refused to grant a modification of the provisions of the code;
2. The intent of the code has been incorrectly interpreted;
3. The provisions of the code do not fully apply;
4. The use of a form of compliance that is equal to or better than that specified in the code has been denied.

F-105.9. Hearing open to public. All hearings shall be open to the public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 of the Code of Virginia.

F-105.10. Postponement of hearing. When a quorum (over 50%) of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the fire official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 14 calendar days.

F-105.11. Decision. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the fire official. Every action of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the fire official.

F-105.12. Enforcement of decision. The fire official shall take immediate action in accordance with the decision of the board.

SECTION F-106.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

F-106.1. Appeal to the State Building Code Technical Review Board. Any person aggrieved by a decision of the local Board of Appeals who was a party to the appeal may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

F-106.2. Appeal of decision of State Fire Marshal. Appeals concerning the application of the code by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board.

F-106.3. Control of conflict of interests. A member of the board shall not vote on any question involving his business or personal interests.

F-106.4. Enforcement of decision. Upon receipt of the written decision of the State Building Code Technical Review Board, the fire official shall take immediate action in accordance with the decision.

F-106.5. 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 (§ 9-6.14:15 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION F-107.0. UNSAFE CONDITIONS.

F-107.1. General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof.
2. Conditions which would interfere with the efficiency and use of any fire protection equipment.
3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire.
4. Accumulations of dust or waste material in air

conditioning or ventilating systems or grease in kitchen or other exhaust ducts.

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

F-107.2. Maintenance. The owner shall be responsible for the safe and proper maintenance of any building, structure, premises or lot. In all new and existing buildings and structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

Note: Also see Sections F-501.4 and F-501.4.1 of this code for further information.

F-107.3. Occupant responsibility. If an occupant of a building creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of said hazardous conditions.

F-107.4. Unsafe buildings. All buildings and structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe buildings or structures. A vacant building, or portion of a building, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe buildings shall be reported to the building or maintenance code official who shall take appropriate action under the provisions of the USBC, Volume I - New Construction Code or Volume II - Building Maintenance Code, to secure abatement by repair and rehabilitation or by demolition.

F-107.5. Evacuation. When, in the opinion of the fire official, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire official may order the immediate evacuation of the building, structure or premises. All notified occupants shall immediately leave the building, structure or premises, and no person shall enter until authorized to do so by the fire official.

F-107.6. Unlawful continuance. It is deemed a violation of the SFPC for any person to refuse to leave, interfere with the evacuation of the other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition.

F-107.7. Notice of violation. Whenever the fire official observes a violation of this code or ordinance under the fire official's jurisdiction, the fire official shall prepare a written notice of the violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering it in person, by delivering it to and leaving it in the possession of any person in charge of the premises, or, in case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access; such procedure shall be deemed the equivalent of personal notice.

F-107.8. Failure to correct violations. If the notice of violation is not complied with in the time specified by the fire official, the fire official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate any notice of violation which is not complied with in the specified time or require removal or termination of the unlawful use of the building or structure. The local law enforcement agency of the jurisdiction shall be requested by the fire official to make arrests for any offense against this code or orders of the fire official affecting the immediate safety of the public when the fire official is not certified in accordance with § 27-34.2 of the Code of Virginia.

F-107.9. Issuing summons for violation. If certified in accordance with § 27-34.2 of the Code of Virginia, the fire official may issue a summons in lieu of the notice of violation.

F-107.10. Penalty for violation. Violations are a Class 1 misdemeanor in accordance with § 27-100 of the Code of

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Virginia. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense.

F-107.11. Abatement of violation. Conviction of a violation of the SFPC 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 the SFPC relating to use of the building or premises.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL FIRE PREVENTION CODE/1990 EDITION.

As provided in Section F-101.3 of the SFPC, the amendments noted in this addendum shall be made to the BOCA National Fire Prevention Code/1990 Edition for use as part of the SFPC.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the SFPC.

ARTICLE 2. DEFINITIONS.

1. Change Section F-200.3 to read:

F-200.3. Terms defined in the other codes. Where terms are not defined in this code and are defined in the USBC, they shall have the meanings defined by the USBC.

2. Change the following definitions in Section F-201.0, General Definitions, to read:

"Blasting agent" means any explosive material that has been tested and approved in accordance with the provisions of DOT 49 CFR which includes that the finished product, as mixed for use and shipment, cannot be detonated by a No. 8 test blasting cap when unconfined.

"Building code official" means the designated authority charged with the administration and enforcement of the USBC, Volume I - New Construction Code.

"Code official" means the designated authority charged with the administration and enforcement of the USBC, Volume II - Building Maintenance Code.

Note: When "code official" appears in the BOCA National Fire Prevention Code, it shall mean "fire official".

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term "explosive" includes all materials classified as Class A, Class B, or Class C

explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, smokeless powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord and igniters.

"Fireworks" means any item known as firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air. The term "fireworks" does not include auto flares, caps for pistols, pinwheels, sparklers, fountains or Pharaoh's Serpents provided, however, these permissible items may only be used, ignited or exploded on private property with the consent of the owner of such property.

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

3. Add these new definitions to Section F-201.0 General Definitions:

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

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

"Building Code" means the building code in effect at the time of construction.

"Fire official" means the designated authority charged with the administration and enforcement of the SFPC.

"Peak particle velocity" means the maximum component of the three mutually perpendicular components of motion at a given point.

"Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge. (See special industrial explosive device.)

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight (and that of its own load) rests upon or is carried by another vehicle.

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"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

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

4. Delete the following definitions from Section F-201.0, General Definitions:

Liquefied petroleum gas (LP-gas or LPG)

Liquefied petroleum gas equipment

ARTICLE 3. GENERAL PRECAUTIONS AGAINST FIRE.

1. Change Section F-301.1 to read:

F-301.1. General. Open burning shall be allowed in accordance with the laws and regulations set forth by the State Air Pollution Control Board, the Department of Forestry, and as regulated by the locality.

2. Delete Section F-318.0, Fire Safety During Construction, Alteration and Demolition.

ARTICLE 4. HAZARD ABATEMENT IN EXISTING BUILDINGS.

1. Delete Article 4, Hazard Abatement in Existing Buildings, as it is covered by Sections F-100.7 and F-100.8 of the SFPC and Volume I and Volume II of the USBC.

ARTICLE 5. FIRE PROTECTION SYSTEMS.

1. Add new Section F-518.0, Smoke Detectors for the Deaf and Hearing-impaired, to read:

SECTION F-518.0. SMOKE DETECTORS FOR THE DEAF AND HEARING-IMPAIRED.

F-518.1. Audible and visual alarms. Audible and visual alarms, meeting the requirements of UL Standard 1638, and installed in accordance with NFPA/ANSI 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 acceptable.

ARTICLE 16. OIL AND GAS PRODUCTION.

1. Delete Article 16, Oil and Gas Production, as it is

covered by the Virginia Gas and Oil Act, Title 45.1, Chapter 22.1 of the Code of Virginia.

ARTICLE 26. EXPLOSIVES, AMMUNITION AND BLASTING AGENTS.

1. Article 26, Explosives, Ammunition and Blasting Agents, is deleted in its entirety and replaced with Article 26 of the SFPC, as follows:

SECTION F-2600.0. GENERAL.

F-2600.1. Scope. The equipment, processes and operations involving the manufacture, possession, storage, sale, transportation and use of explosives and blasting agents shall comply with the applicable requirements of this code and the provisions of this article and shall be maintained in accordance with NFPA 495, NFPA 498, and DOT 49CFR listed in Appendix A except as herein specifically exempted or where provisions of this article do not specifically cover conditions and operations, and with the Institute of Makers of Explosives (IME) Safety Library Publications, with Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board, and with the Virginia Motor Carrier Regulations.

F-2600.2. Exceptions. Nothing in this article shall be construed as applying to the following explosive uses:

1. The Armed Forces of the United States or of a state.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The sale or use of fireworks which are regulated by Article 27.
4. Laboratories engaged in testing explosive materials.
5. The possession, storage and use of not more than five pounds (2.27 kg) of smokeless powder, black powder, and 1000 small arms primers for hand loading of small arms ammunition for personal use.
6. The manufacture, possession, storage and use of not more than five pounds (2.27 kg) of explosives or blasting agents in educational, governmental or industrial laboratories for instructional or research purposes when under the direct supervision of experienced, competent persons.
7. The transportation and use of explosives or blasting agents by the United States Department of Alcohol, Tobacco and Firearms, the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, the Virginia Department of State Police, or qualified fire and law enforcement officials

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acting in their official capacity in the discharge of their duties; nor to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia (Department of Mines, Minerals and Energy).

F-2600.3. Permit required. A permit shall be obtained from the code official for any of the following conditions or operations:

1. To possess, store, or otherwise dispose of explosives or blasting agents.
2. To use explosives or blasting agents:
 - a. A permit shall be issued for each project.
 - b. The permit shall specify the type of blasting and any special conditions. To the extent that blasting will occur within any waters of the Commonwealth or in any of the waters under its jurisdiction, evidence of a valid Marine Resources Commission permit, or "no permit necessary" authorization, will be required.
3. To operate a terminal for handling explosives or blasting agents.
4. To manufacture explosives or blasting agents, providing the following conditions are met:
 - a. Registration with the Department of Housing and Community Development;
 - b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
 - c. Valid license to do business in the Commonwealth of Virginia.
5. To sell explosives and blasting agents, providing the following conditions are met:
 - a. Registration with the Department of Housing and Community Development;
 - b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
 - c. Valid license to do business in the Commonwealth of Virginia.

Exception: Annual permits for the use of explosives shall be issued to any state regulated public utility.

F-2600.3.1. Prohibited permits. Permits as required above shall not be issued for:

1. Liquid nitroglycerin and nitrate esters.
2. Dynamite (except gelatin dynamite) containing over

60% of liquid explosive ingredient.

3. Leaking, damaged, or defective packages or containers of high explosives.
4. Nitrocellulose in a dry and uncompressed condition to be shipped or transported.
5. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition.

Exception. Fulminate of metals which is a component of manufactured articles not otherwise forbidden.

6. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167°F (75°C).
7. New explosives until approved by DOT 49CFR listed in Appendix A, except for permits issued to educational, governmental or industrial laboratories for instructional or research purposes.
8. Explosives forbidden by DOT 49CFR listed in Appendix A.
9. Explosives not packed or marked in accordance with the requirements of DOT 49CFR listed in Appendix A.
10. Explosives containing an ammonium salt and a chlorate.

F-2600.4. Certification required. The use of explosive materials shall be conducted or supervised on-site by blasters certified in accordance with Part IV of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen. The blaster shall carry proof of certification during the loading or firing of explosive materials.

Exception: Individuals conducting agricultural blasting operations on their own property.

F-2600.4.1. Certification fee. The Department of Housing and Community Development shall charge a \$20 fee to applicants for certification as a blaster.

F-2600.5. Liability insurance. The company or individual applying for a permit to blast, manufacture, or sell explosives shall provide proof of insurance in an amount determined by the fire official but in no case less than \$500,000.

Exception: Liability insurance shall not be required with an agricultural blasting permit when the blast is conducted on the applicant's personal property.

SECTION F-2601.0.

GENERAL REQUIREMENTS.

F-2601.1. Storage. The storage of explosives and blasting agents is prohibited within the legal geographic boundaries of any district where such storage is prohibited by the authority having jurisdiction.

Exception: Temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material.

F-2601.2. Sale and display. Explosives shall not be sold, given, delivered, or transferred to any person or company not in possession of a valid permit. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

SECTION F-2602.0. STORAGE OF EXPLOSIVE MATERIALS.

F-2602.1. General. Explosives, including special industrial high explosive materials, shall be stored in magazines which meet the requirements of this article. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

F-2602.2. Control in wholesale and retail stores. Explosive materials shall not be stored within wholesale or retail stores. The storage of explosives for wholesale and retail sales shall be in approved outdoor magazines except that not more than 50 pounds of black or smokeless powder may be stored in a Type 4 indoor magazine.

F-2602.3. Magazine clearances. Magazines shall be located away from inhabited buildings, passenger railways, public highways and other magazines in conformance with Table F-2602, except as provided in Section F-2602.2.

Table F-2602

TABLE OF DISTANCES FOR STORAGE OF
EXPLOSIVES

	Pounds	Pounds	Barri-	Unbarri-	Barri-	Unbarri-
	Over	Not Over	caded (6,7,8)	caded	caded (6,7,8)	caded
	2	5	70	140	30	60
	5	10	90	180	35	70
	10	20	110	220	45	90
	20	30	125	250	50	100
	30	40	140	280	55	110
	40	50	150	300	60	120
	50	75	170	340	70	140
	75	100	190	380	75	150
	100	125	200	400	80	160
	125	150	215	430	85	170
	150	200	235	470	95	190
	200	250	255	510	105	210
	250	300	270	540	110	220
	300	400	295	590	120	240
	400	500	320	640	130	260
	500	600	340	680	135	270
	600	700	355	710	145	290
	700	800	375	750	150	300
	800	900	390	780	155	310
	900	1,000	400	800	160	320
	1,000	1,200	425	850	165	330
	1,200	1,400	450	900	170	340
	1,400	1,600	470	940	175	350
	1,600	1,800	490	980	180	360
	1,800	2,000	505	1,010	185	370
	2,000	2,500	545	1,090	190	380
	2,500	3,000	580	1,160	195	390
	3,000	4,000	635	1,270	210	420
	4,000	5,000	685	1,370	225	450
	5,000	6,000	730	1,460	235	470
	6,000	7,000	770	1,540	245	490
	7,000	8,000	800	1,600	250	500
	8,000	9,000	835	1,670	255	510
	9,000	10,000	865	1,730	260	520
	10,000	12,000	875	1,750	270	540
	12,000	14,000	885	1,770	275	550
	14,000	16,000	900	1,800	280	560
	16,000	18,000	940	1,800	285	570
	18,000	20,000	975	1,950	290	580
	20,000	25,000	1,055	2,000	315	630
	25,000	30,000	1,130	2,000	340	680

DISTANCES IN FEET

QUANTITY OF EXPLOSIVE MATERIALS (Notes 1,2,3,4) Inhabited Buildings (Note 9) Public Highways Class A to D (Note 11)

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30,000	35,000	1,205	2,000	360	720	50	75	127	254	15	30	
35,000	40,000	1,275	2,000	380	760	75	100	139	278	16	32	
40,000	45,000	1,340	2,000	400	800	100	125	150	300	18	36	
45,000	50,000	1,400	2,000	420	840	125	150	159	318	19	38	
50,000	55,000	1,460	2,000	440	880	150	200	175	350	21	42	
55,000	60,000	1,515	2,000	455	910	200	250	189	378	23	46	
60,000	65,000	1,565	2,000	470	940	250	300	201	402	24	48	
65,000	70,000	1,610	2,000	485	970	300	400	221	442	27	54	
70,000	75,000	1,655	2,000	500	1,000	400	500	238	476	29	58	
75,000	80,000	1,695	2,000	510	1,020	500	600	253	506	31	62	
80,000	85,000	1,730	2,000	520	1,040	600	700	266	532	32	64	
85,000	90,000	1,760	2,000	530	1,060	700	800	278	556	33	66	
90,000	95,000	1,790	2,000	540	1,080	800	900	289	578	35	70	
95,000	100,000	1,815	2,000	545	1,090	900	1,000	300	600	36	72	
100,000	110,000	1,835	2,000	550	1,100	1,000	1,200	318	636	39	78	
110,000	120,000	1,855	2,000	555	1,110	1,200	1,400	336	672	41	82	
120,000	130,000	1,875	2,000	560	1,120	1,400	1,600	351	702	43	86	
130,000	140,000	1,890	2,000	565	1,130	1,600	1,800	366	732	44	90	
140,000	150,000	1,900	2,000	570	1,140	1,800	2,000	378	756	45	90	
150,000	160,000	1,935	2,000	580	1,160	2,000	2,500	408	816	49	98	
160,000	170,000	1,965	2,000	590	1,180	2,500	3,000	432	864	52	104	
170,000	180,000	1,990	2,000	600	1,200	3,000	4,000	474	948	58	116	
180,000	190,000	2,010	2,000	605	1,210	4,000	5,000	513	1,026	61	122	
190,000	200,000	2,030	2,000	610	1,220	5,000	6,000	546	1,092	65	130	
200,000	210,000	2,055	2,000	620	1,240	6,000	7,000	573	1,146	68	136	
210,000	230,000	2,100	2,100	635	1,270	7,000	8,000	600	1,200	72	144	
230,000	250,000	2,155	2,155	650	1,300	8,000	9,000	624	1,248	75	150	
250,000	275,000	2,215	2,215	670	1,340	9,000	10,000	645	1,290	78	156	
275,000	300,000	2,275	2,275	690	1,380	10,000	12,000	687	1,374	82	164	
.....							12,000	14,000	723	1,446	87	174
.....							14,000	16,000	756	1,512	90	180
.....							16,000	18,000	786	1,572	94	188
QUANTITY OF EXPLOSIVE MATERIALS (Notes 1,2,3,4)	Passenger Railways Public Highways with Traffic Volume of more than 3,000 Vehicles/Day (Notes 10,11)			Separation of Magazines (Note 12)		18,000	20,000	813	1,626	98	196	
							20,000	25,000	876	1,752	105	210
							25,000	30,000	933	1,866	112	224
							30,000	35,000	981	1,962	119	238
							35,000	40,000	1,026	2,000	124	248
.....							40,000	45,000	1,068	2,000	129	258
Pounds Over	Pounds Not Over	Barri- caded (6,7,8)	Unbarri- caded	Barri- caded (6,7,8)	Unbarri- caded	45,000	50,000	1,104	2,000	135	270	
2	5	51	102	6	12	50,000	55,000	1,140	2,000	140	280	
5	10	64	128	8	16	55,000	60,000	1,173	2,000	145	290	
10	20	81	162	10	20	60,000	65,000	1,206	2,000	150	300	
20	30	93	186	11	22	65,000	70,000	1,236	2,000	155	310	
30	40	103	206	12	24	70,000	75,000	1,263	2,000	160	320	
40	50	110	220	14	28							

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75,000	80,000	1,293	2,000	165	330
80,000	85,000	1,317	2,000	170	340
85,000	90,000	1,344	2,000	175	350
90,000	95,000	1,368	2,000	180	360
95,000	100,000	1,392	2,000	185	370
100,000	110,000	1,437	2,000	195	390
110,000	120,000	1,479	2,000	205	410
120,000	130,000	1,521	2,000	215	430
130,000	140,000	1,557	2,000	225	450
140,000	150,000	1,593	2,000	235	470
150,000	160,000	1,629	2,000	245	490
160,000	170,000	1,662	2,000	255	510
170,000	180,000	1,695	2,000	265	530
180,000	190,000	1,725	2,000	275	550
190,000	200,000	1,755	2,000	285	570
200,000	210,000	1,782	2,000	295	590
210,000	230,000	1,836	2,000	315	630
230,000	250,000	1,890	2,000	335	670
250,000	275,000	1,950	2,000	360	720
275,000	300,000	2,000	2,000	385	770

Numbers in () refer to explanatory notes

NOTE 1 - "Explosive materials" means explosives, blasting agents and detonators.

NOTE 2 - "Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. A list of explosives determined to be within the coverage of "18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials" is issued at least annually by the Director of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury. For quantity and distance purposes, detonating cord of 50 grains per foot should be calculated as equivalent to eight pounds of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.

NOTE 3 - "Blasting agents" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

NOTE 4 - "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires. All types of detonators in strengths through No. 8 cap should be rated at 1 1/2 lbs. of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

NOTE 5 - "Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

NOTE 6 - "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

NOTE 7 - "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

NOTE 8 - "Barricaded" means the effective screening of a building containing explosive materials from the magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point 12 feet above the center of a railway or highway shall pass through such barrier.

NOTE 9 - "Inhabited building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

NOTE 10 - "Railway" means any steam, electric, or other railroad or railway which carries passengers for hire.

NOTE 11 - "Highway" means any public street, public alley, or public road. "Public highways Class A to D" are highways with average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3-74, 1956 Edition, John Wiley and Sons).

NOTE 12 - When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 13 - Storage in excess of 300,000 lbs. of explosive materials, in one magazine is generally not required for commercial enterprises.

NOTE 14 - This table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

F-2602.4. Magazine construction. Magazines shall be constructed and maintained in accordance with IME

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Note: Refer to Section F-2600.4 for the use of magazines.

F-2602.4.1. Magazine heat and light. Magazines shall not be provided with artificial heat or light, except that if artificial light is necessary, an approved electric safety flashlight or safety lantern shall be used.

F-2602.5. Safety precautions. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 50 feet (15.24m) of magazines. Combustible materials shall not be stored within 50 feet (15.24m) of magazines.

F-2602.5.1. Surrounding terrain. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 25 feet (7.62 m).

F-2602.5.2. Locking security. Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

F-2602.5.3. Magazine housekeeping. Magazines shall be kept clean, dry and free of grit, paper, empty packages or rubbish.

F-2602.5.4. Separation of detonators and explosives. Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

F-2602.5.5. Explosive unpacking. Metal or wooden packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet (15.24m) of a magazine.

F-2602.5.6. Magazine contents. Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

F-2602.6. Unstable explosives. When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if liquid leaks from any explosive, then the person in possession of such explosive shall immediately report that fact to the code official and upon his approval shall proceed to destroy such explosives and clean floors stained with nitroglycerin or other such liquids in accordance with the instructions of the manufacturer. Only qualified, experienced persons shall do the work of destroying explosives.

Note: Disposal of explosives as "waste" should be in accordance with the Department of Waste Management regulations.

F-2602.7. Class I magazine warnings. Property upon which Class I magazines are located shall be posted with signs

reading "Explosives - Keep Off." Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone shoots at the sign.

F-2602.8. Class II magazine warnings. Class II magazines shall be painted red and shall bear lettering in white, on all sides and top at least three inches (76 mm) high, "Explosives - Keep Fire Away."

SECTION F-2603.0. TRANSPORTATION OF EXPLOSIVES.

F-2603.1. General. The transportation of explosive materials shall comply with applicable provisions of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board.

F-2603.2. Enforcement. The Department of State Police, together with all law enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportations, in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this section. Those officers shall annually receive in-service training in current federal safety standards and safety inspection procedures pertaining to the transportation of hazardous materials.

SECTION F-2604.0. STORAGE OF BLASTING AGENTS AND SUPPLIES.

F-2604.1. General. Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in Section F-2602.0 for explosives. The quantity of blasting agents and one half the quantity of oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

F-2604.2. Storage location. Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table F-2602.

F-2604.3. Storage housekeeping. The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire-resistance rating of not less than one hour. The provisions of this section shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

F-2604.4. Trailer storage requirements. Semitrailers or full trailers used for temporarily storing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602. Trailers shall be provided with substantial means for locking and trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

F-2604.5. Oxidizers and fuels. Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

F-2604.6. Oxidizer handling. Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

SECTION F-2605.0. HANDLING OF EXPLOSIVES.

F-2605.1. Mixing blasting agents. Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602.

F-2605.2. Quantity of mixing agents. Not more than one day's production of blasting agents or the limit determined by Table F-2602, whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

F-2605.3. Compounding standards. Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with NFIPA 495 and DOT 49CFR listed in Appendix A.

F-2605.4. Ignition protection. Smoking or open flames shall not be permitted within 50 feet (15.24m) of any building or facility used for the mixing of blasting agents.

F-2605.4.1. Unpacking tools. Tools used for opening packages of explosives shall be constructed of nonsparking materials.

Exception. Metal slitters may be used for opening paper and fiberboard containers.

F-2605.5. Waste disposal. Empty oxidizer bags shall be disposed of daily by burning in a safe manner (in an open area and at a safe distance from buildings or combustible materials).

F-2605.5.1. Packing material disposal. Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved, isolated location out-of-doors, and any person shall not be closer than 100 feet (30.48 m) during the course of said burning.

F-2605.6. Control. Explosives shall not be abandoned.

SECTION F-2606.0. BLASTING.

F-2606.1. Time. Blasting operations shall be conducted during daylight hours except when otherwise approved.

F-2606.2. Personnel. The handling and firing of explosives shall be performed by the person certified as a blaster under Section F-2600.2.3 of this code or by employees under that person's direct on-site supervision who are at least 21 years old.

1. A person shall not handle explosives while under the influence of intoxicants or narcotics.

2. A person shall not smoke or carry matches while handling explosives or while in the vicinity thereof.

3. An open flame light shall not be used in the vicinity of explosives.

F-2606.3. Clearance at site. At the site of blasting operations, Class II magazines shall be located as far away as practicable from neighboring inhabited buildings, railways, highways, and other magazines.

F-2606.4. Notice. Whenever blasting is being conducted within 200 feet of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. This time limit shall not be waived except in an emergency as determined by the code official.

F-2606.5. Responsibility. Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a warning signal has been sounded.

F-2606.6. Precautions. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

1. Suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electrical storm;

2. Posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet (106.75m) of the blasting operations; and

3. Compliance with NFIPA 495 listed in Appendix A when blasting within 1-1/2 miles (2.41 km) of broadcast or highpower short wave radio transmitters.

4. Misfires shall be handled as directed by equipment

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manufacturers with no one entering the blasting site, except the blaster, until the loaded charges have been made to function or have been removed.

F-2606.7. Congested areas. As required by the fire official, when blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation susceptible to damage, the blast shall be covered before firing, with a mat or earth, or both, so that it is capable of preventing rock from being thrown into the air out of the blast area.

F-2606.8. Blast records. A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the fire official. These records shall contain the following minimum data:

1. Name of contractor.
2. Location and time of blast.
3. Name of certified blaster in charge.
4. Type of material blasted.
5. Number of holes bored and spacing.
6. Diameter and depth of holes.
7. Type and amount of explosives.
8. Amount of explosives per delay of eight milliseconds or greater.
9. Method of firing and type of circuit.
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building.
11. Weather conditions.
12. Whether or not mats or other precautions were used.
13. Type of detonators and delay periods.
14. Type and height of stemming.
15. Seismograph records where indicated.

**SECTION F-2607.0.
STANDARDS FOR CONTROL OF AIRBLAST AND
GROUND VIBRATION.**

F-2607.1. Airblast. This section shall apply to airblast effects as recorded at the location of any private dwelling, public building, school, church, and community or institutional building not owned or leased by the person conducting or contracting for the blasting operation. If requested by a property owner registering a complaint and deemed necessary by the fire official, measurements of

three consecutive blasts, using approved instrumentation, shall be made near the structure in question.

F-2607.1.1. Maximum airblast. The maximum airblast at any inhabited building, resulting from blasting operations, shall not exceed 130 decibels peak, or 140 decibels peak at any uninhabited building, when measured by an instrument having a flat frequency response (+3 decibels) over a range of at least six to 200 Hertz.

F-2607.2. Ground vibration. This section shall provide for limiting ground vibrations at structures that are neither owned nor leased by the person conducting or contracting for the blasting operation. Engineered structures may safely withstand higher vibration levels based on an approved engineering study upon which the fire official may then allow higher levels for such engineered structures.

Note: Each Table, F-2607A to F-2607C, has an increasing degree of sophistication and each can be implemented either by the fire official as a result of complaints or by the contractor to determine site specific vibration limits. The criteria in Tables F-2607 A, B, and C and Section F-2607.3 are intended to protect low-rise structures including dwellings.

F-2607.2.1. Blasting without instrumentation. Where no seismograph is used to record vibration effects, the explosive charge weight per delay (eight milliseconds or greater) shall not exceed the limits shown in Table F-2607A. When charge weights per delay on any single delay period exceed 520 lbs., then ground vibration limits for structures shall comply with Tables F-2607B, F-2607C, or Section F-2607.3.

**Table 2607 A(a)
CHARGE WEIGHT PER DELAY DEPENDENT ON
DISTANCE**

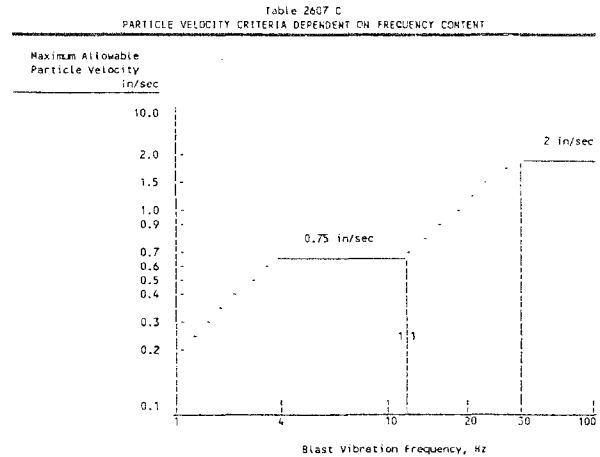
Distance to a Building		Weight of Explosives per Delay	Distance to a Building		Weight of Explosives per Delay
Feet over	Feet not over	Pounds	Feet over	Feet not over	Pounds
0	5	1/4	250	260	45
5	10	1/2	260	280	49
10	15	3/4	280	300	55
15	60	Note (b)	300	325	61
60	70	6	325	350	69
70	80	7 1/4	350	375	79
80	90	9	375	400	85
90	100	10 1/2	400	450	98
100	110	12	450	500	115

110	120	13 3/4	500	550	135
120	130	15 1/2	550	600	155
130	140	17 1/2	600	650	175
140	150	19 1/2	650	700	195
150	160	21 1/2	700	750	220
160	170	23 1/4	750	800	240
170	180	25	800	850	263
180	190	28	850	900	288
190	200	30 1/2	900	950	313
200	220	34	950	1000	340
220	240	39	1000	1100	375
240	250	42	1100	1200	435
			1200	1300	493

over 1000 0.75

Note a. The instrument's transducer shall be firmly coupled to the ground.

**Table 2607 C
PARTICLE VELOCITY CRITERIA DEPENDENT ON
FREQUENCY CONTENT**



Note: This criteria is derived from the U.S. Bureau of Mines - RI 8507 (Appendix B) and provides a continuously variable particle velocity criteria dependent on the frequency content of the ground motion. The method of analysis shall be approved by the Fire Official and shall provide an analysis showing all the frequencies present over the 1-50 Hertz range.

Note a. Over 60 feet this table is based upon the formula:

$$W = D^{1.5/90}$$

Note b. One tenth of the pound of explosive per foot of distance to a building.

F-2607.2.2. Monitoring with instrumentation. Where a blaster determines that the charge weights per delay given in Table F-2607A are too conservative, he may choose to monitor (at the closest conventional structure) each blast with an approved seismograph and conform to the limits set by Tables F-2607B, F-2607C, or Section F-2607.3.

Note: From this point on, the explosive charge weight per delay may be increased, but the vibration levels detailed in Tables F-2607B, F-2607C, or Section F-2607.3 shall not be exceeded.

F-2607.3. Response spectra. A relative velocity of 1.5 inches per second or less, within the 4 to 12 Hertz range of natural frequencies for low rise structures, shall be recorded as determined from an approved response spectra.

**Table 2607 B
PEAK PARTICLE VELOCITY DEPENDENT ON
DISTANCE**

Distance		Peak Particle Velocity of Any One Component (a)
Feet over	Feet not over	Inches per second
0	100	2.00
100	500	1.50
500	1000	1.00

F-2607.4. Instrumentation. A direct velocity recording seismograph capable of recording the continuous wave form of the three mutually perpendicular components of motion, in terms of particle velocity, shall be used and shall have the following characteristics:

1. Each seismograph shall have a frequency response from two to 150 Hertz or greater and a velocity range from 0.0 to 2.0 inches per second or greater, and shall adhere to design criteria for portable seismographs outlined in U.S. Bureau of Mines RI 5708, RI 6487, and RI 8506.
2. All field seismographs shall be capable of internal dynamic calibration and shall be calibrated according to the manufacturers' specifications at least once per year.
3. All seismographs shall be operated by competent people trained in their correct use and seismograph records shall be analyzed and interpreted as may be required by the fire official.

F-2607.5. Seismographic records. A record of each blast shall be kept. All records, including seismograph reports, shall be retained for at least three years and shall be available for inspection. Records shall include the following information:

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1. Name of company or contractor.
2. Location, date and time of blast.
3. Name, signature and social security number of blaster in charge.
4. Type of material blasted.
5. Number of holes bored and spacing.
6. Diameter and depth of holes.
7. Type of explosives used.
8. Total amount of explosives used.
9. Maximum amount of explosives per delay period of eight milliseconds or greater.
10. Method of firing and type of circuit.
11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting.
12. Weather conditions including such factors as wind direction, etc.
13. Height or length of stemming.
14. Type of protection, such as mats, that were used to prevent flyrock.
15. Type of detonators used and delay period used.
16. The exact location of the seismograph and the distance of the seismograph from the blast.
17. Seismograph readings, where required, shall contain:
 - a. Name and signature of person operating the seismograph.
 - b. Name of person analyzing the seismograph records.
 - c. Seismograph reading.
18. The maximum number of holes per delay period of eight milliseconds or greater.

SECTION F-2608.0. THEFT OR DISAPPEARANCE OF EXPLOSIVES.

F-2608.1. Reports of stolen explosives. Pursuant to § 27-97.1 of the Code of Virginia, any person holding a permit for the manufacture, storage, handling, use or sale of explosives issued in accordance with this code shall report

to the State Police and the local law enforcement agency any theft or other disappearance of any explosives or blasting devices from their inventory. In addition, notification shall be made to the fire official having issued the permit.

F-2608.2. Reports of injuries or property damage. The fire official shall be immediately notified of injuries to any person or damage to any property as a result of the functioning of the explosive.

F-2608.3. Relationship of local fire official and State Fire Marshal. The local fire official shall relay information obtained from reports required by Sections F-2608.1 and F-2608.2 to the Office of the State Fire Marshal.

ARTICLE 27. FIREWORKS.

1. Change Section F-2700.1 to read:

F-2700.1. Scope. The manufacture, transportation, display, sale or discharge of fireworks shall comply with the requirements of Chapter 11 of Title 59 of the Code of Virginia.

2. Delete Section F-2701.1, General.
3. Delete Section F-2701.3, Exemptions.

ARTICLE 28. FLAMMABLE AND COMBUSTIBLE LIQUIDS.

1. Change Section F-2803.5 to read as follows:

F-2803.5. Fuel dispensing outside the building. Fuel dispensers outside the building shall be located a minimum of 10 feet (3048 mm) from the lot line and five feet (1524 mm) from any building opening. Where fuel is dispensed to motor vehicles, the motor vehicle being served shall be located on the premises.

ARTICLE 30. LIQUEFIED PETROLEUM GASES.

1. Change Section F-3000.1 as follows and delete the remainder of Article 30:

F-3000.1 Scope. The equipment, processes and operation for storage, handling, transporting by tank truck or tank trailer, and utilizing LP gases for fuel purposes, and for odorization of LP gases shall comply with the Virginia Liquefied Petroleum Gas Regulations in effect at the time of construction as provided for in Chapter 7 of Title 27 of the Code of Virginia.

* * * * *

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.

Public Hearing Date: July 15, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The 1990 edition of the Uniform Statewide Building Code, Volume I - New Construction Code 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 amendments to this regulation are necessary to conform to the National Flood Insurance Program administered by the Federal Emergency Management Agency. The new provisions relate to alterations, renovations or repair of existing buildings located in areas designated by the National Flood Insurance Program as flood hazard areas. The Code currently permits replacement of existing materials or building components with similar components without requiring full compliance with the floodproofing provisions of the Code applicable to new buildings. The proposed regulation will require full compliance with new floodproofing provisions whenever the cost of repairs or alterations equals or exceeds 50% of the market value of the building.

VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.

ARTICLE 1.
ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0.
GENERAL.

100.1. Title. These regulations shall be known as Volume I - New Construction Code of the 1990 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, USBC, and code, as used herein, shall mean Volume I - New Construction Code of the 1990 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume II - Building Maintenance Code for maintenance regulations applying to existing buildings.

100.2. Authority. The USBC is adopted under 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 USBC was adopted by order of the Board of Housing and Community Development on 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 1990 edition of the USBC replaces previous editions. It shall become effective on March 1, 1991. Any building that was subject to previous editions of the USBC, and for which a building permit has been issued or on which construction has commenced, or for which working drawings have been prepared in the year prior to the effective date of this edition of the USBC shall remain subject to the edition of the USBC in effect at the time of such issuance or commencement of construction or preparation of plans. A permit application, based on plans prepared in the year prior to the effective date of this edition, must be submitted by March 1, 1992. Subsequent reconstruction, renovation, repair or demolition of such buildings shall be subject to the pertinent provisions of the USBC in effect at the time of such action.

100.5. Application. As provided in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair, maintenance or use of buildings and installation of equipment therein that takes place after the effective date of the initial edition of the USBC. The USBC 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, alteration or repair of a building.

100.5.1. Industrialized buildings and manufactured homes. Industrialized buildings registered under the Virginia Industrialized Building Safety Law and manufactured homes labeled under the Federal Manufactured Housing Construction and Safety Standards shall be exempt from the USBC; however, the building official shall be responsible for issuing permits, inspecting the site work and installation of industrialized buildings and manufactured homes, and issuing certificates of occupancy for such buildings when all work is completed satisfactorily.

100.6. Exemptions. The following buildings, structures and equipment are exempted from the requirements of the USBC:

1. Farm buildings and structures not used for residential purposes; however, such buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable flood proofing or mudslide regulations.

2. Equipment installed by a provider of publicly

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regulated utility service and electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the buildings, including their service equipment, housing such public service agencies shall be subject to the USBC.

3. Manufacturing and processing machines and equipment; however, the buildings, including service equipment, housing such machinery and equipment shall be subject to the USBC.

4. Parking lots and sidewalks; however, parking lots and sidewalks which form part of an accessible route, as defined by ANSI A117.1 - 1986 shall comply with the requirements of Section 512.0.

5. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is a residential accessory use not regulated by the Virginia Amusement Device Regulations.

100.7. Purpose. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility.

SECTION 101.0. REFERENCE STANDARDS AND AMENDMENTS.

101.1. Adoption of model codes and standards. The following model building codes and all portions of other model codes and standards that are referenced in this Code are hereby adopted and incorporated in the USBC. Where differences occur between provisions of the USBC and the referenced model codes or standards, the provisions of the USBC shall apply. Where differences occur between the technical provisions of the model codes and their referenced standards, the provisions of the model code shall apply.

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/1990 EDITION

(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators
International, Inc.
4051 West Flossmoor Road

Country Club Hills, Illinois 60478-5795
Telephone No. (708) 799-2300

Note: The following major subsidiary model codes are among those included by reference as part of the BOCA National Building Code/1990 Edition:

BOCA National Plumbing Code/1990 Edition

BOCA National Mechanical Code/1990 Edition

NFIPA National Electrical Code/1990 Edition

The permit applicant shall have the option to select as an acceptable alternative for detached one and two family dwellings and one family townhouses not more than three stories in height and their accessory structures the following standard:

CABO ONE AND TWO FAMILY DWELLING CODE/1989 EDITION and 1990 Amendments (also referred to herein as One and Two Family Dwelling Code)

Jointly published by:

Building Officials and Code Administrators
International, Inc.

Southern Building Code Congress and International
Conference of Building Officials.

101.2. General administrative and enforcement amendments to referenced codes. All requirements of the referenced model codes that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing buildings, existing structures, certification of compliance, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Article 1 of the USBC.

Note: The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the USBC.

101.3. Amendments to the BOCA Code. The amendments noted in Addendum 1 of the USBC shall be made to the specified articles and sections of the BOCA National Building Code/1990 Edition for use as part of the USBC.

101.4. Amendments to the One and Two Family Dwelling Code. The amendments noted in Addendum 2 of the USBC shall be made to the indicated chapters and sections of the One and Two Family Dwelling Code/1989 Edition and 1990 Amendments for use as part of the USBC.

SECTION 102.0. LOCAL BUILDING DEPARTMENTS.

102.1. Responsibility of local governments. Enforcement of

The USBC Volume I shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Whenever a local government does not have such a building department, it shall enter into an agreement with another local government or with some other agency, or a state agency approved by the Virginia Department of Housing and Community Development for such enforcement. The local building department and its employees may be designated by such names or titles as the local government considers appropriate.

102.2. Building official. Each local building department shall have an executive official in charge, hereinafter referred to as the building official.

102.2.1. Appointment. The building official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, he shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. The local government shall notify the Office of Professional Services within 30 days of the appointment or release of the building official. The building official must complete an orientation course approved by the Department of Housing and Community Development within 90 days after appointment.

102.2.2. Qualifications. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of buildings, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.2.3. Certification. The building official shall be certified in accordance with Part III of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen within three years after the date of employment.

Exception: 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 as the building official in another jurisdiction.

102.3. Qualifications of technical assistants. A technical assistant shall have at least three years of experience in

general building construction. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.3.1. Certification of technical assistants. Any person employed by, or under contract to, a local governing body for determining compliance with the USBC shall be certified in their trade field within three years after the date of employment in accordance with Part III of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen.

Exception: 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.

102.4. Relief from personal responsibility. The local building department 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 building official or 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 department 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 that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

102.5. Control of conflict of interests. The minimum standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the ~~Virginia Comprehensive State and Local Government~~ Conflict of Interest Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION 103.0. DUTIES AND POWERS OF THE BUILDING OFFICIAL.

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

103.2. Modifications. The building official may grant

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modifications to any of the provisions of the USBC upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the Uniform Statewide Building Code. Future amendments do not automatically become part of the USBC; however, the building official should give consideration to such amendments in deciding whether a requested modification should be granted. See State Building Code Technical Review Board Interpretation Number 64/81 issued November 16, 1984.

103.2.1. Supporting data. The building official may require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The building official may also require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

103.2.2. 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 use and occupancy in the permanent records of the local building department.

103.3. 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 USBC.

103.4. Department records. The building official shall keep records of applications received, permits and certificates issued, reports of inspections, notices and orders issued and such other matters as directed by the local government. A copy of the certificate of use and occupancy and a copy of any modification of the USBC issued by the building official shall be retained in the official records, as long as the building to which it relates remains in existence. Other records may be disposed of in accordance with the provisions of the Virginia Public Records Act, ~~(a)~~ (i) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, or ~~(b)~~ (ii) after three years in the case of all other buildings.

SECTION 104.0. FEES.

104.1. 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.

104.2. When payable. A permit shall not be issued until the fees prescribed by the local government have been paid to the authorized agency of the jurisdiction, nor shall an

amendment to a permit be approved until any required additional fee has been paid. The local government may authorize delayed payment of fees.

104.3. Fee schedule. The local government shall establish a fee schedule. The schedule shall incorporate unit rates which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

104.4. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local government shall provide fee refunds for the portion of the work which was not completed.

104.5. Fee levy. Local governing bodies shall charge each permit applicant an additional 1.0% (levy) of the total fee for each building permit. This additional 1.0% levy shall be transmitted quarterly to the Department of Housing and Community Development and shall be used to support the training programs of the Virginia Building Code Academy.

Exception: Localities which maintain training academies that are accredited by the Department of Housing and Community Development may retain such levy.

104.5.1. Levy adjustment. The Board of Housing and Community Development shall annually review the percentage of this levy and may adjust the percentage not to exceed 1.0%. The annual review shall include a study of the operating costs for the previous year's Building Code Academy, the current balance of the levy collected, and the operational budget projected for the next year of the Building Code Academy.

104.5.2. Levy cap. Annual collections of this levy which exceed \$500,000, or any unobligated fund balance greater than one-third of that fiscal year's collections shall be credited against the levy to be collected in the next fiscal year.

SECTION 105.0. APPLICATION FOR CONSTRUCTION PERMIT.

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

1. Constructing, enlarging, altering, repairing, or demolishing a building or structure.
2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities or sanitary provisions.
3. Installing or altering any equipment which is regulated by this code.

4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation of or additions to buildings or structures.

Exceptions:

1. Ordinary repairs which do not involve any violation of the USBC shall be exempt from this provision. Ordinary repairs shall not include the removal, addition or relocation of any wall or partition, or the removal or cutting of any structural beam or bearing support, or the removal, addition or relocation of any parts of a building affecting the means of egress or exit requirements. Ordinary repairs shall not include the removal, disturbance, encapsulation, or enclosure of any asbestos containing material. Ordinary repairs shall not include additions, alterations, replacement or relocation of the plumbing, mechanical, or electrical systems, or other work affecting public health or general safety. The term "ordinary repairs" shall mean the replacement of the following materials with like materials:

- a. Painting.
- b. Roofing when not exceeding 100 square feet of roof area.
- c. Glass when not located within specific hazardous locations as defined in Section 2203.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.
- d. Doors, except those in fire-rated wall assemblies or exitways.
- e. Floor coverings and porch flooring.
- f. Repairs to plaster, interior tile work, and other wall coverings.
- g. Cabinets installed in residential occupancies.
- h. Wiring and equipment operating at less than 50 volts.

2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a fireresistance rated assembly.

3. Detached utility sheds 150 square feet or less in area and 8 feet 6 inches or less in height when accessory to Use Group R-3 or R-4 buildings.

105.1.1. Authorization of work. The building official may authorize work to commence pending receipt of written application.

105.2. Who may apply for a permit. Application for a

permit shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a professional engineer, architect, contractor or subcontractor (or any of their respective agents), the building official shall verify that the applicant is either licensed to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The building official shall accept and process permit applications through the mail. The building official shall not require the permit applicant to appear in person.

105.3. Form of application. The application for a permit shall be submitted on forms supplied by the building official.

105.4. Description of work. The application shall contain a general description of the proposed work, its location, the use of all parts of the building, and of all portions of the site not covered by the building, and such additional information as may be required by the building official.

105.5. Plans and specifications. The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and dimensional detail to show the nature and character of the work to be performed. Such plans and specifications shall include the seal and signature of the architect or engineer under whose supervision they were prepared, or if exempt under the provisions of state law, shall include the name, address, and occupation of the individual who prepared them. When quality of materials is essential for conformity to the USBC, specific information shall be given to establish such quality. In cases where such plans and specifications are exempt under state law, the building official may require that they include the signature and seal of a professional engineer or architect.

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.

2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in Addenda 4 and 10.

105.5.1. Site plan. The application shall also contain a site

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plan showing to scale the size and location of all the proposed new construction and all existing buildings on the site, distances from lot lines, the established street grades and the proposed finished grades. The building official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site. In the case of alterations, renovations, repairs and installation of new equipment, the building official may waive submission of the site plan or any parts thereof.

105.6. Plans review. The building official shall examine all plans and applications for permits within a reasonable time after filing. If the application or the plans do not conform to the requirements of the USBC, the building official shall reject such application in writing, stating the reasons for rejection.

105.7. Approved plans. The building official shall stamp "Approved" or provide an endorsement in writing on both sets of approved plans and specifications. One set of such approved plans shall be retained by the building official. The other set shall be kept at the building site, open to inspection by the building official at all reasonable times.

105.8. Approval of partial plans. The building official may issue a permit for the construction of foundations or any other part of a building before the plans and specifications for the entire building have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a building shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire building will be granted.

105.9. Engineering details. The building official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design. Plans for buildings more than two stories in height shall indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems. The plans shall show the material and methods for protecting such openings so as to maintain the required structural integrity, fire-resistance ratings, and firestopping affected by such penetrations.

105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1978, to be renovated or demolished until the local building

department receives a certification from the owner or the owner's agent that the building has been inspected for asbestos, in accordance with standards developed pursuant to subdivision 1 of subsection A of § 2.1-526.14:1 of the Code of Virginia that response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M), the management standards for asbestos-containing materials prepared by the Department of General Services in accordance with § 2.1-526.14:2 of the Code of Virginia, and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58).

Exceptions:

1. Single family dwellings.
2. Residential housing with four or fewer units.
3. Farm buildings.
4. Buildings less than 3,500 square feet in area.
5. Buildings with no central heating system.
6. Public utilities required by law to give notification to the Commonwealth of Virginia and to the United States Environmental Protection Agency prior to removing asbestos in connection with the renovation or demolition of a building.

105.10.1. Replacement of roofing, floorcovering, or siding materials. To meet the inspection requirements of Section 105.10 except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by:

1. A statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor; or
2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.

105.11. Amendments to application. Amendments to plans, specifications or other records accompanying the application for permit may be filed at any time before completion of the work for which the permit is issued. Such amendments shall be considered part of the original application and shall be filed as such.

105.12. Time limitation of application. An application for a permit for any proposed work shall be considered to have

been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the building official may grant one or more extensions of time.

SECTION 106.0. PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES.

106.1. Special professional services; when required. The building official may require representation by a professional engineer or architect for buildings and structures which are subject to special inspections as required by Section 1308.0.

106.2. Attendant fees and costs. All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

SECTION 107.0. APPROVAL OF MATERIALS AND EQUIPMENT.

107.1. Approval of materials; basis of approval. The building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the building official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the building official shall approve items listed by nationally recognized research, testing and product certification organizations or may consider the recommendations of engineers and architects certified in this state.

107.2. Used materials and equipment. Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the building official.

107.3. Approved materials and equipment. All materials, equipment, devices and assemblies approved for use by the building official shall be constructed and installed in accordance with the conditions of such approval.

SECTION 108.0. INTERAGENCY COORDINATION - FUNCTIONAL DESIGN.

108.1. Functional design approval. Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies.

State agencies with functional design approval are listed in Addendum 5. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a building permit or certificate of use and occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

SECTION 109.0. CONSTRUCTION PERMITS.

109.1. Issuance of permits. If the building official is satisfied that the proposed work conforms to the requirements of the USBC and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The building official may authorize work to commence prior to the issuance of the permit.

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

109.3. Separate or combined permits. Permits for two or more buildings on the same lot may be combined. Permits for the installation of equipment such as plumbing, electrical or mechanical systems may be combined with the structural permit or separate permits may be required for the installation of each system. Separate permits may also be required for special construction considered appropriate by the local government.

109.4. Annual permit. The building official may issue an annual permit for alterations to an already approved equipment installation.

109.4.1. Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of all alterations to an approved equipment installation made under such annual permit. Such records shall be accessible to the building official at all times or shall be filed with the building official when so requested.

109.5. Posting of permit. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

109.6. Previous permits. No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended in accordance with Section 109.7 or 109.8.

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

109.8. Suspension of permit. Any permit issued shall

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become invalid if the authorized work is not commenced within six months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. Upon written request the building official may grant one or more extensions of time not to exceed six months per extension.

109.9. Compliance with code. The permit shall be a license to proceed with the work in accordance with the application and plans for which the permit has been issued and any approved amendments thereto and shall not be construed as authority to omit or amend any of the provisions of the USBC, except by modification pursuant to Section 103.2.

SECTION 110.0. INSPECTIONS.

110.1. Right of entry. The building official may inspect buildings for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The building official and assistants shall carry proper credentials of office when inspecting buildings and premises in the performance of duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, pursuant to enforcement of the USBC, that any building may be inspected at any time before completion. It also permits local governments to provide for the reinspection of buildings.

110.2. Preliminary inspection. Before issuing a permit, the building official may examine all buildings and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof.

110.3. Minimum inspections. Inspections shall include but are not limited to the following:

1. The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.
2. The installation of piling. The building official may require the installation of pile foundations be supervised by the owner's professional engineer or architect or by such professional service as approved by the building official.
3. Reinforced concrete beams, or columns and slabs after all reinforcing is set and before any concrete is placed.
4. Structural framing and fastenings prior to covering with concealing materials.

5. All electrical, mechanical and plumbing work prior to installation of any concealing materials.

6. Required insulating materials before covering with any materials.

7. Upon completion of the building, and before issuance of the certificate of use and occupancy, a final inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.

110.3.1. Special inspections. Special inspections required by this code shall be limited to only those required by Section 1308.0.

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the stages of construction are reached that require an inspection under Section 110.3 and for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

110.5. Inspections to be prompt. The building official shall respond to inspection requests without unreasonable delay. The building official shall approve the work or give written notice of defective work to the permit holder or the agent in charge of the work. Such defects shall be corrected and reinspected before any work proceeds that would conceal them.

Note: A reasonable response time should normally not exceed two working days.

110.6. Approved inspection agencies. The building official may accept reports from individuals or inspection agencies which satisfy qualifications and reliability requirements, and shall accept such reports under circumstances where the building official is unable to make the inspection by the end of the following working day. Inspection reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. An identifying label or stamp permanently affixed to the product indicating that factory inspection has been made shall be accepted instead of the written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

110.7. In-plant inspections. When required by the provisions of this code, materials or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of each prefabricated assembly, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the building official to determine conformance with this code.

110.8. Coordination with other agencies. The building official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections for new construction with the local fire official whenever the inspection involves provisions of the BOCA National Fire Prevention Code.

SECTION 111.0. WORKMANSHIP.

111.1. General. All construction work shall be performed and completed so as to secure the results intended by the USBC.

SECTION 112.0. VIOLATIONS.

112.1. Code violations prohibited. No person, firm or corporation shall construct, alter, extend, repair, remove, demolish or use any building or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC.

112.2. Notice of violation. The building official shall serve a notice of violation on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the USBC. Such order shall reference the code section that serves as the basis for the violation and direct 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 persons by mail to the last known 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.

112.3. Prosecution of violation. If the notice of violation is not complied with, the building 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 the USBC.

112.4. 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.

112.5. Abatement of violation. Conviction of a violation of the USBC 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 the USBC relating to construction and use of the building or premises.

SECTION 113.0. STOP WORK ORDER.

113.1. Notice to owner. When the building official finds that work on any building is being executed contrary to the provisions of the USBC or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

113.2. Application of order limited. The stop work order shall apply only to the work that was being executed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

SECTION 114.0. POSTING BUILDINGS.

114.1. Use group and form of sign. Prior to its use, every building designed for Use Groups B, F, H, M or S shall be posted by the owner with a sign approved by the building official. It shall be securely fastened to the building in a readily visible place. It shall state the use group, the live load, the occupancy load, and the date of posting.

114.2. Occupant load in places of assembly. Every room constituting a place of assembly or education shall have the approved occupant load of the room posted on an approved sign in a conspicuous place, near the main exit from the room. Signs shall be durable, legible, and maintained by the owner or the owner's agent. Rooms or spaces which have multiple-use capabilities shall be posted for all such uses.

114.3. Street numbers. Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public right of way.

SECTION 115.0. CERTIFICATE OF USE AND OCCUPANCY.

115.1. When required. Any building or structure constructed under this code shall not be used until a certificate of use and occupancy has been issued by the building official.

115.2. Temporary use and occupancy. The holder of a permit may request the building official to issue a temporary certificate of use and occupancy for a building, or part thereof, before the entire work covered by the permit has been completed. The temporary certificate of use and occupancy may be issued provided the building official determines that such portion or portions may be

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occupied safely prior to full completion of the building.

115.3. Contents of certificate. When a building is entitled thereto, the building official shall issue a certificate of use and occupancy. The certificate shall state the purpose for which the building may be used in its several parts. When the certificate is issued, the building shall be deemed to be in compliance with the USBC. The certificate of use and occupancy shall specify the use group, the type of construction, the occupancy load in the building and all parts thereof, the edition of the USBC under which the building permit was issued, and any special stipulations, conditions and modifications.

115.4. Changes in use and occupancy. A building hereafter changed from one use group to another, in whole or in part, whether or not a certificate of use and occupancy has heretofore been issued, shall not be used until a certificate for the changed use group has been issued.

115.5. Existing buildings. A building constructed prior to the USBC shall not be prevented from continued use. The building official shall issue a certificate of use and occupancy upon written request from the owner or the owner's agent, provided there are no violations of Volume II of the USBC and the use of the building has not been changed.

SECTION 116.0.

LOCAL BOARD OF BUILDING CODE APPEALS.

116.1. Local board of building code appeals. Each local government shall have a local board of building code appeals to act on applications for appeals as required by § 36-105 of the Code of Virginia; or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a State agency approved by the Virginia Department of Housing and Community Development, to act on appeals.

116.1.1. Separate divisions. The local board of building code appeals may be divided into separate divisions to consider appeals relating to separate areas of regulation of the USBC. When separate divisions are created, the scope of each shall be clearly stated. The local board of appeals may permit appeals from a division to be submitted directly to the State Building Code Technical Review Board. Each division shall comply with the membership requirements and all other requirements of the USBC relating to the local board of building code appeals.

116.2. Membership. The local board of building code appeals shall consist of at least five members appointed by the local government. Members may be reappointed.

Note: In order to provide continuity, it is recommended that the terms of local board members be staggered so that less than half of the terms expire in any one year.

116.2.1. Qualifications of board members. Board members

shall be selected by the local government on the basis of their ability to render fair and competent decisions regarding application of the code, and shall, to the extent possible, represent different occupational or professional fields. Employees or officials of the local government appointing the board shall not serve as board members.

Note: At least one member should be an experienced builder. At least one other member should be a licensed professional engineer or architect.

116.3. Officers of the board. The board shall select one of its members to serve as chairman. The building official shall designate an employee from the department to serve as secretary to the board. The secretary shall keep a detailed record of all proceedings on file in the local building department.

116.4. Alternates and absence of members. The local government may appoint alternate members who may sit on the board in the absence of any regular members of the board and, while sitting on the board, shall have the full power and authority of the regular member. A procedure shall be established for use of alternate members in case of absence of regular members.

116.5. Control of conflict of interest. A member of the board shall not vote on any appeal in which that member is currently engaged as contractor or material dealer, has prepared the plans or specifications, or has any personal interest.

116.6. 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 30 calendar days of the filing of an appeal.

116.7. Application for appeal. The owner of a building, the owner's agent, or any other person, firm or corporation directly involved in the design or construction of a building or structure may appeal to the local building code board of appeals within 90 calendar days from a decision of the building official when it is claimed that:

1. The building official has refused to grant a modification which complies with the intent of the provisions of the USBC; or
2. The true intent of the USBC has been incorrectly interpreted; or
3. The provisions of the USBC do not fully apply; or
4. The use of a form of construction that is equal to or better than that specified in the USBC has been denied.

116.7.1. Form of application. Applications for appeals shall be submitted in writing to the local building code board of appeals.

116.8. Hearing open to public. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

116.9. Postponement of hearing. When a quorum (more than 50%) 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 14 calendar days.

116.10. Decision. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official. Every action of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the building official.

116.11. Enforcement of decision. The building official shall take immediate action in accordance with the decision of the board.

116.12. Appeal by State Fire Marshal. This section shall apply only to buildings subject to inspection by § 36-139.3 of the Code of Virginia. The State Fire Marshal, appointed pursuant to § 36-139.2 of the Code of Virginia, shall have the right to inspect applications for building permits or conversions of use group. The State Fire Marshal may appeal to the local building code board of appeals from the decision of the building official when it is claimed that the true intent of the USBC has been incorrectly interpreted as applied to the proposed construction or conversion. Such appeals shall be filed before the required permits are issued. The State Fire Marshal may also inspect the building during construction, repair or alteration and may appeal to the local building code board of appeals from the decision of the building official when it is claimed that the construction, repairs or alterations do not comply with the approved plans. Such appeals shall be filed prior to the issuance of the new or revised certificate of occupancy. Copies of all appeals shall be furnished to the building official and to the applicant for the building permit.

Note: The building official is encouraged to have plans submitted to the State Fire Marshal for buildings subject to state licensure in order to prevent delays in construction.

SECTION 117.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

117.1. 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 21 calendar days of receipt of the decision of the local

appeals board by the aggrieved party.

117.2. Control of conflict of interest. A member of the State Technical Review Board shall not vote on any appeal in which that member is currently engaged as contractor or material dealer, has prepared plans or specifications, or has any personal interest.

117.3. 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.

117.4. 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, Article 4 (§ 9-6.14:15 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION 118.0. EXISTING BUILDINGS AND STRUCTURES.

118.1. Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fire-resistance rating shall be made with materials required for a new structure.

Exception: Existing materials and equipment may be replaced with materials and equipment of a similar kind or replaced with greater capacity equipment in the same location when not considered a hazard.

Note 1: Alterations after construction may not be used by the building official as justification for requiring any part of the old building to be brought into compliance with the current edition of the USBC. For example, replacement of worn exit stair treads that are somewhat deficient in length under current standards does not, of itself, mean that the stair must be widened. It is the intent of the USBC that alterations be made in such a way as not to lower existing levels of health and safety.

Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial automatic alarm system may be

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installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.

118.1.1. Damage, restoration or repair in flood hazard zones. Alterations and repairs to buildings located in any flood hazard zone shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the state of construction of the improvement.

Exceptions:

1. Improvements required under Volume II of the USBC necessary to assure safe living conditions.

2. Alterations of historic buildings provided the alteration would not preclude the building's continued designation as an historic building.

118.2. Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.

118.3. Alternative method of compliance. Compliance with the provisions of Article 32 for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of complying with this code.

SECTION 119.0. MOVED BUILDINGS.

119.1. General. Any building moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation.

1. No change has been made in the use of the building.
2. The building complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.
3. The building has not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in

compliance with the USBC.

119.2. Certificate of use and occupancy. Any moved building shall not be used until a certificate of use and occupancy is issued for the new location.

SECTION 120.0. UNSAFE BUILDINGS.

120.1. Right of condemnation before completion. Any building under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed an unsafe building. Any such unsafe building shall be made safe through compliance with the USBC or shall be taken down and removed, as the building official may deem necessary.

120.1.1. Inspection of unsafe buildings; records. The building official shall examine every building reported as unsafe and shall prepare a report to be filed in the records of the department. 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.

120.1.2. Notice of unsafe building. If a building is found to be unsafe the building official shall serve a written notice on the owner, the owner's agent or person in control, describing the unsafe condition and specifying the required repairs or improvements to be made to render the building safe, or requiring the unsafe building or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare without delay to the building official the acceptance or rejection of the terms of the notice.

120.1.3. Posting of unsafe building notice. If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

120.1.4. Disregard of notice. Upon refusal or neglect of the person served with a notice of unsafe building to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

120.1.5. Vacating building. When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building, or any part thereof, which would endanger life, or when any building or part of a building has fallen and life is endangered by occupancy of the building, the building official may order

the occupants to vacate the building forthwith. The building official shall cause a notice to be posted at each entrance to such building reading as follows. "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Building Official." No person shall thereafter enter such a building except 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 authorized by the building official.

120.1.6. Temporary safeguards and emergency repairs. When, in the opinion of the building official, there is immediate danger of collapse or failure of a building or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, he shall cause the necessary work to be done to the extent permitted by the local government to render such building or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

120.2. Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, may be exercised after official action by the local governing body pursuant to § 36-105 of the Code of Virginia.

SECTION 121.0. DEMOLITION OF BUILDINGS.

121.1. General. Demolition permits shall not be issued until the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.
2. Any certificate required by Section 105.10 has been received by the building official.
3. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

121.2. Hazard prevention. When a building is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Article 30 of the BOCA Code.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/1990 EDITION.

as provided in Section 101.3 of the Virginia Uniform

Statewide Building Code, the amendments noted in this addendum shall be made to the BOCA National Building Code/1990 Edition for use as part of the USBC.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

(A) Entire article is deleted and replaced by Article 1, Adoption, Administration and Enforcement, of the Virginia Uniform Statewide Building Code.

ARTICLE 2. DEFINITIONS.

(A) Change the following definitions in Section 201.0, General Definitions, to read:

"Building" means a combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property; provided, however, that farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the USBC, but such buildings lying within a flood plain or in a mudslide regulations, as applicable. The word building shall be construed as though followed by the words "or part or parts and fixed equipment thereof" unless the context clearly requires a different meaning. The word "building" includes the word "structure."

Dwellings:

"Boarding house" means a building arranged or used for lodging, with or without meals, for compensation and not occupied as a single family unit.

"Dormitory" means a space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room, or in a series of closely associated rooms.

"Hotel" means any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

"Multi-family apartment house" means a building or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

"One-family dwelling" means a building containing one dwelling unit.

"Two-family dwelling" means a building containing two dwelling units.

"Jurisdiction" means the local governmental unit which is responsible for enforcing the USBC under state law.

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“Mobile unit” means a structure of vehicular, portable design, built on a chassis and designed to be moved from one site to another, subject to the Industrialized Building and Manufactured Home Safety Regulations, and designed to be used without a permanent foundation.

“Owner” means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

“Structure” means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words “or part or parts thereof” unless the context clearly requires a different meaning.

(B) Add these new definitions to Section 201.0, General Definitions:

“Family” means an individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than eight unrelated persons, living together as a single housekeeping unit in a dwelling unit.

“Farm building” means a structure located on a farm utilized for the storage, handling or production of agricultural, horticultural and floricultural products normally intended for sale to domestic or foreign markets and buildings used for the maintenance, storage or use of animals or equipment related thereto.

“Local government” means any city, county or town in this state, or the governing body thereof.

“Manufactured home” means a structure subject to federal regulations, which is transportable in one or more sections; is eight 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 a 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.

“Night club” means a place of assembly that provides exhibition, performance or other forms of entertainment; serves food ~~and/or~~ or alcoholic beverages or both ; and provides music and space for dancing.

“Plans” means all drawings that together with the

specifications, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

“Skirting” means a weather-resistant material used to enclose the space from the bottom of a manufactured home to grade.

“Specifications” means all written descriptions, computations, exhibits, test data and other documents that together with the plans, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

ARTICLE 3. USE GROUP CLASSIFICATION.

(A) Change Section 307.2 to read as follows:

307.2. Use Group I-1. This use group shall include buildings and structures, or parts thereof, which house six or more individuals who, because of age, mental disability or other reasons, must live in a supervised environment but who are physically capable of responding to an emergency situation without personal assistance. Where accommodating persons of the above description, the following types of facilities shall be classified as I-1 facilities: board and care facilities, half-way houses, group homes, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or less occupants shall be classified as a residential use group.

Exception: Group homes licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services which house no more than eight mentally ill, mentally retarded, or developmentally disabled persons, with one or more resident counselors, shall be classified as Use Group R-3.

(B) Change Section 309.4 to read as follows:

309.4. Use Group R-3 structures. This use group shall include all buildings arranged for the use of one- or two-family dwelling units and multiple single-family dwellings where each unit has an independent means of egress and is separated by a two-hour fire separation assembly (see Section 909.0).

Exception: In multiple single-family dwellings which are equipped throughout with an approved automatic sprinkler system installed in accordance with Section 1004.2.1 or 1004.2.2, the fire-resistance rating of the dwelling unit separation shall not be less than one hour. Dwelling unit separation walls shall be constructed as fire partitions (see Section 910.0).

ARTICLE 4.

TYPES OF CONSTRUCTION CLASSIFICATION.

(A) Add the following to line 5 of Table 401.

Dwelling unit separations for buildings of Type 2C, 3B and 5B construction shall have fire-resistance ratings of not less than one-half hour in buildings sprinklered throughout in accordance with Section 1004.2.1 or 1004.2.2.

ARTICLE 5. GENERAL BUILDING LIMITATIONS.

(A) Change Section 502.3 to read:

502.3. Automatic sprinkler system. When a building of other than Use Group H is equipped throughout with an automatic sprinkler system in accordance with Section 1004.2.1 or 1004.2.2, the area limitation specified in Table 501 shall be increased by 200% for one- and two-story buildings and 100% for buildings more than two stories in height. An approved limited area sprinkler system is not considered as an automatic sprinkler system for the purpose of this section.

(B) Change Section 503.1 to read:

503.1. Automatic sprinkler system. When a building is equipped throughout with an automatic sprinkler system in accordance with Section 1004.2.1, the building height limitation specified in Table 501 shall be increased one story and 20 feet (6096mm). This increase shall not apply to buildings of Use Group I-2 of Types 2C, 3A, 4 and 5A construction nor to buildings of Use Group H. An approved limited-area sprinkler system is not considered an automatic sprinkler system for the purpose of this section. The building height limitations for buildings of Use Group R specified in Table 501 shall be increased one story and 20 feet, but not to exceed a height of four stories and 60 feet, when the building is equipped with an automatic sprinkler system in accordance with Section 1004.2.2.

(C) Replace Section 512.0, Physically Handicapped and Aged with the following new section:

SECTION 512.0. ACCESSIBILITY FOR PEOPLE WITH PHYSICAL DISABILITIES.

512.1. Referenced standard. The following national standard shall be incorporated into this section for use as part of this code:

American National Standard for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People (ANSI A117.1 - 1986)

512.2. Amendments to standard. The amendments noted in Addendum 3 of the USBC shall be made to the indicated sections of the ANSI A117.1 standard for use as part of the USBC.

ARTICLE 6.

SPECIAL USE AND OCCUPANCY REQUIREMENTS.

(A) Change Section 610.2.1 to read as follows:

610.2.1. Waiting areas. Waiting areas shall not be open to the corridor, except where all of the following criteria are met:

1. The aggregate area of waiting areas in each smoke compartment does not exceed 600 square feet (56 m²);
2. Each area is located to permit direct visual supervision by facility staff;
3. Each area is equipped with an automatic fire detection system installed in accordance with Section 1017.0;
4. Each area is arranged so as not to obstruct access to the required exits; and
5. The walls and ceilings of the space are constructed as required for corridors.

(B) Delete Section 610.2.2, Waiting areas on other floors, but do not renumber remaining sections.

(C) Change Section 610.2.3 to read as follows:

610.2.3. Waiting areas of unlimited area. Spaces constructed as required for corridors shall not be open to a corridor, except where all of the following criteria are met:

1. The spaces are not used for patient sleeping rooms, treatment rooms or specific use areas as defined in Section 313.1.4.1;
2. Each space is located to permit direct visual supervision by the facility staff;
3. Both the space and corridors that the space opens into in the same smoke compartment are protected by an automatic fire detection system installed in accordance with Section 1017.0; and
4. The space is arranged so as not to obstruct access to the required exits.

(D) Change Section 610.2.5 to read as follows:

610.2.5. Mental health treatment areas. Areas wherein only mental health patients who are capable of self-preservation are housed, or group meeting or multipurpose therapeutic spaces other than specific use areas as defined in Section 313.1.4.1, under continuous supervision by facility staff, shall not be open to the corridor, except where all of the following criteria are met:

1. Each area does not exceed 1,500 square feet (140

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m²);

2. The area is located to permit supervision by the facility staff;

3. The area is arranged so as not to obstruct any access to the required exits;

4. The area is equipped with an automatic fire detection system installed in accordance with Section 1017.0;

5. Not more than one such space is permitted in any one smoke compartment; and

6. The walls and ceilings of the space are constructed as required for corridors.

(E) Change Section 610.3 and subsection 610.3.1 to read as follows:

610.3. Corridor walls. Corridor walls shall form a barrier to limit the transfer of smoke. The walls shall extend from the floor to the underside of the floor or roof deck above or to the underside of the ceiling above where the ceiling membrane is constructed to limit the transfer of smoke.

610.3.1. Corridor doors. All doors shall conform to Section 916.0. Corridor doors, other than those in a wall required to be rated by Section 313.1.4.1 or for the enclosure of a vertical opening, shall not have a required fire-resistance rating, but shall provide an effective barrier to limit the transfer of smoke.

(F) Change Section 610.5 to read as follows:

610.5. Automatic fire detection. An automatic fire detection system shall be provided in corridors and common spaces open to the corridor as permitted by Section 610.2.

(G) Delete Section 610.5.1, Rooms, and Section 610.5.2, Corridors.

(H) Add new Section 618.10 to read as follows:

SECTION 618.10. MAGAZINES.

618.10. Magazines. Magazines for the storage of explosives, ammunition and blasting agents shall be constructed in accordance with the Statewide Fire Prevention Code as adopted by the Board of Housing and Community Development.

(I) Change Section 619.1 to read as follows:

619.1. Referenced codes. The storage systems for flammable and combustible liquids shall be in accordance with the mechanical code and the fire prevention code listed in Appendix A.

Exception: Aboveground tanks which are used to store or dispense motor fuels, aviation fuels or heating fuels at commercial, industrial, governmental or manufacturing establishments shall be allowed when in compliance with NFPA 30, 30A, 31 or 407 listed in Appendix A.

(J) Change Section 620.0 to read as follows:

SECTION 620.0. MOBILE UNITS AND MANUFACTURED HOMES.

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.

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.

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 home. 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.

620.3.1. Hurricane zone. Manufactured homes installed or relocated in the hurricane zone shall be of Hurricane and Windstorm Resistant design in accordance with the 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, Middlesex, Southampton, Greensville, Northumberland,

Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George.

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 a 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.

(K) Add new Section 627.0 to read as follows:

SECTION 627.0. UNDERGROUND STORAGE TANKS.

627.1. General. The installation, upgrade, or closure of any underground storage tanks containing an accumulation of regulated substances, shall be in accordance with the Underground Storage Tank Regulations adopted by the State Water Control Board. Underground storage tanks containing flammable or combustible liquids shall also comply with the applicable requirements of Section 619.0.

ARTICLE 7. INTERIOR ENVIRONMENTAL REQUIREMENTS.

(A) Add new Section 706.2.3 as follows:

706.2.3. 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.

(B) Change Section 714.0 to read as follows:

SECTION 714.0.

SOUND TRANSMISSION CONTROL IN RESIDENTIAL BUILDINGS.

714.1. Scope. This section shall apply to all common interior walls, partitions and floor/ceiling assemblies between adjacent dwellings or between a dwelling and adjacent public areas such as halls, corridors, stairs or service areas in all buildings of Use Group R.

714.2. Airborne noise. Walls, partitions and floor/ceiling assemblies separating dwellings from each other or from public or service areas shall have a sound transmission class (STC) of not less than 45 for airborne noise when tested in accordance with ASTM E90 listed in Appendix A. This requirement shall not apply to dwelling entrance doors, but such doors shall be tight fitting to the frame and sill.

714.3. Structure borne sound. Floor/ceiling assemblies between dwellings and between a dwelling and a public or service area within the structures shall have an impact insulation class (IIC) rating of not less than 45 when tested in accordance with ASTM E492 listed in Appendix A.

714.4. Tested assemblies. Where approved, assemblies of building construction listed in GA 600, NCMA TEK 69A and BIA TN 5A listed in Appendix A shall be accepted as having the STC and IIC ratings specified therein for determining compliance with the requirements of this section.

(C) Add new Section 715.0 to read as follows:

SECTION 715.0. HEATING FACILITIES.

715.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed 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 spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F. (16°C.) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F. (-18°C.) and the heating system is operating at its full capacity, a minimum room temperature of 60°F. (16°C.) shall be maintained at all times.

715.2. Other structures. 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 occupant thereof; and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its

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own heat, 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 in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

ARTICLE 8. MEANS OF EGRESS.

(A) Change Exception 6 of Section 813.4.1 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or S. These doors may be locked from the inside when all of the following conditions are met:

- a. The building is occupied by employees only and all employees have ready access to the unlocking device.
- b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.
- c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(B) Add new Exception 7 to Section 813.4.1 to read as follows:

Exception

7. Locking arrangements conforming to Section 813.4.5.

(C) Add new Section 813.4.5 to read as follows:

813.4.5. Building entrance doors. In Use Groups A, B, E, M, R-1 and R-2, the building entrance doors in a means of egress are permitted to be equipped with an approved entrance and egress control system which shall be installed in accordance with items 1 through 6 below.

1. A sensor shall be provided on the egress side arranged to detect an occupant approaching the doors.

The doors shall be arranged to unlock by a signal from or loss of power to the sensor.

2. Loss of power to that part of the access control system which locks the doors shall automatically unlock the doors.

3. The doors shall be arranged to unlock from a manual exit device located 48 inches (1219 mm) vertically above the floor and within five feet (1524 mm) of the secured doors. The manual exit device shall be readily accessible and clearly identified by a sign. When operated, the manual exit device shall result in direct interruption of power to the lock – independent of the access control system electronics – and the doors shall remain unlocked for a minimum of 30 seconds.

4. Activation of the building fire protective signaling system, if provided, shall automatically unlock the doors, and the doors shall remain unlocked until the fire protective signaling system has been reset.

5. Activation of the building sprinkler or detection system, if provided, shall automatically unlock the doors. The doors shall remain unlocked until the fire protective signaling system has been reset.

6. The doors shall not be secured from the egress side in Use Groups A, B, E and M during periods when the building is accessible to the general public.

(D) Add new Section 826.0 to read as follows:

SECTION 826.0. EXTERIOR DOORS.

826.1. Swinging entrance doors. Exterior swinging doors of each dwelling unit in buildings of Use Group R-2 shall be equipped with a dead bolt lock, with a throw of not less than one inch, and shall be capable of being locked or unlocked by key from the outside and by turn-knob from the inside.

826.2. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

826.3. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

ARTICLE 10. FIRE PROTECTION SYSTEMS.

(A) Delete Section 1000.3.

(B) Change Section 1002.6 to read as follows:

1002.6. Use Group I. Throughout all buildings with a Use Group I fire area.

Exception: Use Group I-2 child care facilities located at the level of exit discharge and which accommodate 100 children or less. Each child care room shall have an exit door directly to the exterior.

(C) Change Section 1002.8 to read as follows:

1002.8. Use Group R-1. Throughout all buildings of Use Group R-1.

Exception: Use Group R-1 buildings where all guestrooms are not more than three stories above the lowest level of exit discharge of the exits serving the guestroom. Each guestroom shall have at least one door opening directly to an exterior exit access which leads directly to the exits.

(D) Change Section 1002.9 to read as follows:

1002.9. Use Group R-2. Throughout all buildings of Use Group R-2.

Exceptions 1.

Use Group R-2 buildings where all dwelling units are not more than one story above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit.

2. Use Group R-2 buildings where all dwelling units are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit and every two dwelling units are separated from other dwelling units in the building by fire separation assemblies (see Sections 909.0 and 913.0) having a fire resistance rating of not less than two hours.

(E) Add new Section 1002.12 to read as follows:

1002.12. Use Group B, when more than 50 feet in height. Fire suppression systems shall be installed in buildings and structures of Use Group B, when more than 50 feet in height and less than 75 feet in height according to the following conditions:

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or

structure to the floor of the highest occupiable story of the building or structure.

2. Adequate public water supply is available to meet the needs of the suppression system.

3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 502.3, 503.1, 905.2.2, 905.3.1, 921.7.2, 921.7.2.2, 922.8.1, and any others not specifically listed shall be granted.

4. The requirements of Section 602.0 for high-rise buildings, such as, but not limited to, voice alarm systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(F) Change Sections 1004.1 through 1004.2.2 to read as follows:

1004.1. General. Automatic sprinkler systems shall be approved and shall be designed and installed in accordance with the provisions of this code.

1004.2. Equipped throughout. Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system, the system shall be designed and installed in accordance with Section 1004.2.1, 1004.2.2 or 1004.2.3.

Exception: Where the use of water as an extinguishing agent is not compatible with the fire hazard (see Section 1003.2) or is prohibited by a law, statute or ordinance, the affected area shall be equipped with an approved automatic fire suppression system utilizing a suppression agent that is compatible with the fire hazard.

1004.2.1. NFIP 13 systems. The systems shall be designed and installed in accordance with NFIP 13 listed in Appendix A.

Exception: In Use Group R fire areas, sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area and are located within individual dwelling units or guestrooms.

1004.2.1.1. Quick response sprinklers. NFIP 13 systems installed in Use Group I-2 fire areas shall use quick response sprinklers in patient sleeping rooms.

1004.2.2. NFIP 13R systems. In buildings four stories or less in height, systems designed and installed in accordance with NFIP 13R listed in Appendix A shall be permitted in Use Group I-1 fire areas in buildings with not more than 16 occupants, and in Use Group R fire areas.

Exception: Sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area and are located within individual dwelling units or guestrooms.

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(G) Add new Section 1004.2.3 to read as follows:

1004.2.3. NFIPA 13D systems. In Use Group I-1 fire areas in buildings with not more than eight occupants, systems designed and installed in accordance with NFIPA 13D listed in Appendix A shall be permitted.

Exceptions:

1. Sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area.
2. A single fire protection water supply shall be permitted to serve not more than eight dwelling units.

(H) Add new Section 1018.3.5 to read as follows:

1018.3.5. Smoke detectors for the deaf and hearing impaired. Smoke detectors for the deaf and hearing impaired shall be provided as required by § 36-99.5 of the Code of Virginia.

ARTICLE 12. FOUNDATION SYSTEMS.

(A) Add new provision to Section 1205.0, Depth of Footings:

1205.4. Small storage sheds. The building official may accept utility sheds without footings when they are used for storage purposes and do not exceed 150 square feet in gross floor area when erected or mounted on adequate supports.

ARTICLE 13. MATERIALS AND TESTS.

(A) Add new Section 1300.4 to read as follows:

1300.4. Lead based paint. Lead based paint with a lead content of more than 0.5% shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section 1308.1 to read as follows:

1308.1. General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

Exception: Special inspections are not required for buildings or structures unless the design involves the practice of professional engineering or architecture as required by §§ 54.1-401, 54.1-402 and 54.1-406 of the Code of Virginia.

(C) Delete Section 1308.8, Special cases.

ARTICLE 17. WOOD.

(A) Change Section 1702.4.1 to read as follows:

1702.4.1. General. Where permitted for use as a structural element, fire-retardant treated wood shall be defined as any wood product which, when impregnated with chemicals by a pressure process in accordance with AWPA C20 or AWPA C27 listed in Appendix A or other means during manufacture, shall have, when tested in accordance with ASTM E84 listed in Appendix A, a flame spread rating not greater than 25 when the test is continued for a period of 30 minutes, without evidence of significant progressive combustion and the flame front shall not progress more than 10.5 feet (3200 mm) beyond the centerline of the burner at any time during the test. Fire-retardant treated wood shall be dried to a moisture content of 19% or less for lumber and 15% or less for plywood before use.

(B) Add new Sections 1702.4.1.1 and 1702.4.1.2 as follows:

1702.4.1.1. Strength modifications. Design values for untreated lumber, as specified in Section 1701.1, shall be adjusted when the lumber is pressure impregnated with fire-retardant chemicals. Adjustments to the design values shall be based upon an approved method of investigation which takes into consideration the effects of the anticipated temperature and humidity to which the fire-retardant treated wood will be subjected, the type of treatment, and the redrying procedures.

1702.4.1.2. Labeling. Fire-retardant treated lumber and plywood shall bear the label of an approved agency in accordance with Section 1307.3.2. Such label shall contain the information required by Section 1307.3.3.

ARTICLE 21. EXTERIOR EQUIPMENT AND SYSTEMS.

(A) Delete Section 2101.6.9 Alterations and repairs, but do not renumber remaining sections.

ARTICLE 25. MECHANICAL EQUIPMENT AND SYSTEMS.

(A) Change Section 2500.2 to read as follows:

2500.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Appendix A, as amended below:

1. Delete Article 17, Air Quality:
2. Add Note to M-2000.2 to read as follows:

Note: Boilers and pressure vessels constructed under this article shall be inspected and have a certificate of inspection issued by the Department of Labor and

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Industry.

ARTICLE 27. ELECTRIC WIRING AND EQUIPMENT.

(A) Add Section 2700.5 to read as follows:

2700.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet (jack). In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

ARTICLE 28. PLUMBING SYSTEMS.

(A) Change Section 2800.1 to read as follows:

2800.1. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings shall comply with the requirements of this article and the plumbing code listed in Appendix A (BOCA National Plumbing Code/1990) as amended below:

1. Change Section P-303.1 to read as follows:

P-303.1. General. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to public water main and sewer respectively, if available. Where a public water main is not available, an individual water supply shall be provided. Where a public sewer is not available, a private sewage disposal system shall be provided conforming to the regulations of the Virginia Department of Health.

2. Change Section P-303.2 to read as follows:

P-303.2. Public systems available. A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if such premises are within (number of feet and inches as determined by the local government) measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in the USBC may be made thereto.

3. Change Section P-308.3 to read as follows:

P-308.3. Freezing. Water service piping and sewers shall be installed below recorded frost penetration but not less than (number of feet and inches to be determined by the local government) below grade for water piping and (number of feet and inches to be determined by the local government) below grade for sewers. In climates with freezing temperatures, plumbing piping in exterior building walls or areas subjected to freezing temperatures shall be adequately protected against freezing by insulation or heat or both.

4. Delete Section P-311.0, Toilet Facilities for Workers.

5. Add new Section P-604.2.1 to read as follows:

P-604.2.1. Alarms. Malfunction alarms shall be provided for sewage pumps or sewage ejectors rated at 20 gallons per minute or less when used in Use Group R-3 buildings.

6. Add the following exception to Section P-1001.1:

4. A grease interceptor listed for use as a fixture trap may serve a single fixture or a combination sink of not more than three compartments when the vertical distance of the fixture drain to the inlet of the grease interceptor does not exceed 30 inches and the horizontal distance does not exceed 60 inches.

7. Change Note d of Table P-1202.1 to read:

Note d. For attached one and two family dwellings one automatic clothes washer connection shall be required per 20 dwelling units. Automatic clothes washer connections are not required for Use Group R-4.

8. Revise Table P-1202.1 for Building Use Groups A-1, A-3, A-4 and A-5.

Building Use Group (P1218.2)	Water Closets (Urinals see Section P1218.2)	
	Males	Females
A-1 Assembly, theaters	1 per 125	1 per 65
A-2 Assembly, nightclubs	1 per 40	1 per 40
A-3 Assembly, restaurants	1 per 75	1 per 75
A-3 Assembly, halls, museums, etc.	1 per 125	1 per 65
A-4 Assembly, churches/b	1 per 150	1 per 75
A-5 Assembly, stadiums, pools, etc.	1 per 100	1 per 50

9. Add Note e to Table P-1202.1 to reference Use Group I-2 day nurseries to read as follows:

Note e. Day nurseries shall only be required to provide one bathtub or shower regardless of the number of occupants.

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10. Delete Section P-1203.0, Handicap Plumbing Facilities, but do not renumber the remaining sections in the article.

11. Add new Section P-1501.3:

P-1501.3. Public water supply and treatment. The approval, installation and inspection of raw water collection and transmission facilities, treatment facilities and all public water supply transmission mains shall be governed by the Virginia Waterworks Regulations. The internal plumbing of buildings and structures, up to the point of connection to the water meter shall be governed by this code. Where no meter is installed, the point of demarcation shall be at the point of connection to the public water main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building.

Note: See Memorandum of Agreement between the Board of Housing and Community Development and the Virginia Department of Health, signed July 21, 1980.

12. Add Note to P-1506.3 to read as follows:

Note: Water heaters which have a heat input of greater than 200,000 BTU per hour, a water temperature of over 210°F, or contain a capacity of more than 120 gallons shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

13. Delete Article 16, Individual Water Supply.

(B) Change Section 2804.3 to read as follows:

2804.3. Private water supply. When public water mains are not used or available, a private source of water supply may be used. The Health Department shall approve the location, design and water quality of the source prior to the issuance of the permit. The building official shall approve all plumbing, pumping and electrical equipment associated with the use of a private source of water.

(C) Change Section 2807.1 to read as follows:

2807.1. Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by

the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

ARTICLE 29. SIGNS.

- (A) Delete Section 2901.1, Owner's consent.
- (B) Delete Section 2901.2, New signs.
- (C) Delete Section 2906.0, Bonds and Liability Insurance.

ARTICLE 30. PRECAUTIONS DURING BUILDING OPERATIONS.

(A) Change Section 3000.1 to read as follows:

3000.1. Scope. The provisions of this article shall apply to all construction operations in connection with the erection, alteration, repair, removal or demolition of buildings and structures. It is applicable only to the protection of the general public. Occupational health and safety protection of building-related workers are regulated by the Virginia Occupational Safety and Health Standards for the Construction Industry, which are issued by the Virginia Department of Labor and Industry.

APPENDIX A. REFERENCED STANDARDS.

(A) Add the following standards:

NCSBCS/ANSI A225.1-87

Manufactured Home Installations (referenced in Section 620.4).

NFiPA 13D-89

Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes (referenced in Section 1004.2.3)

NFiPA 30A-87

Automotive and Marine Service Station Code (referenced in Section 619.1).

NFiPA 31-87

Installation of Oil Burning Equipment (referenced in Section 619.1)

NFiPA 407-90

Aircraft Fuel Servicing (referenced in Section 619.1)

ADDENDUM 2.

AMENDMENTS TO THE CABO ONE AND TWO FAMILY DWELLING CODE/1989 EDITION AND 1990 AMENDMENTS.

As provided in Section 101.4 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the CABO One and Two Family Dwelling Code/1989 Edition and 1990 Amendments for use as part of the USBC.

PART I. ADMINISTRATIVE.

Chapter 1. Administrative.

(A) Any requirements of Sections R-101 through R-113 that relate to administration and enforcement of the CABO One and Two Family Dwelling Code are superseded by Article 1, Adoption, Administration and Enforcement of the USBC.

PART II. BUILDING PLANNING.

Chapter 2. Building Planning.

(A) Add Section R-203.5, Insect Screens:

203.5. 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.

(B) Change Section R-207 to read as follows:

SECTION R-207. SANITATION.

Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower.

Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material.

All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water, except water closets may be provided with cold water only.

Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil

conditions or temporary recreational use of the building.

(C) Add to Section R-212:

Key operation is permitted from a dwelling unit provided the key cannot be removed when the door is locked from the side from which egress is to be made.

(D) Change Section R-214.2 to read as follows:

R-214.2. Guardrails. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than 36 inches in height.

Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which will not allow passage of an object six inches or more in diameter.

(E) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other detectors to provide, when activated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

(F) Add new Section R-221:

SECTION R-221. TELEPHONE OUTLETS.

Each dwelling unit shall be prewired to provide at least one wall telephone outlet (jack). The telephone wiring shall terminate on the exterior of the building at a point prescribed by the telephone company.

(G) Add new Section R-222:

SECTION R-222. LEAD BASED PAINT.

Lead Based Paint. Lead based paint with a lead content of more than 0.5% shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

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PART III. CONSTRUCTION.

Chapter 3. Foundations.

(A) Add Section R-301.6 to read as follows:

R-301.6. Floodproofing. All buildings or structures located in areas prone to flooding as determined by the governing body having jurisdiction shall be floodproofed in accordance with the provisions of Section 2101.6 of the 1990 BOCA National Building Code.

Chapter 9. Chimneys and Fireplaces.

(A) Add Section R-903.10 as follows:

R-903.10. Spark arrestor. Spark arrestor screens shown in Figure R-904 are optional unless specifically required by the manufacturer of the fireplace stove or other appliance utilizing a chimney.

PART IV. MECHANICAL.

(A) Add new Section M-1101.1:

M-1101.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed 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 spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F. (16°C.) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F. (-18°C.) and the heating system is operating at its full capacity, a minimum room temperature of 60°F. (16°C.) shall be maintained at all times.

PART V. PLUMBING.

Chapter 22. Plumbing, Drainage, Waste and Vent Systems (DWV).

(A) Change Section P-2206.8.2 to read as follows:

P-2206.8.2. Sewage ejectors or sewage pumps. A sewage ejector or sewage pump receiving discharge of water closets shall have a minimum discharge capacity of 20 gallons per minute. The ejector or pump shall be capable of passing a 1 1/2-inch-diameter solid ball, and the discharge piping of each ejector or pump shall have a

backwater valve and be a minimum of two inches. Malfunction alarms shall be provided on sewage pumps or sewage ejectors rated at 20 gallons per minute or less.

PART VI. ELECTRICAL.

(A) Revise Part VI as follows:

The electrical installations shall conform to the Electrical Code for One and Two Family Dwellings (NFPA 70A-1990) published by the National Fire Protection Association.

PART VII. ENERGY CONSERVATION.

(A) Revise Part VII as follows:

The energy conservation requirements shall conform to Article 31 of the BOCA National Building Code/1990.

ADDENDUM 3. AMENDMENTS TO THE ANSI A117.1 STANDARD.

As provided in Section 512.2 of the USBC, the amendments noted in this addendum shall be made to the American National Standard for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People (ANSI A117.1 - 1986) for use as part of the USBC.

(A) Change Section 1, Purpose and Application, to read as follows:

1. Purpose.

This standard sets minimum requirements for facility accessibility by people with physical disabilities, which includes those with sight impairment, hearing impairment and mobility impairment.

(B) Change Section 2, Recommendations to Adopting Authorities to read as follows:

2. Application of Standard.

2.1. General.

The number of spaces and elements to be made accessible for each building type shall be established by this section and other applicable portions of this standard.

2.2. Where Required.

All buildings and structures of Use Groups A, B, E, F, H, I, M, R, and S, and their associated exterior sites and facilities are required to be accessible to people with physical disabilities, unless otherwise noted.

Exceptions:

1. Building areas and exterior facilities where

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providing physical access is not practical, such as elevator pits, piping and equipment catwalks, and similar incidental spaces.

2. Floors above or below accessible levels in buildings when the aggregate floor area of the building does not exceed 12,000 square feet.

3. Temporary grandstands and bleachers used for less than 90 days, when accessible seating with equivalent lines of sight are provided.

4. Individually owned dwelling units in Use Group R-2 and R-3 buildings.

5. Those portions of existing buildings which would require modification to the structural system in order to provide accessibility.

2.2.1. Use Group A-1. Use Group A-1 buildings shall provide not less than four wheelchair positions for each assembly area up to 300 seated participants, plus one additional space for each additional 100 seated occupants or fraction thereof. Removable seats shall be permitted in the wheelchair positions.

2.2.2. Use Group A-3. In areas of Use Group A-3 without fixed seating or fixed tables, at least 20% of the total seating shall be accessible. In areas with fixed seating or fixed tables, at least 3% of the total seating shall be accessible. All functional spaces and elements shall be accessible from all accessible seating.

2.2.3. Use Group I-1. Use Group I-1 buildings shall meet the requirements of Section 2.2.7.

2.2.4. Use Group I-2. In Use Group I-2 buildings, at least one patient sleeping room and its toilet per nursing unit shall be accessible.

2.2.5. Use Group I-3. In Use Group I-3 buildings, at least one accessible unit shall be provided for each 100 resident units or fraction thereof.

2.2.6. Use Group R-1. Use Group R-1 buildings shall comply with the following:

1. Doors designed to allow passage into a room or space shall provide a minimum 32-inch clear opening width.

2. When 21 or more guest units are provided, 1% shall be accessible.

2.2.7. Use Groups R-2 and R-3. In buildings of Use Group R-2 or R-3 containing more than 20 dwelling units, the following number of dwelling units shall be accessible:

1. In buildings with 21 through 99 dwelling units, at least one shall be accessible.

2. In buildings with over 100 dwelling units, one accessible unit plus one for each additional 100 units or fraction thereof.

2.2.8. Historic Buildings. These standards shall apply to buildings and structures or portions thereof that are designated, or are eligible to be designated, as historic landmarks by the federal, state, or local government, to the extent that the historical character of the building, or its elements, are not impaired.

(C) Delete the following definitions from Section 3.5:

Administrative authority; Assembly area, Authority having jurisdiction, Children, Coverage, Dwelling unit, Means of egress, Multifamily dwelling, and Temporary.

(D) Change Section 4.6.1, General, to read as follows:

4.6.1. General. Accessible parking spaces shall comply with

4.6.2. Accessible passenger loading zones shall comply with

4.6.3.

When lots or garage facilities are provided, the number of accessible spaces provided shall be in accordance with Table 4.6. In facilities with multiple building entrances on grade, accessible parking spaces shall be dispersed and located near these entrances. The required number of accessible spaces in parking lots and garages which serve multiple family dwellings shall be based on the total number of spaces provided for visitors and public use facilities.

Table 4.6.

ACCESSIBLE PARKING SPACES.

Total parking spaces in lots and garages	Required minimum no. of accessible spaces
1 to 15	1a
16 to 50	1
51 to 100	2
101 to 150	3
151 to 400	2.0%
401 and over	8 plus 1.0% of all spaces over 401

Note a: The accessible space shall be provided, but need not be designated.

(E) Change Section 4.11.1, General, to read as follows:

4.11.1. General. Platform lifts shall not be part of a

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required accessible route in new construction.

(F) Change Section 4.14, Entrances, to read as follows:

4.14. Entrances and Exits.

4.14.1. Entrances. Entrances to a building or facility that are part of an accessible route shall comply with Section 4.3. At least one entrance to a building or facility or to each separate occupancy or tenancy within a building or facility, and all entrances which normally serve accessible parking facilities, transportation facilities, passenger loading zones, taxi stands, public streets and sidewalks, or accessible interior vertical access, shall be accessible.

4.14.2. Exits. All required exits shall be accessible.

(G) Change Section 4.15.1, General, to read as follows:

4.15.1. General. All drinking fountains and water coolers on an accessible route shall comply with Section 4.4. At least 50% of drinking fountains and water coolers on accessible routes shall be accessible. If only one drinking fountain or water cooler is provided on an accessible route, it shall be accessible. Accessible drinking fountains shall comply with Section 4.15 and shall be on an accessible route.

(H) Change the title of Section 4.22 and the text of Section 4.22.1, General, to read as follows:

4.22. Toilet and Bathing Facilities.

4.22.1. General. Toilet rooms and bathing facilities shall comply with 4.22 and shall be on an accessible route. At least one of each type fixture or element shall be accessible. When there are 10 or more fixtures of any type, two of that type shall be accessible. Separate rooms for each sex need not be made accessible if an additional accessible room containing the required facilities is provided. Such room shall be lockable from the interior for privacy.

Exceptions:

1. Nonrequired toilet rooms with no more than one fixture of each type which is provided for the convenience of a single employee, and is not generally available to the public.
2. Dwelling units, guest rooms and patient rooms, unless required by other provisions of this standard.

(I) Change Section 4.23.1, General, to read as follows:

4.23.1. General. Where storage facilities such cabinets, shelves, closets and drawers are provided in required accessible or adaptable spaces, at least one of each type shall contain storage space that complies with Section 4.23.

(J) Change Section 4.28.1, General, to read as follows:

4.28.1. General. All signs required by 4.28.2 shall comply with Sections 4.28.3, 4.28.4, and 4.28.6. Tactile signage shall also comply with Section 4.28.5.

(K) Add new Section 4.28.2 to read as follows and renumber existing Sections 4.28.2 through 4.28.5:

4.28.2. Where Required. Accessible facilities shall be identified by the International Symbol of Accessibility at the following locations:

1. Parking spaces designated as reserved for physically disabled persons.
2. Passenger loading zones.
3. Accessible building entrances.
4. Accessible toilet and bathing facilities.
5. Exterior accessible routes.

(L) Add new Section 4.28.7 to read as follows:

4.28.7. Sign Height. Accessible parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2134 mm) above the parking surface.

(M) Add new Section 4.29.2 to read as follows, and renumber existing Sections 4.29.2 through 4.29.8:

4.29.2. Where required. At least one telephone in each bank of two or more shall have a volume control. Where such telephones are located on an accessible route, at least one shall comply with 4.29.

(N) Add new Section 4.30.2 to read as follows and renumber existing Sections 4.30.2 through 4.30.4:

4.30.2. Where required. Fixed tables, counters and work stations provided in a required accessible space shall have at least one station that is accessible.

(O) Change Section 4.31.1, General, to read as follows:

4.31.1. General. Auditorium and assembly areas shall comply with Section 4.31, with the number of accessible seating to be established by Section 2.2. Such areas with audio-amplification systems shall have a listening system complying with Sections 4.31.6 and 4.31.7 to assist persons with severe hearing loss in listening to audio presentations.

(P) Change Section 4.32.1, General, to read as follows:

4.32.1. General. Accessible dwelling units shall comply with Section 4.32.

Exception:

Dwelling units need not be fully equipped for

accessibility at the time of construction provided at least 5% of all dwelling units in the building comply with the adaptability provisions of this section.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Estimated Acquisition Cost Pharmacy Reimbursement.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

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

Public Hearing Date: N/A - Written comments may be submitted until August 2, 1991.

(See Calendar of Events section for additional information)

Summary:

The State Plan for Medical Assistance section affected by this action is "Methods and Standards for Establishing Payment Rates - Other Types of Care" (Attachment 4.19 B). The U.S. Department of Health and Human Services (HHS) Health Care Financing Administration (HCFA) has directed that state Medicaid agencies reimburse pharmacies for drug products based on the agency's best estimate of providers' actual drug acquisition costs.

HHS has determined, through its Office of the Inspector General's nationwide study of pharmacy costs, that pharmacies often obtain 13% to 17% savings over the Average Wholesale Price (AWP) in their pharmaceutical purchases. Therefore, HCFA has determined that a state's strict reliance upon the AWP as a pricing reference fails to recognize these potential savings.

Effective October 1, 1990, an emergency regulation and a State Plan amendment were implemented, pursuant to Chapter 972 of the Acts of Assembly, 1990, item 466 (L), changing the reimbursement formula to better reflect pharmacy providers' drug product acquisition costs and the cost to dispense such products. The Health Care Financing Administration approved this State Plan amendment on December 20, 1990.

This change provided that DMAS reimburse pharmacies based on the lower of either their usual and customary charge or the AWP 9.0% plus \$4.40 dispensing fee. This variant of the AWP base cost ensures that Medicaid recipients have the same access to services as that of the general population in conformance to federal requirements (42 CFR 447.204).

In addition, a technical language change is being

made in subdivision f(7) to remove references to skilled and intermediate care facilities. OBRA 87 changed the Social Security Act to remove these two nursing home levels of care and replace them with the term "nursing facility."

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.

b. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

c. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed; such data will be made available to the Secretary, HHS, upon request.

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

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1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

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

The services that are cost reimbursed are:

- (1) Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals
- (2) Home health care services
- (3) Outpatient hospital services excluding laboratory
- (4) Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.
- (5) Rehabilitation agencies
- (6) Comprehensive outpatient rehabilitation facilities
- (7) Rehabilitation hospital outpatient services.

e. Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

- (1) Physicians' services
- (2) Dentists' services
- (3) Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

- Mental health services provided by a physician
- (4) Podiatry
 - (5) Nurse-midwife services
 - (6) Durable medical equipment
 - (7) Local health services
 - (8) Laboratory services (Other than inpatient hospital)
 - (9) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)
 - (10) X-Ray services
 - (11) Optometry services
 - (12) Medical supplies and equipment.

f. Payment for pharmacy services shall be the lowest of items (1) through (5) (except that items (1) and (2) will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is ~~higher~~ *greater* than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) ~~The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs which are included both on HCFA's list of multiple source drugs and on the Virginia Voluntary Formulary (VVF), unless specified otherwise by the agency; The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs pursuant to 42 CFR §§ 447.331 and 447.332, as determined by the HCFA Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.~~

(2) The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF ; .

(3) ~~The estimated acquisition cost established by the agency for legend drugs except oral contraceptives; plus the dispensing fee established by the state agency; or The Estimated Acquisition Cost (EAC) shall be based on the published Average Wholesale Price (AWP) minus a percent discount established by the following methodology. Pursuant to OBRA 90 § 4401, from January 1, 1991, through December 31, 1994, no changes in reimbursement limits or dispensing fees shall be made which reduce such limits or fees for covered outpatient drugs.~~

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(a) Percent discount shall be determined by a statewide survey of providers' acquisition cost.

(b) The survey shall reflect statistical analysis of actual provider purchase invoices.

(c) The agency will conduct surveys at intervals deemed necessary by DMAS, but no less frequently than triennially.

Determination of EAC was the result of an analysis of FY '89 paid claims data of ingredient cost used to develop a matrix of cost using 0 to 10% reductions from AWP as well as discussions with pharmacy providers. As a result of this analysis, AWP minus 9.0% was determined to represent prices currently paid by providers effective October 1, 1990.

The same methodology used to determine AWP minus 9.0% was utilized to determine a dispensing fee of \$4.40 per prescription as of October 1, 1990. A periodic review of dispensing fee using Employment Cost Index - wages and salaries, professional and technical workers will be done with changes made in dispensing fee when appropriate. As of October 1, 1990, the Estimated Acquisition Cost will be AWP minus 9.0% and dispensing fee will be \$4.40.

(4) A mark-up allowance determined by the agency for covered nonlegend drugs and oral contraceptives; or A mark-up allowance (150%) of the Estimated Acquisition Cost (EAC) for covered nonlegend drugs and oral contraceptives.

(5) The provider's usual and customary charge to the public, as identified by the claim charge.

(6) Payment for pharmacy services will be as described above; however, payments for legend drugs (except oral contraceptives) will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Payments will be reduced by the amount of the established copayment per prescription by noninstitutionalized clients with exceptions as provided in federal law and regulation.

(7) The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in skilled or intermediate care nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

g. All reasonable measures will be taken to ascertain the

legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

h. The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

i. Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special Emergency transportation	Rate set by the single state agency

j. Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this Plan.

k. Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

l. Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

m. Targeted case management for high-risk pregnant women and infants up to age 1 shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

n. Reimbursement for all other nonenrolled institutional

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and noninstitutional providers.

(1) All other nonenrolled providers shall be reimbursed the lesser of the charges submitted, the DMAS cost to charge ratio, or the Medicare limits for the services provided.

(2) Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less five percent. The five percent is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

(3) Nonenrolled providers of noninstitutional services shall be paid on the same basis as enrolled in-state providers of noninstitutional services. Nonenrolled providers of physician, dental, podiatry, optometry, and clinical psychology services, etc., shall be reimbursed the lesser of the charges submitted, or the DMAS rates for the services.

(4) All nonenrolled noninstitutional providers shall be reviewed every two years for the number of Medicaid recipients they have served. Those providers who have had no claims submitted in the past twelve months shall be declared inactive.

(5) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

o. Refund of overpayments.

(1) Providers reimbursed on the basis of a fee plus cost of materials.

(a) When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical

Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

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

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

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

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

(d) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

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

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

(2) Providers reimbursed on the basis of reasonable costs.

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

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

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

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

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

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

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

(d) In the request for an extended repayment schedule, the provider shall document the need for

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

(e) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

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

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

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Title of Regulation: State Plan for Medical Assistance Relating to Enrollment of Psychologists Clinical.
VR 460-03-3.1100. Amount, Duration, and Scope of Services.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until August 2, 1991.

(See Calendar of Events section for additional information)

Summary:

The proposed regulations would allow for the enrollment of psychologists, licensed by the Board of Psychology, as psychologists clinical and would permit

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these psychologists to enroll in the Medical Assistance Program as providers of Medicaid covered services.

The Plan section affected by these proposed regulations is VR 460-03-3.1100, i.e., Amount, Duration, and Scope of Services, Supplement 1, Attachment 3.1 A & B, pp. 6, 9 and 28.

There is no professional differentiation in psychologists licensed by the Board of Medicine and psychologists licensed by the Board of Psychology. Currently the State Plan allows board certified psychologists who have been licensed by the Board of Medicine to enroll as providers of Medicaid covered services. This amendment to the State Plan would allow board certified psychologists who are licensed by the Board of Psychology the same status with the Medicaid program.

VR 460-03-3.1100. Amount, Duration, and Scope of Services.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified.

Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered

acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

J. The department may exempt portions or all of the utilization review documentation requirements of subsections A, D, E, F as it pertains to recipients under age 21, G, or H in writing for specific hospitals from time to time as part of their ongoing hospital utilization review performance evaluation. These exemptions are based on utilization review performance and review edit criteria which determine an individual hospital's review status as specified in the hospital provider manual. In compliance with federal regulations at 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed, shall be subject to medical documentation requirements.

K. Hospitals qualifying for an exemption of all documentation requirements except as described in subsection J above shall be granted "delegated review status" and shall, while the exemption remains in effect, not be required to submit medical documentation to support pending claims on a prepayment hospital utilization review basis to the extent allowed by federal or state law or regulation. The following audit conditions apply to delegated review status for hospitals:

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.
2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.
3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and B of the Code of Virginia the full amount of any initial overpayment identified during such audit.
4. The hospital may appeal adverse medical necessity and overpayment decisions pursuant to the current administrative process for appeals of post-payment review decisions.
5. The department may, at its option, depending on the utilization review performance determined by an audit based on criteria set forth in the hospital provider manual, remove a hospital from delegated review status and reapply certain or all prepayment utilization review documentation requirements.

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

a. Are furnished to outpatients;

b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

c. Are furnished by an institution that:

(1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

(2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

The same service limitations apply to rural health clinics as to all other services.

2c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with § 4231 of the State Medicaid Manual (HCFA Pub. 45-4).

The same service limitations apply to FQHCs as to all other services.

§ 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

§ 4. Skilled nursing facility services, EPSDT and family planning.

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4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

4c. Family planning services and supplies for individuals of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine and *psychologists clinical licensed by the Board of Psychology*.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance service shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all

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similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine and *psychologists clinical licensed by the Board of Psychology*. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first

year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine and *psychologists clinical licensed by the Board of Psychology* are covered.

§ 7. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

§ 8. Private duty nursing services.

Not provided.

§ 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

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1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

§ 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; dental sealants; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require covered through preauthorization: medically necessary full banded orthodontics, for handicapping malocclusions, minor tooth guidance or repositioning appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges. The following service is not covered: routine bases under restorations.

D. The state agency may place appropriate limits on a service based on medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

11a. Physical therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy services rendered to patients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section).

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

1. Nonlegend drugs, except insulin, syringes, needles, diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexicant drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexicants for other than weight loss requires preauthorization.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the

Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

5. New drugs, except for Treatment Investigational New Drugs (Treatment IND), are not covered until approved by the board, unless a physician obtains prior approval. The new drugs listed in Supplement 1 to the New Drug Review Program regulations (VR 460-05-2000.1000) are not covered.

12b. Dentures.

Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

12c. Prosthetic devices.

A. Prosthetics services shall mean the replacement of missing arms and legs. Nothing in this regulation shall be construed to refer to orthotic services or devices.

B. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.

12d. Eyeglasses.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

Not provided.

13b. Screening services.

Not provided.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

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15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

Not provided.

§ 19. Case management services for high-risk pregnant women and children up to age 1, as defined in Supplement 2 to Attachment 3.1-A in accordance with § 1915(g)(1) of the Act.

§ 20. Extended services to pregnant women.

20a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

20b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 21. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

21a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

21b. Services of Christian Science nurses.

Not provided.

21c. Care and services provided in Christian Science sanitoria.

Provided, no limitations.

21d. Skilled nursing facility services for patients under 21 years of age.

Provided, no limitations.

21e. Emergency hospital services.

Provided, no limitations.

21f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

Emergency Services for Aliens (17.e)

No payment shall be made for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

Emergency services are defined as:

Emergency treatment of accidental injury or medical condition (including emergency labor and delivery) manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical/surgical attention could reasonably be expected to result in:

1. Placing the patient's health in serious jeopardy;
2. Serious impairment of bodily functions; or
3. Serious dysfunction of any bodily organ or part.

Medicaid eligibility and reimbursement is conditional upon review of necessary documentation supporting the need for emergency services. Services and inpatient lengths of stay cannot exceed the limits established for other Medicaid recipients.

Claims for conditions which do not meet emergency criteria for treatment in an emergency room or for acute care hospital admissions for intensity of service or severity of illness will be denied reimbursement by the Department of Medical Assistance Services.

* * * * *

Title of Regulation: VR 460-03-4.1921. **Methods and Standards for Other Types of Services: Obstetric and Pediatric Payments.**

Statutory Authority: § 32.1-324 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be

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Submitted until August 2, 1991.
 (See Calendar of Events section
 for additional information)

Summary:

The purpose of this proposal is to promulgate permanent regulations regarding specific obstetric and pediatric maximum payment amounts to become effective October 1, 1991.

Attachment 4.19 B of the Plan contains reimbursement methodologies for all covered services except for inpatient hospital and long term care, which are covered in other Plan attachments. This amendment would add a new Supplement 1 to Attachment 4.19 B, providing obstetric and pediatric payment rates, in conformance with the OBRA 89 requirement.

The payment rates listed in this amendment are those resulting from additional appropriations to the agency by the 1991 General Assembly specifically for the purpose of increasing these maximum fees. These new fees must be submitted for approval to the Health Care Financing Administration.

VR 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Payment.

PEDIATRIC SERVICES			
CPT-4 Code	Description	Payment	Payment
1. Office Medical Services.			
<i>Physician services performed in an office and nonemergency services performed in other settings (e.g., emergency departments of hospitals).</i>			
NEW PATIENT			
90000	Office medical service, new patient; brief service	\$ 20.00	24.00
90010	limited service	25.00	28.00
90015	intermediate service	27.00	33.00
90017	extended service	33.00	40.00
90020	comprehensive service	36.75	50.00
ESTABLISHED PATIENT			
90030	Office medical service, established patient; minimal service	\$ 5.00	10.00
90040	brief service	15.00	19.00
90050	limited service	20.00	24.00
90060	intermediate service	23.00	27.00
90070	extended service	28.00	35.00
90080	comprehensive service	36.75	45.00
2. Emergency Department Services.			
<i>For emergency care.</i>			
NEW PATIENT			
90500	Emergency department service, new patient; minimal service	\$ 15.00	18.00
90505	brief service	21.00	34.00
90510	limited service	28.40	44.00
90515	intermediate service	42.00	55.00
90517	extended service	50.00	78.00
90520	comprehensive service	75.00	102.00
ESTABLISHED PATIENT			
90530	Emergency department services, established patient; minimal service	\$11.00	15.00
90540	brief service	21.00	25.00
90550	limited service	29.25	35.00
90560	intermediate service	30.00	40.00
90570	extended service	40.00	51.00
90580	comprehensive service	55.00	69.00
3. Immunization Injections.			
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)		\$17.91
90702	diphtheria and tetanus toxoids (DT)	4.18	3.99
90704	mumps virus vaccine, live	17.97	16.35
90705	measles virus vaccine, live, attenuated	16.13	14.68
90706	rubella virus vaccine, live	16.09	15.19
90707	measles, mumps and rubella virus vaccine, live	32.92	29.97
90708	measles and rubella virus vaccine, live	23.33	21.23
90709	rubella and mumps virus	25.02	22.76

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90712	vaccine, live poliovirus vaccine, live, oral (any type(s))	12-32	11.72
90737	Hemophilus influenza B	20-25	18.45

Note: appropriate office visit may be billed in addition to the above immunization injections

4. Preventive Medicine.

NEW PATIENT

90751	Initial history and examination related to the healthy individual, including anticipatory guidance; adolescent (age 12 through 17 years)	\$ 31-50	35.00
90752	late childhood (age 5 through 11 years)	31-00	39.00
90753	early childhood (age 1 through 4 years)	31-00	39.00
90754	infant (age under 1 year)	32-00	30.00
90755	Infant care to one year of age with a maximum of 12 office visits during regular office hours, including tuberculin skin testing and immunization of DTP and oral polio	28-00	29.00
90757	Newborn care, in other than hospital setting, including physical examination of baby and conference(s) with parent(s)	26-25	33.00

ESTABLISHED PATIENT

90761	Interval history and examination, related to the healthy individual, including anticipatory guidance, periodic type of examination; adolescent (age 12 through 17 years)	\$ 25-00	31.00
90762	late childhood (age 5 through 11 years)	28-00	36.00
90763	early childhood (age 1 through 4 years)	31-00	36.00
90764	infant (age under 1 year)	30-00	35.00
90774	Administration and medical interpretation of developmental tests	10-00	18.00
90778	Circadian respiratory pattern recording (pediatric pneumogram), 12 to 24 hour continuous recording, infant		10.00

OBSTETRICAL SERVICES

1. Maternity Care and Delivery.

INCISION

59020	Fetal oxytocin stress test	\$ 42-00	60.00
59025	Fetal nonstress test	25-00	50.00
59030	Fetal scalp blood sampling; repeat	66-00 22-25	66.00 22.25
59050	Initiation and/or supervision of internal fetal monitoring during labor by consultant	40-95	50.00

REPAIR

59300	Episiotomy or vaginal repair only, by other than attending physician	64-15	250.00
59305	extensive	183-55	

DELIVERY, ANTEPARTUM AND POSTPARTUM CARE

59400	Total obstetric care (all-inclusive, "global" care) includes antepartum care, vaginal delivery (with or without episiotomy, and/or forceps or breech delivery) and postpartum care	\$ 930-00	1200.00
59410	Vaginal delivery only (with or without episiotomy, forceps or breech delivery) including in-hospital postpartum care (separate procedure)	670-00	864.00
59412	External cephalic version, with or without tocolysis	84-00	250.00
59420	Antepartum care only (separate procedure)	232-00	300.00
59430	Postpartum care only (separate procedure)	28-00	33.00

CESAREAN SECTION

59500	Cesarean section, low cervical, including in-hospital postpartum care; (separate procedure)	\$ 961-00	
59501	including antepartum and postpartum care	1221-00	
59520	Cesarean section, classic, including in-hospital postpartum care; (separate procedure)	\$ 961-00	
59521	including antepartum and postpartum care	1221-00	
59540	Cesarean section, extraperitoneal, including in-hospital postpartum care; (separate procedure)	1169-00	
59541	including antepartum and postpartum care	1344-00	
59560	Cesarean section with hysterectomy, subtotal, including in-hospital postpartum care; (separate procedure)	1169-00	
59560	Cesarean section with hysterectomy, total, including in-hospital postpartum care; (separate procedure)	1169-00	
59581	including antepartum and postpartum care	1344-00	

ABORTION

59800	Treatment of spontaneous abortion, first trimester, completed medically	\$ 137-50	
59801	completed surgically	338-50	
59810	Treatment of spontaneous abortion, second trimester, completed medically	360-00	
59811	completed surgically	475-00	
59510	Routine obstetric care including antepartum care, cesarean delivery, and postpartum care		\$1441.00
59515	Cesarean delivery only including postpartum care		1134.00
59525	Subtotal or total		383.00

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hysterectomy after cesarean delivery

for additional information)

ABORTION

59812	Treatment of spontaneous abortion, any trimester, completed surgically	450.00
59820	Treatment of missed, 400-00 abortion any trimester, completed medically or surgically; first trimester	442.00
59830	Treatment of septic abortion completed surgically	229.15

2. Diagnostic Ultrasound.

PELVIS

76805	Echography, pregnant uterus, B-scan and/or real time with image documentation complete	\$ 90-00 98.00
78615	limited (fetal growth rate, heart beat, anomalies, placental location)	60-00 70.00
76816	follow-up or repeat	45.00
76818	Fetal biophysical profile	75.00
76825	Echocardiography, fetal heart in utero	29-55 92.50
76855	Echography, pelvic area (Doppler)	33-00 145.00

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-7. Standards of Need and Locality Groupings in the Aid to Dependent Children (ADC) Program.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Publication Date: 1:20 VA.R. 1700-1706 July 8, 1985.

NOTICE: The Department is WITHDRAWING the proposed regulation entitled "Standards of Need and Locality Groupings in the Aid to Dependent Children (ADC) Program (VR 615-01-7) published in 1:20 VA.R. 1700-1706 July 8, 1985.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.

Statutory Authority: §§ 10.1-1411 and 58.1-3661 of the Code of Virginia.

Public Hearing Dates:

June 17, 1991 - 10 a.m.
 June 19, 1991 - 1 p.m.
 July 22, 1991 - 10 a.m.
 July 24, 1991 - 2 p.m.

(See Calendar of Events section

Summary:

This proposed regulation establishes criteria for recycling machinery and equipment. The regulation would allow owners of machinery and equipment used primarily to process recyclable material for markets or to incorporate recycled material into a production process to seek a recycling certification for such equipment from the Virginia Department of Waste Management. Once certified, the owner could apply for a local personal property tax exemption offered for such recycling machinery or equipment.

VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The definitions set out in Part I of the Virginia Solid Waste Management Regulations (VR 672-20-10) are incorporated by reference.

§ 1.2. The following terms have, for the purpose of this regulation, the following meaning:

"Act" means the Virginia Waste Management Act.

"Applicant" means any and all persons seeking certification of recycling machinery and equipment for tax exemption purposes.

"Certification" means a signed statement by the director of the Department of Waste Management that the identified machinery and equipment qualify as integral to the recycling process.

"Department" means the Department of Waste Management.

"Director" means the director of the Department of Waste Management.

"Fixed location" means a site at which the processing or manufacturing is accomplished on a continuing basis.

"Integral to the recycling process" means that the machinery and equipment or system of machinery and equipment is used primarily to process recyclable material to meet a manufacturer's material input specifications or to incorporate recyclable material into a manufacturing process.

"Machinery and equipment" means a mechanical unit or system which processes material.

"Person" means an individual, corporation, partnership,

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association, or any other legal entity.

"Primarily" means over 50% of time, of usage, or of other appropriate measure.

"Process" or "processing" means preparation, treatment, or conversion of a product or material by an action, change or function or a series of actions, changes or functions that bring about a desired end result.

"Purchase price" means the amount for which the machinery and equipment is purchased, excluding (i) any cash discount allowed and taken, (ii) installation charges or the cost of installation, (iii) transportation charges, or (iv) charges for maintenance agreements or contracts.

"Recyclable" means capable of being diverted or reclaimed from the waste stream and prepared for further beneficial use through the recycling process.

"Recycled" means having reached the end of one useful life or one intended purpose, and then being converted and utilized as a raw material in the production of another product which may or may not be similar to the original product. The resultant manufactured product is said to have recycled content.

"Recycling" means the process of separating a given product or material from the waste stream and processing it so that it is used again as material input for a product which may or may not be similar to the original product.

PART II. LEGISLATIVE AUTHORITY AND GENERAL INFORMATION.

§ 2.1. Authority for regulation.

This regulation is promulgated pursuant to Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia, (hereinafter the Code) which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of the Act and the federal acts, and pursuant to 1990 Acts of the Assembly amending and reenacting § 58.1-3661 of the Code relating to classification of tangible personal property.

§ 2.2. Purpose of regulation.

The purpose of this regulation is to establish the procedure for certification of recycling machinery and equipment as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth. Such certification would allow the purchaser of such machinery and equipment to apply for an exemption from personal

property taxes as authorized by the local taxing authority.

§ 2.3. Administration of regulation.

The director of the department is authorized to administer this regulation in accordance with the Virginia Waste Management Act, §§ 10.1-1400 through 10.1-1457 of the Code.

§ 2.4. Applicability of regulation.

This regulation will be applicable to any applicant to the department for machinery and equipment certification, providing that this person has incurred or will incur a tax liability to which the tax exemption can be applied.

PART III. MACHINERY AND EQUIPMENT QUALIFICATIONS.

§ 3.1. Machinery and equipment.

A. Qualifying recycling machinery and equipment include any piece or system of machinery or equipment used at a fixed location primarily to process recyclable materials into a product suitable for shredding, melting, pulping, compaction, granulation, liquification or classification.

B. Qualifying recycling machinery and equipment also include any piece or system of machinery or equipment in a manufacturing facility primarily used to incorporate recycled material into a manufacturing process.

C. The following shall not qualify as recycling machinery and equipment:

1. Machinery and equipment used in the preparation of all or any part of the municipal solid waste (MSW) stream for the purpose of combustion, unless otherwise determined by the director to have significant recycling intent.
2. Nonprocessing or nonmanufacturing machinery and equipment.
3. Buildings or other structures.

§ 3.2. Location.

In order to qualify, recycling machinery or equipment must be operated at a facility located in Virginia.

§ 3.3. Pollution abatement.

Recycling includes the exclusion and redirection of material from the waste stream, thereby reducing the amount of material that ultimately has to be deposited in a solid waste management disposal facility. Therefore, recycling can reduce the potential for pollution, and a facility (and the related machinery and equipment) which

processes recyclables to a manufacturer's specifications or utilizes recycled materials in production shall qualify as a pollution abatement system.

PART IV. CERTIFICATION PROCEDURE.

§ 4.1. Equipment documentation.

The purchaser of the recycling machinery and equipment must file Form DWM50-11 with the department, providing at a minimum:

1. The purchaser's name and address;
2. The name and location of the facility in which the machinery and equipment will be used;
3. A description of the machinery and equipment and its intended use in the facility;
4. A statement by the purchaser of the machinery and equipment that would qualify the purchase for tax consideration;
5. The purchase price of the machinery and equipment, i.e., the base amount on which the current value is to be computed for the purpose of the tax exemption; and
6. Documentation of ownership (copies of receipts, vouchers, or paid invoices) appropriate for filing with the local taxing authority.

§ 4.2. Department certification.

The department will review the information provided on Form DWM50-11 to determine if the machinery or equipment meets the criteria specified in the Code. This application review will follow the process established by § 6.2 B of these regulations.

§ 4.3. Locality certification.

After receiving a copy of the machinery or equipment certification from the department, the applicant will be responsible for validating the installation and operation of the machinery and equipment to the satisfaction of the local taxing authority.

§ 4.4. Certification period.

Machinery and equipment certified through this process shall retain certification status until its operation no longer complies with the standards established in Part III of this regulation.

PART V. APPEALS AND SEVERABILITY.

§ 5.1. Appeal procedure.

All appeals taken from actions of the director relative to the provisions of these regulations shall be governed by the Administrative Process Act.

§ 5.2. Severability.

A. If any provision or part of these regulations is held invalid, unconstitutional or inapplicable to any person, or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of these regulations and their application.

B. These regulations supersede and replace all previous regulations of the department to the extent that those prior regulations conflict with the regulations presented herein. Prior regulations remain in effect where no conflict exists.

C. These regulations shall remain in effect until the Virginia Waste Management Board, in subsequent formal action, shall amend, rescind or otherwise alter them. Such an action will be specific in its detail and cite these regulations by their title. Where there appears to be a conflict with these regulations and regulations adopted at a future date, and such future regulations do not specifically clarify these regulations, these regulations shall be superior.

D. These regulations are completely separate from all federal regulations.

PART VI. RULEMAKING PETITIONS AND PROCEDURES.

§ 6.1. General.

The applicant affected by these regulations may petition the director to grant a variance or an exemption from any of these regulations, subject to the provisions of this part. Any petition submitted to the director is also subject to the provisions of the Administrative Process Act.

§ 6.2. Administrative procedures.

A. General petitioning requirements.

The petition shall be submitted to the director by certified mail and shall include:

1. The petitioner's name and address;
2. A statement of petitioner's interest in the proposed action;
3. A description of desired action and a citation of the regulation from which a variance is requested;
4. A description of need and justification for the proposed action;
5. The duration of the variance, if applicable;

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6. The potential impact of the variance on public health or the environment;

7. Other information believed by the applicant to be pertinent; and

8. The following statement signed by the petitioner or authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

B. Petition processing.

1. After receiving a petition that includes the information required in § 6.2 A, the director will determine whether the information received is sufficient to render the decision. If the information is deemed insufficient, the director will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for additional information. If the director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with § 6.2 B 3 of these regulations. If the director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Administrative Process Act.

3. After the petition is deemed complete:

a. The director will make a tentative decision to grant or deny the petition.

b. Where the petition is tentatively denied, the director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the director to proceed with the evaluation.

c. Upon a written request of the applicant, the director may, at his discretion, hold an informal fact-finding meeting described in § 9-6.14:11 of the Administrative Process Act. The person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold such a meeting.

d. After evaluating all comments, the director will within 15 days after the expiration of the comment period, notify the applicant of the final decision.

C. Petition resolution.

If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any variance requirements.

Form DWM 50-II
RECYCLING EQUIPMENT CERTIFICATION
 Application for _____ State tax credit _____ Local Tax Exemption (See Instructions)

Part I

Names(s) as shown on Virginia return	Account number
Street	
City, state and ZIP code	

Part II

Name of facility where equipment is located
Street
City, state and ZIP code
Detailed description of equipment and its intended use (attach drawings, brochures, etc., as appropriate)

Part III

1. Total purchase price (Date of purchase _____)		
2. Multiply line 1 by 10%		
3. Virginia income tax		
4. Multiply line 3 by 40%		
5. Recycling equipment tax credit allowable this year: Line 2 or line 4, whichever is less.		
6. Remaining recycling equipment tax credit: Line 2 less line 5.		

I certify that the above information is true, correct and complete and that the equipment identified is to be used primarily for the processing of recyclable materials as defined in the regulations (VR-672-50-11).

Signature of taxpayer or officer _____ Title _____ Date _____

Department of Waste Management Certification. Based on the above information and the statement of the applicant on the equipment, I hereby certify the identified equipment qualifies as integral to the recycling process as defined in the regulations (VR-672-50-11).

Signature _____, Director, Department of Waste Management Date _____

INSTRUCTIONS

GENERAL

For tax years beginning on and after January 1, 1991 but before January 1, 1993 individuals and corporations may claim credit for the purchase of machinery and equipment used in facilities which manufacture, process, compound or produce recycled items of tangible personal property (Code of Virginia, Chapter 3, Article 3, Sections 58.1-337 and 58.1-445.1). The credit is 10% of the purchase price, but cannot exceed 40% of the Virginia income tax in the year claimed. This is a nonrefundable credit; however, if the allowable credit exceeds the Virginia tax liability in the first year claimed, the unused credit may be carried forward up to 5 tax years until the credit is exhausted.

The equipment must be certified by the Department of Waste Management as integral to the recycling process as defined by its Standards for the Certification of Recycling Machinery and Equipment and Regulation VR-672-50-11. Once certified, the equipment may also qualify for a local tax exemption based on current value assessment by the taxing authority. Contact your local governing body for information.

Part I

Enter the name and address of the individual or company as it appears on the Virginia income tax return.

Part II

Enter the name and the physical address of the facility where the machinery and equipment are located. Provide a detailed description of the equipment and its intended use in the facility with drawings, specifications and operating parameters.

Part III (if applying for only local tax exemption, complete only line 1.)

- Line 1. Enter the total purchase price (and date of purchase) of the machinery and equipment.
- Line 2. Enter 10% of the purchase price. Line 1 multiplied by 0.30.
- Line 3. Enter the Virginia income tax from the Virginia Form 760 or Form 500.
- Line 4. Enter 40% of the Virginia income tax. Line 3 multiplied by 0.40.
- Line 5. Enter Line 2 or line 4, whichever is less. This is the allowable amount of credit for the current tax year.
- Line 6. Enter the remaining credit to be carried over to the next tax year. Line 2 minus Line 5.

Attach copies of receipts and or invoices verifying the purchase price paid for the machinery and equipment. Mail the form and attachments to the address below.

Department of Waste Management
 Attention: Equipment Certification Officer
 11th Floor, Monroe Building
 101 North 14th Street
 Richmond, Virginia 23219

Upon certification the form and attachments will be returned to you. The form and receipts must be attached to your Virginia income tax return when filed with the Department of Taxation.

For assistance call (804) 371-0044.
 TDD (804) 371-8737.

Form DWM 50-11
RECYCLING EQUIPMENT CERTIFICATION
 Application for ___ State tax credit ___ Local Tax Exemption (See Instructions)

Part I

Name(s) as shown on Virginia return	Account number
Street	
City, state and ZIP code	

Part II

Name of facility where equipment is located
Street
City, state and ZIP code
Detailed description of equipment and its intended use (attach drawings, brochures, etc., as appropriate)

Part III

1. Total purchase price (Date of purchase _____)		
2. Multiply line 1 by 10%		
3. Virginia income tax		
4. Multiply line 3 by 40%		
5. Recycling equipment tax credit allowable this year: Line 2 or line 4, whichever is less.		
6. Remaining recycling equipment tax credit: Line 2 less line 5.		

I certify that the above information is true, correct and complete and that the equipment identified is to be used primarily for the processing of recyclable materials as defined in the regulations (VR-672-50-11).

Signature of taxpayer or officer _____ Title _____ Date _____

Department of Waste Management Certification. Based on the above information and the statement of the applicant on the equipment, I hereby certify the identified equipment qualifies as integral to the recycling process as defined in the regulations (VR-672-50-11).

_____, Director, Department of Waste Management _____ Date _____

INSTRUCTIONS

GENERAL

For tax years beginning on and after January 1, 1991 but before January 1, 1993 individuals and corporations may claim credit for the purchase of machinery and equipment used in facilities which manufacture, process, compound or produce recycled items of tangible personal property (Code of Virginia, Chapter 3, Article 3, Sections 58.1-337 and 58.1-445.1). The credit is 10% of the purchase price, but cannot exceed 40% of the Virginia income tax in the year claimed. This is a nonrefundable credit; however, if the allowable credit exceeds the Virginia tax liability in the first year claimed, the unused credit may be carried forward up to 5 taxable years until the credit is exhausted.

The equipment must be certified by the Department of Waste Management as integral to the recycling process as defined by its Standards for the Certification of Recycling Machinery and Equipment and Regulation VR-672-50-11. Once certified, the equipment may also qualify for a local tax exemption based on current value assessment by the taxing authority. Contact your local governing body for information.

Part I

Enter the name and address of the individual or company as it appears on the Virginia income tax return.

Part II

Enter the name and the physical address of the facility where the machinery and equipment are located. Provide a detailed description of the equipment and its intended use in the facility with drawings, specifications and operating parameters.

Part III (If applying for only local tax exemption, complete only line 1.)

- Line 1. Enter the total purchase price (and date of purchase) of the machinery and equipment.
- Line 2. Enter 10% of the purchase price. Line 1 multiplied by 0.30.
- Line 3. Enter the Virginia income tax from the Virginia Form 760 or Form 500.
- Line 4. Enter 40% of the Virginia income tax. Line 3 multiplied by 0.40.
- Line 5. Enter Line 2 or line 4, whichever is less. This is the allowable amount of credit for the current tax year.
- Line 6. Enter the remaining credit to be carried over to the next tax year. Line 2 minus Line 5.

Attach copies of receipts and/or invoices verifying the purchase price paid for the machinery and equipment. Mail the form and attachments to the address below.

Department of Waste Management
 Attention: Equipment Certification Officer
 11th Floor, Monroe Building
 101 North 14th Street
 Richmond, Virginia 23219

Upon certification the form and attachments will be returned to you. The form and receipts must be attached to your Virginia income tax return when filed with the Department of Taxation.

For assistance call (804) 371-0044.
 OR 1-800-871-1200 TDD (804) 371-8737.



DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

Title of Regulation: VR 690-20-001. Pre and Post Dispositional Group Home Standards.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Public Hearing Date: July 10, 1991 - 4 p.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation establishes the Board of Youth and Family Services operating standards for the care of youth in pre and post dispositional group homes.

These standards are issued as a new regulation by the board which commenced operations on July 1, 1990. These standards are a revision and update of similar standards issued by the Board of Corrections as VR 230-40-009 in 1983.

VR 690-20-001. Pre and Post Dispositional Group Home Standards.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. Definitions.

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

"Actively supervising" means that staff are awake, alert, monitoring the behavior and needs of the residents in his care.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the children and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic, not confined to those technicalities which derive specifically from behavior therapy, operant conditioning,

etc.)

"Child" means any person defined as a child under state law.

"Child's file/record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plans, discharge summary and any other related data related to the child.

"Contraband" means any item or merchandise possessed by youth, staff or visitor found within the facility which is illegal by law or expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as, but not limited to, striking or hitting with any part of the body or with an implement; or through pinching, pulling or shaking; or through any similar action which normally inflicts pain or discomfort.

"Crisis intervention" means the systematic use of various techniques selected according to specific situations and designed to reduce or to eliminate the immediate situation.

"Dormitory" means a room used as a sleeping area for more than two children.

"Family planning" means education delivered in an age appropriate manner which includes the human reproduction process, reproduction as a choice, personal responsibility for the care of self and others and in physically intimate situations, and sexually transmitted diseases.

"Isolation" means placing a child in a room with the door secured in any manner that will prohibit the child from opening it.

"Major rule violation" means any action which is illegal by law or expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility. These actions include any which threaten life, safety and security of persons or property.

"Mechanical restraint" means the application of machinery/tools as a means of physically restraining or controlling a child's behavior such as handcuffs, shackles, or strait jackets.

"Medical appliances" means items prescribed by a physician for use and includes hearing aids, glasses, contact lenses, dental appliances, etc.

"Medical screening" means a preliminary evaluation of

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a resident's general health condition which includes the resident's assessment of his condition.

"Minor rule violation" means any action which is expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility that is not considered a major rule violation.

"Physical restraint" means any act by staff which exercises the use of force with a child as a method or technique for managing harmful child behavior.

"Pre and Post Dispositional Group Homes" means community based facilities approved and funded by the Board of Youth and Family Services to provide residential care and treatment for children.

"Program" means the planned application of staff and resources to achieve the stated mission of the facility.

"Release" means transfer of child and the authority to supervise to another agency or individual.

"Right" means that to which one has a natural, legal or moral claim.

"Self-protection" means that physical force necessary to protect oneself or others from serious injury or loss of life.

"Shift assignment" means the general schedule of duties and activities which occur within a shift.

"Substitute child care worker or relief staff" means that employee who performs child care as a replacement for or supplement to regular full time staff.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the foundation for the development of Minimum Standards for Pre and Post Dispositional Group Homes. Section 16.1-311 directs the State Board of Youth and Family Services to establish minimum standards for the construction and equipment of facilities and for feeding, clothing, medical attention, supervision and care of children detained therein.

§ 1.3. The State Board of Youth and Family Services is authorized to monitor the activities of the department and its effectiveness in implementing the standards and goals of the board as specified by § 53.1-5 of the Code of Virginia.

PART II. ADMINISTRATION AND ORGANIZATION.

Article 1. Administration.

§ 2.1. The Minimum Standards for Pre and Post Dispositional Group Homes, adopted by the Board of

Corrections April 13, 1983, are superseded on the effective date of these standards.

§ 2.2. The standards shall be applicable in conjunction with Standards for Interdepartmental Regulation of Residential Facilities for Children (formerly Core Standards) also promulgated by the Board of Youth and Family Services.

§ 2.3. The primary responsibility for application of these standards shall be with the chief administrator who shall ensure that staff read these and all other applicable standards.

§ 2.4. These standards shall become effective

Article 2. Organization.

§ 2.5. Each program shall be managed by one chief administrator to whom all employees shall be ultimately responsible.

§ 2.6. When a facility is located on property shared with another agency or facility, it shall be separately administered and have a completely separate program.

§ 2.7. There shall be a written statement describing mission, philosophy, objectives, programs and services.

§ 2.8. The program shall not exceed rated capacities determined by the Board of Youth and Family Services.

§ 2.9. The program shall not be staffed with fewer child care and treatment personnel than provided for in staffing patterns established by these and other applicable standards promulgated by the State Board of Youth and Family Services.

§ 2.10. There shall be a written policy and procedure manual available 24 hours a day to all staff. The contents of this manual shall be approved by the parent agency authority, reviewed annually by the chief administrator, updated as necessary and communicated to all staff.

Article 3. Insurance.

§ 2.11. There shall be premises and professional liability insurance, physical plant insurance, employees blanket bond and insurance to protect volunteers.

Article 4. Participation of Children in Research.

§ 2.12. Human research involving children which includes biological studies, epidemiological investigations, or medical treatment of an experimental nature, shall have prior approval from the Department of Youth and Family Services Human Research Review Committee and shall be consistent with Chapter 13 (§ 37.1-234 et seq.) of Title

§ 7.1 of the Code of Virginia.

Article 5.
Case Management.

§ 2.13. Each child's progress in relation to his service plan shall be monitored and documented at least weekly.

§ 2.14. All entries in the child's case file shall be dated, signed or initialed.

§ 2.15. At least monthly, in post dispositional programs, staff shall send to the referring agency a report of the child's progress in the program.

§ 2.16. Written procedure governing the purging of case records shall be approved by the State Librarian.

Article 6.
Aftercare Services.

§ 2.17. When a facility provides services to a child after release from the in-house program, a monthly progress report shall be submitted to the supervising agency, if any.

§ 2.18. A summary of needed post-release services shall be included in the comprehensive discharge summary and shall be submitted to the post-release supervising agency.

§ 2.19. The comprehensive discharge summary and discharge plan shall be submitted to the supervising agency within 10 days of the child's release.

Article 7.
Confidentiality and Release of Information.

§ 2.20. Written procedure shall govern the security of information and data collection systems.

§ 2.21. Written procedure shall provide for the security, confidentiality and destruction of photographs, video tapes and audio tapes developed as part of case management, supervision, or training where such materials divulge the identity of the child or family.

§ 2.22. Written procedure shall provide for documented informed consent for the inspection of children's records in accordance with § 16.1-300 of the Code of Virginia prior to each release of information. Informed consent documentation shall include:

1. Name of person, agency or organization requesting information;
2. Name of facility releasing information;
3. Specific information being disclosed;
4. Date consent form signed;

5. Signatures of child, parent or guardian and counsel when required;

6. Period of time for which consent is valid; and

7. Purpose for which the information will be used.

PART III.
PERSONNEL.

Article 1.
Personnel Policies and Procedures.

§ 3.1. Written policy and procedure shall guard against employees and others in positions of control using their official position to secure privileges for themselves or others or engaging in activities that constitute a conflict of interest.

§ 3.2. The agency, commission, or unit of government operating a facility shall have and make available to all staff, written policies and procedures in the following areas:

1. Recruitment and selection;
2. Grievance and appeal;
3. Annual employee evaluation;
4. Confidentiality of employee personnel records;
5. Discipline;
6. Equal employment opportunity;
7. Leave and benefits;
8. Resignations and terminations;
9. Promotion, demotion and transfer;
10. Probationary period;
11. Compensation;
12. Conflict of interest; and
13. Worker's compensation.

§ 3.3. All staff shall be informed that sexual activity between staff and children is prohibited.

§ 3.4. A physical examination that has been conducted by a licensed physician within 60 days of employment shall be required for all staff prior to contact with children.

§ 3.5. Prior to employment, a criminal record check, driving record check and Central Registry check shall be obtained on all staff to ascertain whether there have been criminal acts or circumstances that would be detrimental

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to the health, safety and well-being of children in care.

§ 3.6. There shall be a written description of duties, activities and schedules for each shift made available to all staff.

Article 2. Job Descriptions and Qualifications.

§ 3.7. The employee's knowledge, skills and abilities shall comply with those approved by the Board of Youth and Family Services.

Article 3. Staff Development.

§ 3.8. Prior to assuming their duties, staff responsible for supervision of children shall receive 40 hours of orientation which includes, but is not limited to the following:

1. Program philosophy for treating youth;
2. Children's rules and regulations;
3. Children's rights and responsibilities;
4. Children's disciplinary and grievance procedures;
5. Security procedures;
6. Documentation requirements;
7. Review of facility policies, procedures, and applicable standards;
8. Routine medical and medical emergency procedures;
9. Administration of medication;
10. Shift assignments;
11. Implementation of emergency procedures; and
12. Services provided by the program.

§ 3.9. All staff permitted to use physical restraint as defined by procedure shall receive relevant training sanctioned or conducted by the Department of Youth and Family Services.

§ 3.10. In addition to the 40 hours of orientation, all full time staff and permanent staff shall receive an additional 40 hours of training during the first year of employment, and 40 hours for each year thereafter shall be required. There shall be provisions to acknowledge and give credit for prior training received. Training during the first year of employment shall include, but not be limited to the following:

1. On the job training;
2. Adolescent development;
3. CPR (if for medical reasons a staff member is unable to take this training, that person shall always work with a person who holds a valid CPR certificate);
4. Multimedia First Aid;
5. Basic skills as provided by the Department of Youth and Family Services or its equivalent;
6. Behavioral documentation;
7. Techniques for verbal and physical intervention;
8. Suicide prevention;
9. Report writing; and
10. Communicable disease training.

§ 3.11. All substitute child care staff shall receive annual training appropriate to their assignment as designated by the chief administrator or designee. This training shall include, but not be limited to, being kept current with program changes, behavior management and discipline.

Article 4. Staff Supervision of Children.

§ 3.12. There shall be written procedures for staff supervision of children which prohibits inappropriate and illegal sexual activity between staff and children and written procedures which guard against false accusations of such activities.

§ 3.13. There shall be written procedures regarding staff supervision of children, which include but are not limited to the following:

1. Staff awareness of specific behaviors and needs of each child supervised;
2. Required sight or sound supervision of children;
3. Designations or descriptions of appropriate versus inappropriate interactions between staff and children.

§ 3.14. At the beginning of each shift, staff responsible for supervision of children shall read the daily log(s) for significant happenings or problems.

§ 3.15. When children are on the premises, there shall be at least one staff actively supervising.

§ 3.16. Staff responsible for the supervision of children during meals shall be seated with the children during meals and served the same meal except for necessary

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special diets required for such staff and residents.

§ 3.17. The facility staff shall maintain a system of accounting for the whereabouts of children in care at all times.

Article 5. Volunteers and Students.

§ 3.18. All volunteers shall be registered with the Department of Youth and Family Services.

§ 3.19. There shall be documentation that volunteers and students complete an orientation and training program before they participate in their assignments, which includes confidentiality of information regarding children.

§ 3.20. Volunteers and students shall agree in writing to abide by all facility policies and procedures, particularly those relating to confidentiality.

§ 3.21. Written procedure shall provide the chief administrator the authority to curtail, postpone or discontinue the services of a student, volunteer, or volunteer organization, when there is sufficient reason for doing so.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Inspections

§ 4.1. Daily health, safety and security inspections of the facility shall be conducted. Inspections shall be documented and deficiencies reported to designated staff.

§ 4.2. Documentation shall exist indicating monthly inspection by facility staff of standby lighting, batteries, power generators, fire fighting apparatus, communication systems and alarms. Any defective equipment shall be repaired or replaced as necessary.

Article 2. Personal Hygiene Equipment and Laundry.

§ 4.3. There shall be provisions at the home, at a laundromat, or commercial laundry for washing and drying residents' clothing and linens.

§ 4.4. There shall be a thorough cleaning and disinfecting of children's personal clothing when contaminated.

Article 3. Areas.

§ 4.5. Male and female children shall not occupy the same sleeping room.

§ 4.6. The core and cover of all mattresses and pillows shall be fire retardant.

Article 4. Storage and Inventory.

§ 4.7. There shall be a written procedure that specifies the control, storage and use of all flammable, toxic and caustic materials in accordance with state and local requirements.

Article 5. Space, Equipment and Furnishings.

§ 4.8. Private counseling space and space to accommodate group meetings shall be provided in the group home.

§ 4.9. In homes serving children under 12 years of age, showers and tubs shall be equipped with mixing spigots.

§ 4.10. Safety glass, plexiglas or other nonshatterable material shall be installed in storm doors and shower doors.

Article 6. Specifications for New Construction, Buildings and Renovations.

§ 4.11. Flame retardant and nontoxic materials shall be used in construction whenever possible.

Article 7. Maintenance and Support Services.

§ 4.12. Offenders from adult correctional institutions or any person performing services to the facility as a result of a conviction in an adult court shall not work in areas where children are present.

§ 4.13. There shall be direct and continuous supervision by facility staff of outside personnel performing services to the facility when in the presence of children.

PART V. PROGRAMS AND SERVICES.

Article 1. Admissions.

§ 5.1. Written admission criteria shall stipulate that there is no discrimination in accepting children on the basis of race, creed or national origin.

§ 5.2. Whenever a prospective resident is denied admission based upon a documented study or preplacement process, the referring agency shall be notified in writing of the specific reasons.

§ 5.3. Any predispositional program which accepts self-referrals shall document that efforts to obtain legal authority for placement have been made within 24 hours of admission.

§ 5.4. At the time of admission, staff shall discuss with

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the child services available, rules governing conduct, program rules, possible disciplinary actions and fire evacuation procedures. This shall be documented by staff member's and child's signatures.

§ 5.5. Written procedures for admitting and orienting children shall address, but not be limited to the following:

1. Verification of legal authority for placement;
2. Search of the individual child and the child's possessions;
3. Medical screening;
4. Notification of family including admission, visitation and general information;
5. Interview (by staff) to obtain identifying information;
6. Interview with child to answer questions and obtain information;
7. Explanation of program rules and expectations, program services and schedule(s);
8. Explanation and receipt of grievance procedure; and
9. Assignment to a housing unit or room.

Article 2. Residential Services.

§ 5.6. There shall be one or more daily log books, bound, consecutively numbered and written in ink, containing at a minimum for each shift the following information:

1. Population count and location of children;
2. Intake and release of children;
3. Resident's visitor's name, name of resident, date, time of visit;
4. Significant behavior of specific children, including surnames at least once, and any action taken;
5. Name of staff on duty, name and date of staff making entry.

§ 5.7. Any serious incident shall be documented in the daily log and the child's file.

§ 5.8. Children's money and any accrued interest shall be expended by the child only.

Article 3. Health Care.

§ 5.9. There shall be a written procedure for notifying program staff of individual requirements or restrictions as dictated by children's medical needs. Staff shall be provided with specific instructions for meeting these needs.

§ 5.10. The child's parents/guardians shall be notified within 24 hours when emergency medical or psychiatric care appears necessary.

§ 5.11. Medical screening shall be performed on all children in predispositional status upon admission and documented in the child's file or medical record. The medical screening shall include:

1. Pregnancy screening, when applicable;
2. Venereal disease screening;
3. Current illnesses and health problems;
4. Behavioral observation, including state of consciousness and mental status;
5. Notation of body deformities, trauma markings, bruises, lesions, ease of movement, jaundice, etc.;
6. Condition of skin, eyes, ears, nose and mouth, including rashes and infestations.

§ 5.12. Written procedure shall provide that when a child is in need of hospitalization, a parent/guardian or staff member accompanies the child and stays at least during admission.

§ 5.13. Medical care shall be paid for through the child's parents' medical insurance or other forms of health coverage whenever possible and the efforts to accomplish this shall be documented.

§ 5.14. All medical examinations, treatments and procedures affected by informed consent standards in the community shall be observed for the care of children and the informed consent of the child, parent, guardian or legal custodian shall apply where required by statute.

Article 4. Medication.

§ 5.15. Medication shall not be prescribed for the sole purpose of discipline or management of the program.

§ 5.16. Accurate records of all medication dispensed shall be maintained and shall include:

1. Name of medication;
2. Dosage amount;
3. Prescribed schedule of administration, when applicable;

4. Date, time of administration;
5. Initials or name of staff dispensing the medication; and
6. Name of child receiving the medication.

§ 5.17. There shall be a written procedure for the disposal of discontinued, unused or expired medication.

§ 5.18. There shall be written procedure regarding the possession and use of controlled substances, prescribed medications and over-the-counter drugs. In specific circumstances approved by the chief administrator, children may be allowed to administer medication to themselves.

Article 5. Discharge/Release Information.

§ 5.19. When a child is released from a predispositional program to the supervision of another agency or directly to parents/guardians, there shall be documentation in the comprehensive discharge summary that the following information and materials accompanied the child:

1. A written statement concerning any existing health problems requiring medical follow-up;
2. A 10-day supply of current medication(s) unless prescribed for fewer days;
3. A written statement concerning current medication(s) to include instructions for taking the medication(s), condition for which each medication is prescribed, and instructions for having prescriptions refilled, if applicable;
4. Medical appliances used by the child;
5. Record of immunizations, if available; and
6. Statement of tests and examinations.

§ 5.20. When a child in a postdispositional program is released, there shall be documentation in the comprehensive discharge summary that the following information and materials accompanied the child:

1. A written statement concerning any existing health problems requiring medical follow-up; accompany child only;
2. A 10-day supply of current medication(s) unless prescribed for fewer days;
3. A written statement concerning current medication(s) to include instructions for taking the medication(s), condition for which each medication is prescribed, and instructions for having prescriptions refilled, if applicable;

4. Medical appliances used by the child;
5. Record of immunizations; and
6. A statement of tests and examinations.

§ 5.21. There shall be documentation that prior to release the following have been discussed with each child:

1. Health problems which require personal care or medical follow-up, or both;
2. Instructions for taking medications, if applicable;
3. Family planning for children in care for more than 30 days; and
4. Sexually transmitted diseases for children in care for more than 30 days.

Article 6. Discipline and Behavior Management.

§ 5.22. Corporal punishment shall be prohibited.

§ 5.23. Placing a child in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited.

§ 5.24. Written rules and types of sanctions with the disciplinary procedures to be followed shall be explained to each new child and made continuously available to children.

§ 5.25. Written procedure shall require staff to prepare a disciplinary report when there is reasonable belief that a child has committed a major rule violation. Such reports shall contain, but not be limited to the following information:

1. Specific rule(s) violated;
2. A formal statement of the charge;
3. Any unusual behavior;
4. Any staff or child witnesses;
5. Disposition of any physical evidence;
6. Any immediate action taken, including the use of force; and
7. Reporting person's signature, date and time of report.

§ 5.26. Written procedure shall prohibit any child from exercising supervision and control over other children.

§ 5.27. Written procedure shall ensure that prior to suspension of privileges or other disciplinary action, the

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reasons are explained to the child.

§ 5.28. Written procedure shall provide that children are not subject to punitive actions which interfere with the daily functions of living, such as eating, sleeping or exercising.

§ 5.29. There shall be written procedure restricting the use of physical force and physical restraints to instances of justifiable self-protection, protection of others, and protection of property.

Article 7. Youth Rights.

§ 5.30. In coeducational group homes, male and female residents shall have equal access to all group home programs and activities.

§ 5.31. Written procedure shall provide that children are not subject to discrimination based on race, national origin, color, creed, sex or physical handicap.

§ 5.32. Where a language or literacy problem exists which can lead to the child's misunderstanding of programs, rules and regulations, assistance shall be provided to the child either by staff or other qualified individual under the supervision of staff.

§ 5.33. Written procedure shall provide for children to receive and make unmonitored telephone calls.

§ 5.34. There shall be a written youth grievance procedure, which ensures that each child has the right to file a grievance and to ensure that no adverse action is taken against the grievant as a result of the filing of the grievance.

§ 5.35. Provisions shall be made for the hearing of youth grievances by administrative staff not involved in the substance of the grievance.

§ 5.36. Children shall have access to courts, attorneys and legal assistance.

§ 5.37. No person shall question a child without permission of the committing agency, attorney, parent or legal guardian, or other persons standing in loco parentis, unless permitted by other applicable standards or statutes.

Article 8. Mail.

§ 5.38. Written procedure shall govern opening and inspecting incoming and outgoing mail. Mail shall be read by facility staff when there is clear and convincing evidence that it contains contraband or otherwise poses a threat to the safety and security of children, staff or facility.

§ 5.39. Correspondence and mail addressed to or from a

court, counsel or administrators of the grievance system shall not be read by staff.

§ 5.40. Incoming and outgoing mail shall not be held for more than 24 hours, excluding weekends and holidays and when children are absent from the facility.

§ 5.41. Written procedure shall allow children to send confidential correspondence to parents and family, legal guardian, attorney, courts, officials of the confining authority, public officials and administrators of the grievance system.

§ 5.42. Written procedure shall provide children the right to correspond with persons or organizations, subject only to the limitations necessary to maintain facility order and security.

§ 5.43. The chief administrator shall ensure that children are provided postage and writing materials for the mailing of a minimum of two letters per week for each child and for all legal correspondence.

Article 9. Visitation.

§ 5.44. All children shall be afforded the opportunity for family visitation, except when the safety of an individual is in question. The procedures for visitation shall be made available to all children, parents or legal guardians at referring agencies.

§ 5.45. Provisions shall be made for visitation at least once during the week and once on weekends. Special allowances shall be made for parents when there are extenuating circumstances which prohibit visitation at scheduled times.

§ 5.46. Provisions shall be made for revocation of visitation privileges when visitation procedures are violated.

§ 5.47. Written procedures shall specify that visitors provide identification upon request.

§ 5.48. Children shall have confidential access to their attorney or designee.

§ 5.49. There shall be a designated visiting area.

Article 10. Security within the Facility

§ 5.50. Written procedure shall govern the control of contraband.

§ 5.51. There shall be a written procedure for the regular search of the physical facility.

§ 5.52. There shall be a written procedure for the search of children which shall provide for:

1. *Avoiding undue force;*
 2. *Avoiding embarrassment or indignity to the child;*
 3. *Using nonintensive sensors and other electronic equipment instead of body search;*
 4. *Frequency of searches; and*
 5. *Respecting children's rights to their property.*
4. *Bomb threats.*

§ 5.53. *Body cavity searches are prohibited.*

§ 5.54. *Where a new crime is suspected, written policy and procedure shall govern searches and the preservation of evidence. Searches are authorized only by the chief administrator or designee.*

*Article 11.
Recreation.*

§ 5.55. *Recreational equipment, materials and supplies shall be safe, age appropriate, durable and well maintained.*

§ 5.56. *Recreational programs shall provide opportunities for daily physical exercise.*

*Article 12.
Vehicles and Transportation.*

§ 5.57. *Public transportation shall not be relied upon for emergencies.*

§ 5.58. *There shall be written procedure governing safety and maintenance of facility and staff vehicles used to transport children.*

§ 5.59. *It shall be the responsibility of the facility to have transportation available and to make the necessary transportation arrangements in medical emergencies.*

§ 5.60. *Written procedure shall govern supervision and transportation of children outside the facility perimeter. Staff involved in these activities shall be appropriately trained.*

*PART VI.
EMERGENCY AND SAFETY PROCEDURES.*

*Article 1.
Procedures for Meeting Emergencies.*

§ 6.1. *There shall be written procedure which specifies action to be taken in the event of:*

1. *Vehicular emergencies;*
2. *Disturbances;*
3. *Hostage situations; and*

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 GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulations:

VR 325-01. Definitions and Miscellaneous.

VR 325-01-1. In General.

VR 325-02. Game.

VR 325-02-1. In General.

VR 325-02-2. Bear.

VR 325-02-3. Beaver.

VR 325-02-6. Deer.

VR 325-02-9. Grouse.

VR 325-02-14. Opossum.

VR 325-02-18. Rabbit and Hares.

VR 325-02-19. Raccoon.

VR 325-02-21. Squirrel.

VR 325-02-22. Turkey.

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

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

Effective Date: July 1, 1991.

Summary:

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

VR 325-01. DEFINITIONS AND MISCELLANEOUS. VR 325-01-1. IN GENERAL.

§ 2. Same; "Counties east of the Blue Ridge Mountains."

Whenever the words "counties east of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties and cities:

Accomack, Albemarle, Amelia, Amherst, Appomattox, Arlington, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesapeake City, Chesterfield, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Franklin, Gloucester, Goochland, Greene, Greenville, Halifax, Hampton City, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews,

Mecklenburg, Middlesex, ~~Nansemond~~, Nelson, New Kent, Newport News City, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Rappahannock, Richmond, Southampton, Spotsylvania, Stafford, *Suffolk City*, Surry, Sussex, Virginia Beach City, Westmoreland, and York.

VR 325-02. GAME.

VR 325-02-1. IN GENERAL.

§ 3. Recorded wild animal or wild bird calls or sounds prohibited in taking game; coyotes and crows excepted.

It shall be unlawful to take or attempt to take wild animals and wild birds, with the exception of coyotes and crows, by the use or aid of recorded animal or bird calls or sounds or recorded or electrically amplified imitation of animal or bird calls or sounds; provided, that the use of electronic calls *may be used on private lands* for hunting coyotes *requires with* the written permission of the landowner ; and further provided, that the authority granted by this section for use of electronic calls for the taking of coyotes will expire on June 30, 1991 .

§ 6. Hunting with dogs or possession of weapons in certain locations during closed season.

A. National forests and department lands.

It shall be unlawful to hunt with dogs or a gun or to have in possession a strung bow, or a gun which is not unloaded and cased or dismantled, in the national forests and on department-owned lands and on lands managed by the department under cooperative agreement except during the period when it is lawful to hunt bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl, in all counties west of the Blue Ridge Mountains and, in addition, migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on the above-mentioned lands. The use of firearms and bows in such ranges during the closed season period will be restricted to the area within established range boundaries. Such weapons shall be required to be unloaded and cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges will be restricted to target practice only and no birds or animals shall be molested.

B. Certain counties.

¶ *Except as otherwise provided in VR 325-02-1, § 6-1, it shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in the counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.*

C. Meaning of "possession" of bow or firearm.

For the purpose of this section the word "possession" shall include having any bow or firearm in one's car or conveyance.

§ 6-1. Open dog training season.

It shall be unlawful to train dogs during daylight hours on rabbits and nonmigratory game birds on private lands, Fort A.P. Hill and Fort Pickett. Participants in this dog training season shall not have any weapons other than starter pistols in their possession, must comply with all regulations and laws pertaining to hunting and no game shall be taken; provided, that [~~dogs may be trained on captive waterfowl and pigeons that are immediately shot or recovered~~ weapons may be in possession when training dogs on captive waterfowl and pigeons so that they may be immediately shot or recovered, except on Sunday].

21. Use of deadfalls prohibited; restricted use of snares.

It shall be unlawful to trap, or attempt to trap, on land any wild bird or wild animal with any deadfall or snare; provided, that ~~nonlocking~~ snares with loops no more than 12 inches in diameter and with the top of the snare loop set not to exceed 12 inches above ground level may be used with the written permission of the landowner.

VR 325-02-2. BEAR.

§ 3. Continuous closed season in certain counties and cities.

It shall be unlawful to hunt bear at any time in the counties of Accomack, Amelia, Appomattox, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, ~~Culpeper~~, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Grayson, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Montgomery (South of U.S. Route I-81), New Kent, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski (South of U.S. Route I-81), Richmond, Roanoke (South of U.S. Route I-81), Russell (North and West of U.S. Route 19), Scott, Smyth (South of U.S. Route I-81), Southampton, Spotsylvania, Stafford, Surry, Sussex, Tazewell (North of U.S. Route 19),

Washington (South of U.S. Route I-81 and West of U.S. Route 19, Westmoreland, Wise, Wythe (South of U.S. Route I-81) and York; and in the Cities of Hampton, Newport News, Norfolk and Virginia Beach.

§ 8. Tagging bear and obtaining official game tag; By licensee.

A. Detaching game tag from license.

It shall be unlawful for any person to detach the game tag from any license to hunt bear prior to the killing of a bear and tagging same. Any detached tag shall be subject to confiscation by any representative of the department.

B. Immediate tagging of carcass.

Any person killing a bear shall, before removing the carcass from the place of kill, detach from his special license for hunting bear the appropriate tag and shall attach such tag to the carcass of his kill.

C. Presentation of tagged carcass for checking; obtaining official game tag.

Upon killing a bear and tagging same, as provided above, the licensee shall, ~~without unnecessary delay on the date of kill~~, present the tagged carcass of his kill to an authorized bear checking station or to an appropriate representative of the department in the county or adjoining county in which the bear was killed. *Upon presentation of the tagged carcass to the bear checking station, the licensee shall surrender or allow to be removed one premolar tooth from the carcass.* At such time, the tag previously attached to the carcass shall be exchanged for an official game tag, which shall be furnished by the department, and securely attached to the carcass. *Upon checking, a seal furnished by the department shall be permanently affixed to the carcass by the checking station operator.*

D. Destruction of *identity* of bear prior to tagging; forfeiture of untagged bear.

It shall be unlawful for any person to destroy the *identity (sex)* of any bear killed unless and until tagged and checked as required by this section. Any bear not tagged as required by this section found in the possession of any person shall be forfeited to the Commonwealth to be disposed of as provided by law.

§ 9. Same—By person exempt from license requirement.

Upon killing a bear, any person exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, shall ~~without unnecessary delay on the day of kill~~, present the carcass of his kill to an authorized bear checking station or to any appropriate representative of the department in the county or

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adjoining county in which the bear was killed. Upon presentation of the tagged carcass to the bear checking station, the licensee shall surrender or allow to be removed one premolar tooth from the carcass. At such time, the person shall be given an official game tag furnished by the department, which tag shall be securely attached to the carcass. Upon checking, a seal furnished by the department shall be permanently affixed to the carcass by the checking station operator.

VR 325-02-3. BEAVER.

§ 4. Where setting of certain traps prohibited.

Rescind this section in its entirety.

VR 325-02-6. DEER.

§ 2. Open season; Counties west of Blue Ridge Mountains and certain counties or parts thereof east of Blue Ridge Mountains.

It shall be lawful to hunt deer on the third Monday in November and for 11 consecutive hunting days following in the counties west of the Blue Ridge Mountains (except on the Radford Army Ammunition Plant in Pulaski County), and in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad); and on the Chester F. Phelps and G. Richard Thompson Wildlife Management Area Areas .

§ 4. Bow and arrow hunting.

A. Season generally.

It shall be lawful to hunt deer with bow and arrow from the second Saturday in October through the Saturday prior to the second and third Monday in November, both dates inclusive, except where there is a closed general hunting season on deer.

B. Additional season west of Blue Ridge Mountains and certain counties east of Blue Ridge Mountains.

In addition to the season provided in subsection A of this section, it shall be lawful to hunt deer with bow and arrow in all counties west of the Blue Ridge Mountains and in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad) from the Monday following the close of the regular firearms season on deer west of the Blue Ridge Mountains and from December 1 in the Cities of Chesapeake, Suffolk (east of the Dismal Swamp line) and Virginia Beach through the first Saturday in January, both all dates inclusive.

C. Bag limit.

Notwithstanding other provisions of this regulation, it shall be lawful to take deer of either sex during the archery season provided for in subsections A and B of this section; provided, that the taking of such deer is within the total daily and seasonal bag limits provided for deer; provided further, that no more than two deer of either sex one deer of either sex may be taken under the provisions of the special archery license, which shall be in addition to the seasonal bag limits provided for deer. The bag limit shall be two a day, two a license year, one of which must be an antlerless deer; either sex full season during the special archery seasons as provided in subsections A and B of this section. Deer tags issued with the special archery license shall be valid only during the special archery seasons. Tags from the bear-deer-turkey license shall be valid for use during the special archery seasons provided that the taking of such deer is within the total daily and seasonal bag limits provided for deer. Bonus deer permits shall be valid for use during special archery seasons in all counties east of the Blue Ridge Mountains and in the counties of Botetourt, Clarke, Frederick and Warren.

D. Carrying firearms prohibited.

It shall be unlawful to carry firearms while hunting with bow and arrow.

E. Requirements for bow and arrow.

Arrows used for hunting big game must have minimum width head of 7/8 of an inch and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

F. Use of dogs prohibited during bow season.

It shall be unlawful to use dogs when hunting with bow and arrow from the second Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

§ 5. Muzzle-loading gun hunting.

A. Season generally.

Except as otherwise specifically provided by the sections appearing in this regulation, it shall be lawful to hunt deer with primitive weapons (muzzle-loading guns) from the second Monday in November and for five consecutive hunting days following in all counties where hunting with a rifle or muzzle-loading gun is permitted, except in the cities of Chesapeake, Suffolk (east of the Dismal Swamp Line) and Virginia Beach and in the counties of Lee, Russell, Scott, Tazewell, Washington and Wise.

B. Additional season west of Blue Ridge and in certain counties east of Blue Ridge.

It shall be lawful to hunt deer with primitive weapon (muzzle-loading guns) from the third Monday in December

through the first Saturday in January, both dates inclusive, in all counties west of the Blue Ridge Mountains, and east of the Blue Ridge Mountains in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad).

C. Bag limits; limitations on deer tags.

Only deer with antlers visible above the hair may be taken with a muzzle-loading gun during the special muzzle-loading seasons; except, that deer of either sex may be taken on the last six days of the special muzzle-loading season in those counties permitting either sex deer hunting during the general firearms deer season west of the Blue Ridge Mountains and in the counties or portions of counties east of the Blue Ridge Mountains listed in subsection B of this regulation. Deer tags issued with the special muzzle-loading gun license shall be valid only during any special muzzle-loading season. No more than one deer may be taken under the provisions of the special muzzle-loading gun license, which shall be in addition to the seasonal bag limits provided for deer, except in the counties of Lee, Russell, Scott, Tazewell, Washington and Wise, in which counties the seasonal bag limit is one deer per license year. Deer tags from the bear-deer-turkey license shall not be valid for use during the early segment of the special muzzle-loader season. The bag limit shall be one a day, one a license year, during the special muzzle-loader season as provided in subsections A and B of this section. Antlerless deer may only be taken during the last six days of the [late] special muzzle-loader season in those counties permitting either sex hunting during the general firearms season west of the Blue Ridge Mountains and in the counties or portions of counties east of the Blue Ridge Mountains listed in subsection B of this section. It shall be lawful to hunt deer of either sex on the last day only [of the late special muzzle-loader season] in the counties of Lee, Scott, Tazewell and Washington [and on the Clinch Mountain Wildlife Management Area,] and there shall be no either sex deer hunting days in the counties of Dickenson, Russell and Wise. Deer tags issued with the special muzzle-loader gun license shall be valid only during the special muzzle-loader seasons. Deer tags from the bear-deer-turkey license shall be valid for use only during the late special muzzle-loader seasons. Bonus deer permits shall be valid for use during special muzzle-loader seasons in all counties east of the Blue Ridge Mountains and in the counties of Botetourt, Clarke, Frederick and Warren.

D. Use of dogs prohibited.

It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzle-loading guns.

E. Muzzle-loading gun defined.

A muzzle-loading gun, for the purpose of this regulation, means a single shot flintlock or percussion weapon,

excluding muzzle-loading pistols, 45 caliber or larger, firing a single lead projectile of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent). If telescopic sights are used, such weapon shall not be deemed to be a muzzle-loading gun during the special muzzle-loading season. Open or peep sights only (iron sights) are permitted during special muzzle-loading seasons.

F. Unlawful to have other firearms in possession.

It shall be unlawful to have in immediate possession any firearm other than a muzzle-loading gun while hunting with a muzzle-loading gun in a special muzzle-loading season.

§ 6. Bag limit; generally General firearms season; bonus deer permits .

Except with the specific exceptions provided in the sections appearing in this regulation, the general firearms season bag limit for deer shall be one antlered three deer a license year , one of which must be antlerless . Antlerless deer may be taken only during designated either-sex deer hunting days. Bonus deer permits shall be valid for use during the general firearms seasons in all counties east of the Blue Ridge Mountains and in the counties of Botetourt, Clarke, Frederick and Warren; provided, that no more than two deer per license year, one of which must be an antlerless deer, may be taken with bonus deer permits in the special archery, special muzzle-loader gun or the general firearms seasons only in designated areas.

§ 7. Bag limit; One Two a day, two three a license year, one of which must be an antlerless deer; Either sex Saturday following third Monday in November and last two days in certain counties and areas .

The general firearms bag limit for deer shall be one two a day, two three a license year, one of which must be an antlerless deer, either sex on the Saturday immediately following the third Monday in November and the last two hunting days only, in the Counties of Alleghany, Appomattox, Augusta, Bath, Bland, Carroll, Chesterfield, Craig, Floyd, Giles, Goochland, Grayson, Hanover, Henrico, Highland, Mathews, Middlesex, Montgomery, Page, Pulaski (except on the Radford Army Ammunition Plant), Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth (except on Clinch Mountain Wildlife Management Area), Spotsylvania and Wythe.

§ 8. Bag limit; One a day, three a license year, one of which must be an antlerless deer, either sex last three days, in certain counties and areas.

Rescind this section in its entirety.

§ 10. Bag limit; One a day, three a license year, Same; either sex ; one of which must be an antlerless deer, in certain counties and areas full season .

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The *general firearms* bag limit for deer shall be ~~one~~ two a day, three a license year, ~~either sex~~, one of which must be an antlerless deer, ~~either sex full season~~, in the ~~County~~ counties of Bedford, Fairfax, Loudoun, Pittsylvania (west of Norfolk Southern Railroad), and on Back Bay National Wildlife Refuge, Caledon Natural Area, Camp Peary, Cheatham Annex, Chincoteague National Wildlife Refuge, Dahlgren Surface Warfare Center, Dam Neck Amphibious Training Base, Dismal Swamp National Wildlife Refuge, Eastern Shore of Virginia National Wildlife Refuge, False Cape State Park, Fentress Naval Auxiliary Landing Field, Fisherman's Island National Wildlife Refuge, Fort Belvoir, Fort Eustis, Fort Lee, Fort Pickett, Harry Diamond Laboratory, Langley Air Force Base, Naval Air Station Oceana, Northwest Naval Security Group, Presquile National Wildlife Refuge, Quantico Marine Corps Reservation, Radford Army Ammunition Plant, Sky Meadows State Park, York River State Park and Yorktown Naval Weapons Station.

§ 11. Bag limit; ~~One a day, three a license year, one of which must be an antlerless deer, Same; either sex last day, in certain counties and areas Saturday following third Monday in November .~~

The *general firearms* bag limit for deer shall be ~~one~~ two a day and three a license year, one of which must be an antlerless deer, either sex the last hunting day only, Saturday immediately following the third Monday in November, [in the Counties of] ~~Appomattox, Chesterfield, Greene and Madison [Lee, Scott, Tazewell and Washington ; and]~~ on the Buckingham-Appomattox State Forest, Chickahominy Wildlife Management Area, Clinch Mountain Wildlife Management Area, Cumberland State Forest, Fairystone Wildlife Management Area, Fairystone State Park, Philpott Reservoir and Prince Edward State Forest [; provided, that the *general firearms* bag limit for deer shall be two a day and three a license year, one of which must be an antlerless deer, in the counties of Lee, Scott, Tazewell (except on Clinch Mountain Wildlife Management Area) and Washington (except on the Clinch Mountain Wildlife Management Area)].

§ 13. Bag limit; ~~One a day, three a license year, one of which must be an antlerless deer, Same; either sex Saturday following third Monday in November and last six days in certain counties .~~

The *general firearms* bag limit for deer shall be ~~one~~ two a day, three a license year, one of which must be an antlerless deer, either sex on the Saturday immediately following the third Monday in November and the last six hunting days, in the Counties of ~~Accomack (except on Chincoteague National Wildlife Refuge), Albemarle, Amelia, Amherst, Bedford, Botetourt, Brunswick (except on Fort Pickett), Buckingham (except on Buckingham-Appomattox State Forest), Campbell, Caroline, Charles City (except on Chickahominy Wildlife Management Area), Charlotte, Clarke, Culpeper (except on Chester F. Phelps Wildlife Management Area), Cumberland (except on Cumberland State Forest), Dinwiddie (except on Fort Pickett), Floyd,~~

~~Fluvanna, Franklin (except on Philpott Reservoir), Frederick, Gloucester, Green, Halifax, Henry (except on Fairystone Wildlife Management Area and Philpott Reservoir), James City, Louisa, King William, Lunenburg, Madison, Mecklenburg, Nelson, New Kent, Northampton (except Eastern Shore of Virginia National Wildlife Refuge and Fisherman's Island National Wildlife Refuge), Nottoway (except on Fort Pickett), Orange, Patrick (except on Fairystone Park), Pittsylvania (east of the Norfolk Southern Railroad) (except on White Oak Mountain Wildlife Management Area) , Powhatan (except on Powhatan Wildlife Management Area); Prince Edward (except on Prince Edward State Forest) , Prince George (except on Fort Lee), Prince William (except on Harry Diamond Laboratory and Quantico Marine Reservation), Stafford (except on Quantico Marine Reservation) , Warren and York (except on Camp Peary, Cheatham Annex and Naval Weapons Station); and in the Cities of Chesapeake (except on Dismal Swamp National Wildlife Refuge Fentress Naval Auxiliary Landing Field and on the Northwest Naval Security Group), Hampton (except on Langley Air Force Base), Newport News (except on Fort Eustis) and , Virginia Beach (except on Back Bay National Wildlife Refuge, Dam Neck Amphibious Training Base , Naval Air Station Oceana and False Cape State Park) and on Fort A.P. Hill (training areas) .~~

§ 14. Bag limit; ~~One a day, three a license year, one of which must be an antlerless deer, Same; either sex Saturday following third Monday in November and last 2 days ; in certain counties and cities .~~

The *general firearms* bag limit for deer shall be ~~one~~ two a day, three a license year, one of which must be an antlerless deer, either sex on the Saturday immediately following the third Monday in November and on the last 24 hunting days, in the counties of Greenville, Isle of Wight, Southampton, Surry, and Sussex, and in the City of Suffolk (except on the Dismal Swamp National Wildlife Refuge).

§ 14-1. Bag limit; ~~One a day, three a license year, one of which must be an antlerless deer, Same; either sex Saturday following third Monday in November and last 12 days ; in certain counties and areas .~~

The *general firearms* bag limit for deer shall be ~~one~~ two a day, three a license year, one of which must be an antlerless deer, either sex on the Saturday immediately following the third Monday in November and on the last 12 hunting days, in the counties of Accomack, Albemarle, Amelia, Essex, Fauquier (except on the G. Richard Thompson and Chester F. Phelps Wildlife Management Areas), King and Queen, King George, King William, Lancaster, Loudoun, Northampton (except Eastern Shore of Virginia National Wildlife Refuge and Fisherman's Island National Wildlife Refuge), Northumberland, Prince Edward (except on Prince Edward State Forest), Rappahannock, Richmond and Westmoreland, and on Fort A.P. Hill (controlled access area).

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§ 14.2. Same; One a day, one a license year, bucks only.

The general firearms bag limit for deer shall be one a day, one a license year, in that portion of Dickenson County lying north of the Pound River and west of the Russell Fork River and in the counties of Russell (except on the Clinch Mountain Wildlife Management Area) and Wise, and on the Chester F. Phelps and G. Richard Thompson Wildlife Management Areas. Only bucks may be taken in the counties and areas controlled by this section.

§ 15. Tagging deer and obtaining official game tag; By licensee.

A. Detaching game tag from license.

It shall be unlawful for any person to detach the game tag from any license to hunt deer prior to the killing of a deer and tagging same. Any detached tag shall be subject to confiscation by any representative of the department.

B. Immediate tagging of carcass.

Any person killing a deer shall, before removing the carcass from the place of kill, detach from his special license for hunting deer the appropriate tag and shall attach such tag to the carcass of his kill.

C. Presentation of tagging carcass for checking; obtaining official game tag.

Upon killing a deer and tagging same, as provided above, the licensee shall, ~~without unnecessary delay,~~ [by 9 p.m.] on the date of kill, present the tagged carcass of his kill to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the deer was killed. At such time, the tag previously attached to the carcass shall be exchanged for an official game tag, which shall be furnished by the department, and securely attached to the carcass.

D. Destruction of deer prior to tagging; forfeiture of untagged deer.

It shall be unlawful for any person to destroy the identity (sex) of any deer killed unless and until tagged and checked as required by this section. Any deer not tagged as required by this section found in the possession of any person shall be forfeited by the Commonwealth to be disposed of as provided by law.

§ 16. Same; By person exempt from license requirement.

Upon killing a deer, any person exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, shall, ~~without unnecessary delay,~~ [by 9 p.m.] on the date of kill, present the carcass of his kill to an authorized checking station or to any appropriate

representative of the department in the county or adjoining county in which the deer was killed. At such time, the person shall be given an official game tag furnished by the department, which tag shall be securely attached to the carcass.

§ 17. Hunting prohibited in certain counties.

It shall be unlawful to hunt deer at any time in the counties of Arlington, Buchanan and in that portion of Dickenson County south of the Pound River and east of the Russell Fork River .

§ 18. Hunting with dogs prohibited in certain counties and areas.

A. Generally.

It shall be unlawful to hunt deer with dogs in the Counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Fairfax, Franklin, Henry, Loudoun, Nelson (west of Route 151), Northampton, Patrick and Pittsylvania (west of Norfolk Southern Railroad); and on the Amelia, Chester F. Phelps, G. Richard Thompson ; and Pettigrew and White Oak Mountain Wildlife Management Areas.

B. Special provision for Greene and Madison counties.

It shall be unlawful to hunt deer with dogs during the first 12 hunting days in the counties of Greene and Madison.

[~~§ 21. Youth deer hunting.~~

It shall be lawful for resident persons under the age of 16 to take one antlerless deer throughout the general firearms deer hunting season in those counties which have designated either sex days, provided the taking of such deer is within the total seasonal bag limits provided for deer. This regulation shall not apply to any bucks-only county.]

VR 325-02-9. GROUSE.

§ 2. Bag limit.

The bag limit for hunting grouse shall be three a day and 15 a license year .

VR 325-02-14. OPOSSUM.

PART I. HUNTING.

§ 1.1. Open season; Counties east of the Blue Ridge Mountains.

Except as otherwise specifically provided by the sections appearing in this regulation, it shall be lawful to hunt opossum in all counties east of the Blue Ridge Mountains

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from November 15 through the last day of February March 10 , both dates inclusive.

VR 325-02-18. RABBIT AND HARES.

§ 1. Open season; Generally.

Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to hunt rabbit from the first Monday in November, [second Saturday in October the first Monday in November] through January 31, both dates inclusive.

§ 2. Same; Accomack and Northampton Counties.

Rescind this section in its entirety.

§ 3. Bag limit.

The bag limit for rabbit shall be six a day and 75 license year .

VR 325-02-19. RACCOON.

PART II. HUNTING AND TRAPPING.

§ 2.5. Bag limit for hunting and trapping; Counties east of the Blue Ridge Mountains.

The bag limit for hunting raccoon in all counties east of the Blue Ridge Mountains shall be three per hunting party individual or organized, two per hunter, taken between noon of one day and noon the following day.

VR 325-02-21. SQUIRREL.

PART I. GRAY AND RED SQUIRREL.

§ 1.2 Season; Generally.

Except as otherwise provided by local legislation and with the specific exceptions provided in the sections appearing in this regulation, it shall be lawful to hunt squirrel from the first second Monday in November Saturday in October through January 31, both dates inclusive.

§ 1.3. Season; Certain counties; September 1 through September 15 and the first Monday in November First Saturday in September through January 31 in certain counties .

It shall be lawful to hunt squirrel from September 1 through September 15, both dates inclusive, and from the first Monday in November first Saturday in September through January 31, both dates inclusive, in the counties of Bedford, Bland, Botetourt, Brunswick (except Fort Pickett), Buchanan, Campbell, Charlotte, Carroll, Craig, Dickenson, Dinwiddie (except Fort Pickett), Floyd, Franklin, Giles,

Grayson, Greensville, Halifax, Henry, Lee, Lunenburg, Mecklenburg, Montgomery, Nottoway (except on Fort Pickett) and , Patrick, Pittsylvania, Pulaski, Roanoke, Russell, Scott, Smyth, Southampton, Tazewell, Washington, Wise and Wythe .

§ 1.4. Same; Same; September 15 through September 30 and the first Monday in November through January 31.

Rescind this section in its entirety.

§ 1.5. Same; Same; September 15 through October 14 and the first Monday in November through January 31.

Rescind this section in its entirety.

§ 1.6. Same; Same; October 1 through October 14 and the first Monday in November through January 31.

Rescind this section in its entirety.

§ 1.7. Same; Same; October 15 through January 31.

Rescind this section in its entirety.

PART II. FOX SQUIRREL.

§ 2.2. Open season; Certain counties—September 15 through September 30 and from the First Monday Saturday November September through January 31.

It shall be lawful to hunt fox squirrel from September 15 through September 30, both dates inclusive, and from the first Monday in November Saturday in September through January 31, both dates inclusive, in the counties of Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Roanoke, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe.

§ 2.4. Same; Same; September 15 through October 15 and from the first Monday in November through January 31.

Rescind this section in its entirety.

§ 2.5. Same; Same; Second Saturday in October 1 through October 14 and from the first Monday in November through January 31.

It shall be lawful to hunt fox squirrel from October 1 through October 14, both dates inclusive, and from the first Monday in November the second Saturday in October through January 31, both dates inclusive, in the counties of Alleghany, Augusta, Bath, Clarke, Fairfax, Fauquier (except on the Chester F. Phelps Wildlife Management Area), Frederick, Highland, Loudoun, Page, Rappahannock, Rockbridge, Rockingham, Shenandoah and Warren.

§ 2.6. Same; Same; First Monday in November through January 31.

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Rescind this section in its entirety.

PART III. BAG LIMIT.

§ 3.1. Generally.

The combined bag limit for all squirrels shall be six a day and 75 a license year in the aggregate.

VR 325-02-22. TURKEY.

§ 2. Open season; Certain counties and areas; First Monday in November and for 11 hunting days following.

It shall be lawful to hunt turkeys on the first Monday in November and for eleven consecutive hunting days following in the counties of Charles City, Chesterfield, Gloucester, Greensville, Henrico, Isle of Wight, *James City*, King George, Lancaster, Middlesex, New Kent, Northumberland, Prince George, Richmond, Surry, Sussex, Westmoreland and York, and on Camp Peary.

§ 2-1. Open season; ~~Certain counties and areas; Same~~; First Monday in November through Saturday prior to third Monday in November and fourth Monday in November through first Saturday in January.

It shall be lawful to hunt turkeys on the first Monday in November through the Saturday prior to the third Monday in November and from the fourth Monday in November through the first Saturday in January, both dates inclusive, in the counties of *Albemarle*, Alleghany, *Amelia*, *Amherst*, *Appomattox*, Augusta, Bath, [~~Bedford, Bland, Botetourt,~~] *Brunswick*, *Buckingham*, [~~Campbell,~~] *Caroline*, [~~Carroll,~~] *Charlotte*, *Clarke*, [~~Craig,~~] *Culpeper*, *Cumberland*, [~~Dickenson,~~] *Dinwiddie*, *Essex*, *Fairfax*, *Fauquier*, [~~Floyd,~~] *Fluvanna*, [~~Franklin,~~] *Frederick*, [~~Grayson, Giles,~~] *Goochland*, *Greene*, [~~Halifax,~~] *Hanover*, [~~Henry,~~] *Highland*, *King and Queen*, *King William*, [~~Lee,~~] *Loudoun*, *Louisa*, *Lunenburg*, *Madison*, *Mecklenburg*, [~~Montgomery,~~] *Nelson*, *Nottoway*, *Orange*, *Page*, [~~Patrick, Pittsylvania,~~] *Powhatan*, *Prince Edward*, *Prince William*, [~~Pulaski,~~] *Rappahannock*, [~~Roanoke,~~] *Rockbridge*, *Rockingham*, [~~Russell (except on Clinch Mountain Wildlife Area), Scott,~~] *Shenandoah*, [~~Smyth,~~] *Spotsylvania*, *Stafford* [~~;~~ *Tazewell,* and] *Warren* [~~;~~ *Washington, Wise and Wythe*].

§ 3. Open season; Spring season for bearded turkeys.

It shall be lawful to hunt bearded turkeys only from the Saturday nearest the 15th of April and for 30 consecutive hunting days following, both dates inclusive, from 1/2 hour before sunrise to 12:00 noon prevailing time. Bearded turkeys may be hunted by calling. It shall be unlawful to use dogs or organized drives for the purpose of hunting. *It shall be unlawful to use or have in possession any shot larger than number 2 fine shot when hunting turkeys with a shotgun.*

§ 4. Continuous closed season in certain counties, cities

and area.

There shall be continuous closed turkey season, except where a special spring season for bearded turkeys is provided for in § 3 of this regulation, in the counties of Accomack, Arlington, Buchanan, ~~Dickenson~~, *James City*, Mathews, Northampton and Southampton; and in the cities of Chesapeake, Hampton, Newport News, Suffolk and Virginia Beach.

§ 7. Tagging turkey and obtaining official game tag; By licensee.

A. Detaching game tag from licensee.

It shall be unlawful for any person to detach the game tag from any license to hunt turkey prior to the killing of a turkey and tagging same. Any detached tag shall be subject to confiscation by any representation of the department.

B. Immediate tagging of carcass.

Any person killing a turkey shall, before removing the carcass from the place of kill, detach from his special license for hunting turkey the appropriate tag and shall attach such tag to the carcass of his kill.

C. Presentation of tagged carcass for checking; obtaining official game tag.

Upon killing a turkey and tagging same, as provided above, the licensee shall, ~~without necessary delay~~, [*by 9 p.m.*] *on the date of kill*, present the tagged carcass of his kill to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the turkey was killed. At such time, the tag previously attached to the carcass shall be exchanged for an official game tag, which shall be furnished by the department, and securely attached to the carcass.

D. Destruction of identity of turkey prior to tagging; forfeiture of untagged turkey.

It shall be unlawful for any person to destroy the identity (sex) of any turkey killed unless and until tagged and checked as required by this section. Any turkey not tagged as required by this section found in the possession of any person shall be forfeited to the Commonwealth to be disposed of as provided by law.

§ 8. Same; By person exempt from license requirement.

Upon killing a turkey, any person exempt from the license requirement as described in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, shall, ~~without unnecessary delay~~ [*by 9 p.m.*] *on the date of kill*, present the carcass of his kill to an authorized checking

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station or to any appropriate representative of the department in the county or adjoining county in which the turkey was killed. At such time, the person shall be given an official game tag furnished by the department, which tag shall be securely attached to the carcass.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: ~~VR 355-40-04~~ VR 355-40-400 .
Regulations Governing the Virginia Medical Scholarship Program.

Statutory Authority: § 32.1-122.6 B of the Code of Virginia.

Effective Date: July 3, 1991.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 7:11 V.A.R. 1613-1616 February 25, 1991, except as follows:

1. In the title, the regulation number was changed from VR 355-40-04 to VR 355-40-400 to conform to the department's new numbering system.

2. § 1.5 is amended as follows: *Effective date.*

These regulations shall be effective on [~~June 4~~ July 3] , 1991.

* * * * *

Title of Regulation: ~~VR 355-40-05~~ VR 355-40-500 . **Rules and Regulations for the Identification of Medically Underserved Areas in Virginia.**

Statutory Authority: § 32.1-122.5 of the Code of Virginia.

Effective Date: July 3, 1991.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The only change is that the regulation number was changed from VR 355-40-05 to VR 355-40-500 to conform to the department's new numbering system. Otherwise, the regulation was adopted as it was proposed in 7:11 V.A.R. 1617-1622 February 25, 1991.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **Regulations for Coverage of Hospice Services.**

VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.

VR 460-02-3.1200. Amount, Duration and Scope of Services Provided Medically Needy Group(s): All.

VR 460-03-3.1100. Amount, Duration and Scope of

Services.

VR 460-02-3.1300. Standards Established and Methods to Assure High Quality of Care.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

VR 460-04-8.8. Regulations for Hospice Services.

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

Effective Date: July 3, 1991.

Summary:

The purpose of this proposal is to promulgate permanent regulations providing for the coverage of hospice services to supersede the current emergency regulations which became effective July 1, 1990.

The regulations affect state regulations VR 460-04-8.8 governing the provision of hospice services as well as the following sections of the State Plan for Medical Assistance: "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy" (Attachment 3.1-A); "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Medically Needy" (Attachment 3.1-B); "Standards Established and Methods Used to Assure High Quality Care" (Attachment 3.1-C); and "Methods and Standards for Establishing Payment Rates—Other Types of Care" (Attachment 4.19 B).

Hospice is a medically-directed, interdisciplinary program of palliative services for the terminally ill and their families. Hospice emphasizes the control of pain and symptoms by use of a team of professionals, including physicians, nurses, counselors, therapists, aides and volunteers. The majority of hospice services are delivered in the home with inpatient care available as needed.

For service provided on and after July 1, 1990, DMAS covers hospice care provided by Medicare-certified hospices licensed in Virginia and enrolled as Medicaid providers. To be eligible for hospice coverage, the Medicaid recipient must be terminally ill (defined as having a life expectancy of six months or less) and must have chosen to receive hospice services rather than active treatment for their illness.

For the first 90-day period of hospice coverage, a physician must certify that the individual is terminally ill, and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. Recertification of the patient's limited life expectancy must be made by the hospice medical director at subsequent 90- and 30-day periods and for a subsequent extension period during the individual's lifetime. (The requirement for the subsequent extension period was mandated under Medicare by the Omnibus Budget Reconciliation Act of

1990, and constitutes the only significant change to the proposed regulations from the emergency regulations. Other changes were minor for clarity.) A plan of care must be established by the hospice interdisciplinary team before services are provided. Services must be consistent with the plan of care.

Medicare began covering hospice services in 1983, mandated by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). With few exceptions, the elements of the state Medicaid hospice programs are required to mirror those for the Medicare program. As described for Medicare and applicable to Medicaid, hospice services entail the following four reimbursement categories of daily care:

Routine home care is at-home care that is not continuous.

Continuous home care is predominantly nursing care provided in the home as short-term crisis care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.

Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the recipient's primary caregiver(s). Respite care is limited to not more than 5 consecutive days.

General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

To be reimbursed, all four categories must include the following core services provided by the hospice's employees: nursing care, physician services, medical social services and counseling, and home health aide and homemaker services. In addition, if the patient's condition warrants it, durable medical equipment and supplies, drugs and biologicals and rehabilitation services (for symptom control and maintenance of activities of daily living) may be provided. The hospice may contract for supplemental services to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs.

The hospice is responsible for providing or arranging for all services pertaining to the terminal illness. Hospices may contract for physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial, and administrative responsibility for the services and must ensure that all staff meet the regulatory qualification requirements. All services must be performed by appropriately qualified personnel. The nature of the

service, rather than the qualification of the person who provides it, determines the coverage category of the service.

Hospice services will require an initial authorization and physician certification. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.

15.a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with section 1902(a)(31)(A) of the Act, to be in need of such care.

Provided: No limitations With limitations*
 Not provided.

b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided: No limitations With limitations*
 Not provided.

16. Inpatient psychiatric facility services for individuals under 22 years of age.

Provided: No limitations With limitations*
 Not provided.

17. Nurse-midwife services

Provided: No limitations With limitations*
 Not provided.

18. Hospice care (in accordance with section 1905(o) of the Act).

Provided: No limitations with limitations*
 Not provided.

* Description provided on attachment.

VR 460-02-3.1200. Amount, Duration and Scope of Services Provided Medically Needy Groups: All.

c. Intermediate care facility services.

Provided: No limitations With limitations*

15.a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined in accordance with section 1902(a)(31)(a) of the Act, to be in need of such care.

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Provided: No limitations With limitations*

b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided: No limitations With limitations*

16. Inpatient psychiatric facility services for individuals under 22 years of age.

Provided: No limitations With limitations*

17. Nurse-midwife services.

Provided: No limitations With limitations*

18. Hospice care (in accordance with section 1905(o) of the Act).

Provided: No limitations With limitations*

* Description provided on attachment.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

J. The department may exempt portions or all of the utilization review documentation requirements of subsections A, D, E, F as it pertains to recipients under age 21, G, or H in writing for specific hospitals from time to time as part of their ongoing hospital utilization review performance evaluation. These exemptions are based on utilization review performance and review edit criteria which determine an individual hospital's review status as specified in the hospital provider manual. In compliance with federal regulations at 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed, shall be subject to medical documentation requirements.

K. Hospitals qualifying for an exemption of all documentation requirements except as described in subsection J above shall be granted "delegated review status" and shall, while the exemption remains in effect, not be required to submit medical documentation to support pended claims on a prepayment hospital utilization review basis to the extent allowed by federal or state law or regulation. The following audit conditions apply to delegated review status for hospitals:

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.
2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.
3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and

B of the Code of Virginia the full amount of any initial overpayment identified during such audit.

4. The hospital may appeal adverse medical necessity and overpayment decisions pursuant to the current administrative process for appeals of post-payment review decisions.

5. The department may, at its option, depending on the utilization review performance determined by an audit based on criteria set forth in the hospital provider manual, remove a hospital from delegated review status and reapply certain or all prepayment utilization review documentation requirements.

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

- a. Are furnished to outpatients;
- b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and
- c. Are furnished by an institution that:
 - (1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and
 - (2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

The same service limitations apply to rural health clinics as to all other services.

2c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the

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plan and furnished by an FQHC in accordance with § 4231 of the State Medicaid Manual (HCFA Pub. 45-4).

The same service limitations apply to FQHCs as to all other services.

§ 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

§ 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

4c. Family planning services and supplies for individuals of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly

executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

§ 7. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

§ 8. Private duty nursing services.

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Not provided.

§ 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

§ 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; dental sealants; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. The following services are also covered through preauthorization: medically necessary full banded orthodontics, for handicapping malocclusions, minor tooth guidance or repositioning appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges. The following service is not covered: routine bases under restorations.

D. The state agency may place appropriate limits on a service based on medical necessity, for utilization control, or both. Examples of service limitations are: examinations,

prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray – two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

11a. Physical therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy services rendered to patients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section).

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

1. Nonlegend drugs, except insulin, syringes, needles, diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by

Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexiants drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexiants for other than weight loss requires preauthorization.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioner so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

5. New drugs, except for Treatment Investigational New Drugs (Treatment IND), are not covered until approved by the board, unless a physician obtains prior approval. The new drugs listed in Supplement 1 to the New Drug Review Program regulations (VR 460-05-2000.1000) are not covered.

12b. Dentures.

Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

12c. Prosthetic devices.

A. Prosthetics services shall mean the replacement of missing arms and legs. Nothing in this regulation shall be construed to refer to orthotic services or devices.

B. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.

12d. Eyeglasses.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

Not provided.

13b. Screening services.

Not provided.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

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Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

~~Not provided.~~

A. Covered hospice services shall be defined as those services allowed under the provisions of Medicare law and regulations as they relate to hospice benefits and as specified in the Code of Federal Regulations, Title 42, Part 418.

B. Categories of care.

As described for Medicare and applicable to Medicaid, hospice services shall entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.
2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered or licensed practical nurse must provide care for more than half of the period of the care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.
3. Inpatient respite care is short-term inpatient care

provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. Respite care is limited to not more than 5 consecutive days.

4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

C. Covered services.

1. As required under Medicare and applicable to Medicaid, the hospice itself must provide all or substantially all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

2. Other services applicable for the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech-language [pathology] services.

3. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

4. To be covered, a certification that the individual is terminally ill must have been completed by the physician and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

5. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

- a. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.
- b. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited

or approved by the Council on Social Work Education, and who is working under the direction of a physician.

c. *Physician services.* Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

d. *Counseling services.* Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

e. *Short-term inpatient care.* Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

f. *Durable medical equipment and supplies.* Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

g. *Drugs and biologicals.* Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

h. *Home health aide and homemaker services.* Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker

services must be provided under the general supervision of a registered nurse.

i. *Rehabilitation services.* Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

D. Eligible groups.

To be eligible for hospice coverage under Medicare or Medicaid, the recipient must have a life expectancy of six months or less, have knowledge of the illness and life expectancy, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician [if the individual has an attending physician]. For the initial 90-day period, if the hospice cannot obtain written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

2. For any subsequent 90-day or 30-day period or a subsequent extension period during the individual's lifetime, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six months or less and the signature(s) of the physician(s). The hospice must maintain the certification statements.

§ 19. Case management services for high-risk pregnant women and children up to age 1, as defined in Supplement 2 to Attachment 3.1-A in accordance with § 1915(g)(1) of the Act.

Provided, with limitations. See Supplement 2 for detail.

§ 20. Extended services to pregnant women.

20a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to

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this group as to all other recipient groups.

20b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 21. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

21a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

21b. Services of Christian Science nurses.

Not provided.

21c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

21d. Skilled nursing facility services for patients under 21 years of age.

Provided, no limitations.

21e. Emergency hospital services.

Provided, no limitations.

21f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

Emergency Services for Aliens (17.e)

No payment shall be made for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

Emergency services are defined as:

Emergency treatment of accidental injury or medical condition (including emergency labor and delivery) manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical/surgical attention could reasonably be expected to result in:

1. Placing the patient's health in serious jeopardy;
2. Serious impairment of bodily functions; or
3. Serious dysfunction of any bodily organ or part.

Medicaid eligibility and reimbursement is conditional upon review of necessary documentation supporting the need for emergency services. Services and inpatient lengths of stay cannot exceed the limits established for other Medicaid recipients.

Claims for conditions which do not meet emergency criteria for treatment in an emergency room or for acute care hospital admissions for intensity of service or severity of illness will be denied reimbursement by the Department of Medical Assistance Services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

- a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care .

b. The physician, or a physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Nursing homes.

(Skilled and Intermediate Care Facility)

1. As required by federal law, the Department of Medical Assistance Services visits every Medicaid patient that is residing in a nursing home in Virginia. The purpose of the visit is to do a complete medical and social evaluation of the patient. The visit also includes patient interviews, discussions with the professional staff, and the attending physician. Thus, it is assured that quality care is rendered to these recipients and that the patient is receiving the proper level of care.

2. Long term care of patients in medical institutions will be provided in accordance with procedures and practices that are based on the patient's medical and social needs and requirements.

3. In each case for which payment for services, skilled nursing facility services, or intermediate care facility services is made under the State Plan:

a. A physician, or a nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician, must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires the skilled or intermediate level of care. The Nursing Home Preadmission Screening shall serve as the admission or initial certification for intermediate or skilled nursing home care if the date of the screening occurred within 30 days prior to the admission;

b. The physician, or nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician, must recertify the need for skilled or intermediate level of care. Recertifications must be written according to the following schedule:

(1) Skilled Nursing Facility Services - at least:

30 days after the date of the initial certification,

60 days after the date of the initial certification,

90 days after the date of the initial certification,

and

every 60 days thereafter;

(2) Intermediate Nursing Home Care - at least:

60 days after the date of the initial certification,

180 days after the date of the initial certification,

12 months after the date of the initial certification,

18 months after the date of the initial certification,

24 months after the date of the initial certification, and

every 12 months thereafter;

(3) Intermediate Care Facilities for the Mentally Retarded - at least every 365 days;

c. For the purpose of determining compliance with the schedule established by paragraph b, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required, if the physician, or other person making such recertification, provides a written statement showing good cause why such recertification did not meet such schedule;

d. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but who is working in collaboration with a physician for skilled or intermediate care services ;

e. The schedule of recertifications set forth in paragraph b shall become effective for all admissions and recertifications due on or after October 1, 1984, except that this amendment made by this section shall not require recertifications sooner or more frequently than every 60 days for skilled care patients admitted before October 1, 1984;

f. The addition of the nurse practitioner or clinical nurse specialist, as qualified in paragraphs a, b, and d, shall apply to certifications, recertifications, and plans of care for skilled or intermediate care written on or after July 1, 1988, and before October 1, 1990;

g. The Department of Medical Assistance Services will recover payments made for periods of care in which the certifications, recertifications, and plans of care documentation does not meet the time schedule of this section to the extent required by federal law.

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h. In addition, a fiscal penalty of 1-1/2% per month of the disallowed payment will be assessed against the nursing home from the time the noncertified service was rendered until payment is received by the Virginia Medical Assistance Program (§ 32.1-313 of the Code of Virginia). No efforts by the nursing home shall be exerted to recoup this penalty from the patient or responsible party.

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PART I. ADMISSION CRITERIA FOR REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to upgrade his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy
2. Physical Therapy
3. Cognitive Rehabilitation
4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II. INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an inpatient rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of

stay shall be requested in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III. DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment; and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for rehabilitation for which an outpatient assessment cannot be adequately performed, an inpatient evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated

goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V. CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

PART VI. THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII. DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII. REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have

been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

1. Physical therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine ;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be

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performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine ;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

C. Occupational therapy.

1. Occupational therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the

amount, frequency and duration of the services shall be reasonable.

D. Speech-Language therapy.

1. Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

E. Cognitive rehabilitation.

1. Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

c. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

d. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

e. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

f. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

1. Psychology services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

1. Social work services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

1. Recreational therapy are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this

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includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. All durable medical equipment over \$1,000 shall be preauthorized by the department; however, all durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

PART IX. HOSPICE SERVICES.

§ 9.0. Hospice services.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or Medicaid, the recipient must be "terminally ill," defined as having a life expectancy of six months or less, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician [(if the individual has an attending physician)] and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 9.3. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:

1. *Nursing care.* Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. *Medical social services.* Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

3. *Physician services.* Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

4. *Counseling services.* Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of

training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

5. *Short-term inpatient care.* Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. *Durable medical equipment and supplies.* Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

7. *Drugs and biologicals.* Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

8. *Home health aide and homemaker services.* Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

9. *Rehabilitation services.* Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for

Medical Assistance are described in the following paragraphs:

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.

b. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

c. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed: such data will be made available to the Secretary, HHS, upon request.

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

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

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

The services that are cost reimbursed are:

- (1) Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals
- (2) Home health care services
- (3) Outpatient hospital services excluding laboratory
- (4) Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.
- (5) Rehabilitation agencies
- (6) Comprehensive outpatient rehabilitation facilities
- (7) Rehabilitation hospital outpatient services.

e. *Fee-for-service providers.*

(1) Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

- ~~(1)~~ (a) Physicians' services
- ~~(2)~~ (b) Dentists' services
- ~~(3)~~ (c) Mental health services including:
Community mental health services
Services of a licensed clinical psychologist
Mental health services provided by a physician
- ~~(4)~~ (d) Podiatry
- ~~(5)~~ (e) Nurse-midwife services
- ~~(6)~~ (f) Durable medical equipment
- ~~(7)~~ (g) Local health services
- ~~(8)~~ (h) Laboratory services (Other than inpatient hospital)

~~(9)~~ (i) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

~~(10)~~ (j) X-Ray services

~~(11)~~ (k) Optometry services

~~(12)~~ (l) Medical supplies and equipment.

(2) *Hospice services payment must be no lower than the amounts using the same methodology used under part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.*

f. Payment for pharmacy services shall be the lowest of items (1) through (5) (except that items (1) and (2) will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is higher than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs which are included both on HCFA's list of multiple source drugs and on the Virginia Voluntary Formulary (VVF), unless specified otherwise by the agency;

(2) The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF;

(3) The estimated acquisition cost established by the agency for legend drugs except oral contraceptives; plus the dispensing fee established by the state agency, or

(4) A mark-up allowance determined by the agency for covered nonlegend drugs and oral contraceptives; or

(5) The provider's usual and customary charge to the public, as identified by the claim charge.

(6) Payment for pharmacy services will be as described above; however, payments for legend drugs (except oral contraceptives) will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Payments will be reduced by the amount of the established copayment per prescription by noninstitutionalized clients with exceptions as provided in federal law and regulation.

(7) The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in skilled or intermediate care facilities. Reimbursements are based on the allowed payments

described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

g. All reasonable measures will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

h. The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

i. Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special Emergency transportation	Rate set by the single state agency

j. Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this Plan.

k. Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

l. Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

m. Targeted case management for high-risk pregnant women and infants up to age 1 shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

n. Reimbursement for all other nonenrolled institutional and noninstitutional providers.

(1) All other nonenrolled providers shall be reimbursed the lesser of the charges submitted, the DMAS cost to charge ratio, or the Medicare limits for the services provided.

(2) Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less five percent. The five percent is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

(3) Nonenrolled providers of noninstitutional services shall be paid on the same basis as enrolled in-state providers of noninstitutional services. Nonenrolled providers of physician, dental, podiatry, optometry, and clinical psychology services, etc., shall be reimbursed the lesser of the charges submitted, or the DMAS rates for the services.

(4) All nonenrolled noninstitutional providers shall be reviewed every two years for the number of Medicaid recipients they have served. Those providers who have had no claims submitted in the past twelve months shall be declared inactive.

(5) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

o. Refund of overpayments.

(1) Providers reimbursed on the basis of a fee plus cost of materials.

(a) When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

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(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

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

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

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

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

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

(d) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

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

The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (ii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does

not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

(2) Providers reimbursed on the basis of reasonable costs.

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

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

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

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

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

If, during the time an extended repayment schedule

is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

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

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

(e) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

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

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

VR 460-04-8.8. Regulations for Hospice Services.

§ 1. Scope.

A. Medicaid covers hospice services as defined in § 2 A provided by facilities or agencies certified as hospice providers through Medicare and which have a provider

agreement with the Department of Medical Assistance Services.

B. Hospice services may be provided in a variety of settings including the terminally ill individual's home, a freestanding hospice, hospital, or nursing facility; however, reimbursement for hospice services will only be made to the certified hospice provider.

§ 2. Covered hospice services.

A. "Hospice" means a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control provided by a team of professionals including physicians, nurses, counselors, social workers, therapists, aides and volunteers. Hospice is primarily a concept of care, rather than a specific place, with the majority of hospice services being delivered in the home with inpatient care available as needed.

B. "Terminally ill" means an individual has a medical prognosis that his or her life expectancy is six months or less. This prognosis must be certified by written statements signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician.

C. As required under Medicare and applicable to Medicaid, the hospice itself must provide the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual). However, the hospice may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice shall maintain professional, financial, and administrative responsibility for the services.

Other services applicable to the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational [; and] physical [therapies] and [~~therapies~~ speech-language pathology services] . These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

D. As described for Medicare and applicable to Medicaid, hospice services shall include the following four categories of daily care: routine home care, continuous home care, inpatient respite care, and general inpatient care.

§ 3. Admission criteria for covered services.

A. To be eligible for hospice care under Medicaid, an individual must be certified as terminally ill. An individual is considered to be terminally ill if he has a medical prognosis that his life expectancy is six months or less. In

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addition, the individual must have knowledge of the illness and life expectancy and elect to receive hospice services rather than active treatment for the illness. Both the attending physician [if the individual has an attending physician] and the hospice medical director must certify the life expectancy.

B. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician [if the individual has an attending physician]. For the initial 90-day period, if the hospice cannot obtain written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

2. For any subsequent 90-day or 30-day period or a subsequent extension period during the individual's lifetime, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his life expectancy is six months or less and the signature or signatures of the physician or physicians. The hospice must maintain the certification statements.

3. An election to receive hospice care shall be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual remains in the care of a hospice and does not revoke the election. An election period means one of three periods, plus a subsequent extension period during the individual's lifetime, for which an individual may elect to receive coverage of hospice care. The periods consist of two 90-day periods, one 30-day period, and a subsequent extension period during the individual's lifetime. An election to receive hospice care may be made by an individual's representative who is acting pursuant to state law. An individual or representative may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care but may not designate an effective date that is earlier than the date that the election is made.

For purposes of the Medicaid hospice benefit, a nursing facility may be considered the residence of a recipient. An addition to hospice reimbursement is made in this situation to take the room and board

provided by the facility into account. The hospice shall reimburse the nursing facility for these services.

4. The election statement must include (i) identification of the hospice that will provide care to the individual; (ii) the individual's or representative's acknowledgement that he has been given a full understanding of the palliative rather than curative nature of hospice care as it relates to the individual's terminal illness; (iii) acknowledgement that certain Medicaid services are waived by the election; (iv) the effective date of the election, and (v) the signature of the individual or representative.

§ 4. Authorization for services.

A. Hospice services shall be authorized by DMAS and certification shall be made by the physician that the individual is terminally ill and that hospice services are reasonable and necessary for the palliation or management of the terminal illness and related conditions. Within fourteen days of the date of the initial physician certification, the hospice must request authorization from DMAS for accepting the terminally ill individual. This request shall include a description of the individual's diagnoses and a physician's certification that the individual meets criteria for hospice care.

B. DMAS shall make a determination as to the appropriateness of Medicaid payment for the individual's first 90 days of care. [~~Subsequent periods of care shall be requested in writing and approved by the department.~~] Periods of hospice care not authorized by DMAS shall not be approved for payment. The initial date of authorization of services shall not be made retroactive prior to the date of the request for hospice services.

§ 5. Documentation requirements.

A. Documentation of hospice services shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's terminal illness;
2. Document an accurate and complete chronological picture of the patient's clinical course and treatments;
3. Document that a multidisciplinary plan of care specifically designed for the patient has been developed;
4. Document all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);
5. Document changes in each patient's condition; and
6. Identify the category of care as described in Section 6.A.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 6. Categories of care.

A. As described for Medicare and applicable to Medicaid, hospice services entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.

2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered nurse or licensed practical nurse must provide care for more than half of the period of care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of eight hours of care per day must be provided to qualify as continuous home care.

3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. No more than five consecutive days of respite care will be allowed.

4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

B. For all services pertaining to terminal illness, the hospice has the responsibility for providing or arranging the services. Utilization review shall be performed to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

§ 7. Hospice services to terminally ill patients.

A. As required under Medicare and applicable to Medicaid, the hospice itself must provide all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

The "core" services must be provided routinely and directly by hospice employees. Supplemental services may be contracted for to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs. Hospices may also contract to obtain physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial

and administrative responsibility for the services and must assure that all staff meet the regulatory qualification requirements.

Other services applicable for the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational, physical and speech therapies.

These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

B. To be covered, a certification that the individual is terminally ill must have been completed and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a multidisciplinary plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care designed by a physician after any needed consultation with other hospice team members.

C. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

3. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

4. Physician services. Physician services must be

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performed by a professional who is legally authorized to practice, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

Attending physician means a physician who is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

5. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death.

Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. "Family" includes family members or other persons caring for the individual at home. Bereavement counseling is a required hospice service, but it is not reimbursable.

6. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings.

Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. Respite care means short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver or caregivers providing at-home care for the recipient. No more than 5 consecutive days will be allowed.

Hospice patients are exempted from the preadmission screening requirements. However, the above criteria must be met for inpatient hospital stays.

7. Durable medical equipment and supplies. Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness are covered. Medical supplies include those supplies that are part of the written plan of care.

8. Drugs and biologicals. Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

9. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

a. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Board under the direct supervision of an occupational therapist as defined above;

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

b. Physical therapy services shall be those furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical

practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

c. Speech-language [~~therapy~~ pathology] services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

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VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Request for Hospice Benefits

NAME: _____ DATE OF BIRTH: ____/____/____

ADDRESS: _____

MEDICAID NUMBER: _____ (12 digits) MEDICARE NUMBER: _____

OTHER INSURANCE: _____ POLICY NO: _____

SECTION I: ELECTION OF HOSPICE BENEFITS

I, _____, elect to participate in the Medicaid Hospice Benefit.

The hospice I have chosen is: _____.

I am aware of the prognosis of my illness and I understand that treatment is palliative rather than curative. I consent to the management of the symptoms of my disease as prescribed by my Attending Physician and/or the Hospice Medical Director. My family and I will help to develop and will participate in a plan of care based on our special needs.

I may receive benefits which include home nursing visits, counseling, medical social work services, medical supplies and equipment. If needed, I may also receive home health aides/homemakers, physical therapy, occupational therapy, speech/language pathology, in-patient care for acute symptoms, medical procedures ordered by my physician and hospice, and continuous nursing care in the home in acute medical crises. I may request volunteer services, when available and when appropriate. I realize that my family and I have the opportunity for limited respite or relief care in a nursing facility.

In accepting these services, which are more comprehensive than regular Medicaid benefits, I waive my right to regular benefits except for payment to my attending physician or treatment for medical conditions unrelated to my terminal illness. I understand that I can revoke this benefit at any time and return to regular Medicaid benefits. I understand that the Hospice Benefit consists of four benefit periods -- two ninety-day periods, one thirty-day period, and a subsequent extension period during the individual's lifetime. I may be responsible for hospice charges if I become ineligible for Medicaid services.

I understand that at the end of either the first ninety-day period or the second, because of an improvement in my condition, I may choose to save the remainder of the benefit period(s). I may revoke the Hospice Benefit at that time. I also understand that should I choose to do so, I am still eligible to receive the remaining benefit period(s); I am aware, however, that if I choose to revoke Hospice Benefits during a benefit period, I am not entitled to coverage for the remaining days of that benefit period.

I understand that if I choose to do so, once during each election period I may change the designation of the particular hospice from which hospice care will be received by filing a statement with the hospice from which care has been received and with the newly designated hospice. I understand that a change of hospice providers is not a revocation of the remainder of that election period.

I understand that, unless I revoke the Hospice Benefit, hospice coverage will continue.

I understand that if I am a Medicare recipient, I must elect to use the Medicare Hospice Benefit.

Check one:

I am a Medicare recipient and have elected to use the Medicare Hospice Benefit. My Medicare eligibility for hospice benefits begins _____ (date).

I am not a Medicare recipient.

Witness' signature

Medicaid Hospice Recipient's Signature

Date

Medicaid Hospice Recipient
(typed or printed)

Date

DMAS-420
Revised 5/91

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Hospice Benefits

Revocation/Change Statement

NAME: _____ DATE OF BIRTH: ____ / ____ / ____
ADDRESS: _____
MEDICAID NUMBER: _____ (12 digits) MEDICARE NUMBER: _____
OTHER INSURANCE: _____ POLICY NUMBER: _____

_____ I wish to change my designation of hospice from _____
(name of hospice) to _____
(name of hospice/telephone), effective _____ (date).
I understand that the change of Hospice providers is NOT a revocation of the
remainder of this election period.

_____ I wish to revoke my election of Medicaid hospice services effective _____
(date).
I understand that any remaining days of this election period will not be available to me.
I understand that I may elect hospice care at a later time.
I understand that as of the date of this revocation, if I am still eligible, my regular
Medicaid benefits will be restored.

Signature

Name typed or printed

Date

Witness' signature

Date

DMAS-421
10/90

EMERGENCY REGULATIONS

BOARD OF MEDICINE

Title of Regulation: VR 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases, Including Abnormal Conditions, of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.

Statutory Authority: §§ 54.1-2400, 54.1-2900 et seq., 54.1-2957.1, 54.1-2957.2 and 54.1-2957.3 of the Code of Virginia.

Effective Dates: May 3, 1991 through May 2, 1992.

I recommend approval of the proposed emergency amendments to regulations of the Board of Medicine, cited as VR 465-09-01. The emergency amendments will provide relief to recent graduates of schools of optometry who can document training during their optometric education equivalent to the postgraduate training currently required by the Board. The emergency amendment will be following by permanent regulations recognizing this equivalent training.

/s/ Bernard L. Henderson, Jr.
Director, Department of Health Professions
Date: April 22, 1991

I recommend approval of the above emergency amendments.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: April 30, 1991

I approve the proposed emergency amendment.

/s/ Lawrence Douglas Wilder
Governor
Date: May 2, 1991

I acknowledge receipt of the attached emergency regulations to be effective on this date.

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: May 3, 1991

Summary:

These regulations prescribe the standards for the certification of Optometrists to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents to assure delivery of appropriate eye care to the citizens in the Commonwealth of Virginia.

Nature of Emergency:

Regulations of the Board of Medicine governing the

certification of optometrists to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with therapeutic pharmaceutical agents, became effective on July 5, 1990. The regulations require that applicants for certification complete postgraduate training approved and prescribed by the board (see Section 2.1.3). As written, the regulation would prevent the Board from certifying recently graduated doctors of optometry (O.D.s) whose curriculum has included training equivalent to the required postgraduate optometric training. It is expected that a number of recently graduated optometrists may apply for certification who are fully qualified, but who could not be certified by existing provisions.

Necessity for Action:

Emergency amendments are proposed to permit the Board to certify doctors of optometry who can document "graduate optometric training" (i.e., training leading to the conferral of the optometry degree) which includes elements equivalent to the postgraduate optometric training currently required by the Board.

Emergency provisions proposed in Sections 2.1.3 and 6.1 will permit the board to certify these applicants.

The emergency provisions will be followed by amendments to existing regulations promulgated under standard provisions of the Administrative Process Act.

VR 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases, Including Abnormal Conditions, of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.

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:

"Approved school" means those optometric and medical schools, colleges, departments of universities or colleges or schools of optometry or medicine currently accredited by the Council on Postsecondary Accreditation or by the United States Department of Education.

"Board" means the Virginia Board of Medicine.

"Certification" means the Virginia Board of Medicine certifying an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents.

"Certified optometrist" means an optometrist who holds

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a current license to practice optometry in the Commonwealth of Virginia, is certified to use diagnostic pharmaceutical agents by the Virginia Board of Optometry, and has met all of the requirements established by the Virginia Board of Medicine to treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Examination" means an examination approved by the Board of Medicine for certification of an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Invasive modality" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive modalities include surgery, lasers, ionizing radiation, therapeutic ultrasound, medication administered by injection, and the removal of foreign bodies from within the tissues of the eye. For purposes of these regulations, the administration of a topical agent specified in § 4.3 of these regulations is not considered an invasive modality.

"Postgraduate clinical training" means a postgraduate program approved by the board to be eligible for certification.

"Protocol" means a prescribed course of action developed by the certified optometrist which defines the procedures for responding to any patient's adverse reaction or emergency.

§ 1.2. Public Participation Guidelines.

Separate Board of Medicine regulations, VR 465-01-01, entitled Public Participation Guidelines, which provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine, are incorporated by reference in these regulations.

PART II. APPLICATION FOR CERTIFICATION EXAMINATION.

§ 2.1. An application for certification by examination shall be made on forms provided by the board. Such application shall include the following information and documents:

- A. A completed application form;
- B. The fee, specified in § 7.1 of these regulations, to be paid at the time of filing the application;
- C. Additional documents required to be filed with the application are:
 1. A letter from the Virginia Board of Optometry certifying that:
 - a. The applicant holds a current license to practice optometry in Virginia, and

b. The applicant is certified to use diagnostic pharmaceutical agents;

2. Documented evidence that the applicant has been certified to administer cardiopulmonary resuscitation (CPR);

3. Documented evidence of satisfactory completion of the postgraduate *optometric* training approved and prescribed by the board ; or *documentation of graduate optometric training equivalent to the postgraduate optometric training required by the Board.*

4. Verification of licensure status in other states from the Board of Examiners in Optometry or appropriate regulatory board or agency.

PART III. EXAMINATION.

§ 3.1. The following general provisions shall apply to optometrists who apply to take the board's examination for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

A. The certification examination for an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be in two parts, pharmaceutical and clinical, and shall be taken as a unit.

B. A candidate for certification by the board who fails the examination following three attempts shall take additional postgraduate training approved by the board to be eligible to take further examinations, as required in § 6.1.

PART IV. SCOPE OF PRACTICE FOR AN OPTOMETRIST CERTIFIED TO USE THERAPEUTIC DRUGS.

§ 4.1. An optometrist, currently licensed by the Board of Optometry, who has completed didactic and clinical training to ensure an appropriate standard of medical care for the patient and has met all other requirements and has passed an examination administered by the board, shall be certified to administer and prescribe certain therapeutic pharmaceutical agents in the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa.

§ 4.2. Diseases and conditions which may be treated by an optometrist certified by the board are:

A. Hordeolum, conjunctivitis, blepharitis, chalazion, dry eye, superficial conjunctival foreign bodies, and noninfectious superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is

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present.

§ 4.3. Therapeutic pharmaceutical agents which a certified optometrist may administer and prescribe are all topical and are as follows:

- A. Tetracycline
- B. Erythromycin
- C. Bacitracin
- D. Polymyxin B/Bacitracin
- E. Chlortetracycline
- F. Sodium Sulfacetamide - 10%
- G. Sodium Sulfacetamide - 15%
- H. Sulfisoxazole - 4.0%
- I. Sulfacetamide - 15% / Phenylephrine - 0.0125%
- J. Cromolyn Sodium - 4.0%
- K. Naphazoline HCl - 0.1%
- L. Phenylephrine HCl - 0.125% / Pheniramine Maleate - 0.5%
- M. Phenylephrine HCl - 0.12% / Pyrilamine Maleate - 0.1% / Antipyrine - 0.1%
- N. Naphazoline HCl - 0.025% / Pheniramine Maleate - 0.3%
- O. Naphazoline HCl - 0.05% / Antazoline Phosphate - 0.05%
- P. Hydroxypropyl Cellulose Ophthalmic Insert

§ 4.4. Standards of practice.

A. A certified optometrist after diagnosing and treating a patient who has a disease or condition as defined in § 4.2 A, which disease or condition failed to improve appropriately, usually within 72 hours, shall refer the patient to an ophthalmologist. A patient with a superficial corneal abrasion which does not improve significantly within 24 hours shall be referred to an ophthalmologist.

B. The certified optometrist shall establish a written protocol for the management of patient emergencies and referrals to a physician.

C. The treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa with the administration of certain therapeutic pharmaceutical agents by certified optometrists is prohibited in children five years of age or younger.

PART V. RENEWAL OF CERTIFICATION.

§ 5.1. Every optometrist certified by the board shall renew his certification biennially on or before July 1 and pay the prescribed fee in § 7.1 in each odd number year.

§ 5.2. Every optometrist certified by the board must submit proof of current certification to administer cardiopulmonary resuscitation (CPR) for renewal of certification.

§ 5.3. An optometrist who allows his certification to expire shall be considered not certified by the board. An optometrist who proposes to resume the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents shall make a new application for certification and pay a fee prescribed in § 7.1.

PART VI. POSTGRADUATE TRAINING.

§ 6.1. Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be required to complete a full-time approved postgraduate *optometric* training program prescribed by the board or to document that his graduate *optometric* program contained equivalent elements to the postgraduate *optometric* program approved by the Board .

A. The approved postgraduate program shall be the Ocular Therapy for the Optometric Practitioner #750B conducted by the Pennsylvania College of Optometry or any other postgraduate *optometric* program approved by the board.

B. Upon completing the required postgraduate *optometric* training program, the applicant may apply to sit for the certification examination administered by the board.

C. The certification examination shall be a two-part comprehensive examination in accordance with § 3.1 of these regulations.

D. An applicant shall be certified to administer cardiopulmonary resuscitation (CPR).

PART VII. FEES.

§ 7.1. Fees required by the board.

A. Application fee for the examination to be certified to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be \$300. The examination fee is nonrefundable. Upon written

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request 21 days prior to the scheduled examination and payment of a \$100 fee, an applicant may be rescheduled for the next administration of the examination.

B. The fee for biennial renewal of certification shall be \$125.

C. The fee for reinstating an expired certification shall be \$150.

D. The fee for a letter of good standing/verification to another state for a license shall be \$10.

E. The fee for reinstatement of a revoked certificate shall be \$750.

REAL ESTATE BOARD

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Dates: May 15, 1991 through May 14, 1992.

Preamble:

The Real Estate Board is promulgating emergency regulations as detailed in § 9-6.14:5, Code of Virginia, in order to amend its current regulations relating to the requirements for real estate licensees to obtain the continuing education requirement.

The regulations are required as a result of the amendments approved by the 1991 General Assembly to § 54.1-2105, which alters the requirements for the continuing education requirement due to passage of House Bill 1563. The Board is requesting permission to promulgate these emergency regulations since the bill was passed with an emergency clause and therefore became effective upon the Governor's signing on March 25, 1991.

The Board will proceed to promulgate regulations during the next year in accordance with the provisions of the Administrative Process Act to ensure the public participation in reviewing these emergency regulations. It is anticipated that new regulations would become effective approximately May 1, 1992.

Approved:

/s/ Milton K. Brown, Jr.
Secretary, Real Estate Board
Date: April 19, 1991

/s/ Lawrence H. Framme, III
Secretary of Economic Development
Date: April 19, 1991

/s/ Lawrence Douglas Wilder
Governor
Date: May 8, 1991

/s/ Joan W. Smith
Registrar of Regulations
Date: May 15, 1991

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"*Actively engaged*" means employment by or affiliation as an independent contractor with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 20 hours per week.

"*Associate broker*" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"*Firm*" means any partnership, association, or corporation, other than a sole proprietorship, which is required by § 2.1 B of these regulations to obtain a separate brokerage firm license.

"*Inactive status*" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, not affiliated with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"*Licensee*" means any person, partnership, association, or corporation holding a license by the Real Estate Board to act as a real estate broker or real estate salesperson, as defined, respectively, in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"*Principal*" means a party who has engaged a real estate broker to perform real estate purchases, sales or rental services in a principal-agent relationship.

"*Principal broker*" means the individual broker who shall be designated by each firm to assure compliance with Title 54.1, Chapter 21 of the Code of Virginia, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or affiliated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the

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principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

"Principal to a transaction" means a party to a real estate transaction in the capacity of a seller, buyer, lessee or lessor, or having some other direct contractual connection to such transaction.

"Sole proprietor" means any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Supervising broker" means the individual associate broker who shall be designated by the firm to supervise the activities of any one of its offices.

PART II. ENTRY.

§ 2.1. Necessity for license or registration.

It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a salesperson or broker license or rental location agent registration issued by the Real Estate Board. No partnership, association or corporation shall be granted a license unless every member, and officer of such partnership, association or corporation, who actively participates in its brokerage business shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker.

A. Individual license.

A real estate broker's license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. Partnership, association, or corporation.

Every partnership, association, or corporation must secure a real estate license for its brokerage firm before

transacting real estate business. Application for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, and officer of a corporation who is active in the brokerage business.

1. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage or part of the partnership owned by each partner. Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

2. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage of part of the association owned by each associate. Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

3. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name and style of the corporation; the address of the Virginia office of the firm; the corporation's place of business, and the names and addresses of the members of the Board of Directors.

a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

b. The board will not consider the application of any corporation or its officers, employees, or associates until the corporation is authorized to do business in Virginia.

C. Branch office license.

If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising

broker for that branch office. Only the branch office license shall be maintained at the branch office location.

§ 2.2. Qualifications for licensure.

Every applicant to the Real Estate Board for a sales person's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.
2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure. See § 7.6 of these regulations for educational requirements for salespersons.
3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.
4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. 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.
5. The applicant shall be at least 18 years old.
6. The applicant, within 12 months prior to making application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board. Complete applications must be received within the 12-month period.
7. The applicant shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board and the testing service with regard to conduct at the

examination shall be grounds for denial of application.

§ 2.3. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in § 2.2 of these regulations:

A. New broker applicants.

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.
2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the 48 months immediately preceding application.

B. Previous brokers.

Any person who has previously held a Virginia real estate broker's license which license was not revoked, suspended or surrendered in connection with a disciplinary action may be issued a broker's license without first having to meet the experience requirements of § 2.3 A 2 of these regulations by:

1. Completing the current educational requirements of § 54.1-2105 of the Code of Virginia; and
2. Passing a written examination provided by the board or by a testing service selected by the board.

§ 2.4. Concurrent licenses.

Concurrent licenses shall be issued by the board to brokers active in more than one separate legal entity upon receipt of a concurrent license form and written affidavits stating that written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant has been associated. Payment will be required for each license.

§ 2.5. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.4 A 5 shall only be applicable for salesperson applicants:

A. An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license without taking the Virginia written licensing examination by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have received the salesperson or broker's license by virtue of having passed in the jurisdiction of original licensure a written examination

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deemed to be substantially equivalent to the Virginia examination.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate license law and the regulations of the Real Estate Board.

4. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. At the time of application for a salesperson's license, the applicant must have been actively engaged in real estate for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia.

6. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

7. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. 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.

B. Additional qualifications for reciprocal licensure as a broker.

An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker's license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.5 A 1 through A 4, A 6 and A 7.

1. The applicant shall have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson in the current jurisdiction of licensure for at least 36 of the 48 months immediately prior to making application in Virginia. (See § 1.1 of these regulations for the definition of "actively engaged.")

2. The applicant shall have met broker educational requirements that are substantially equivalent to those

required in Virginia.

§ 2.6. Activation of license.

A. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105, Code of Virginia, shall be completed within two years prior to activation of a license.

B. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Further, any licensee who has not been actively licensed with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time the license activate form for issuance of such license is filed with the board.

§ 2.7. Rental location agent.

An applicant for registration as a rental location agent need not be employed by or affiliated with a real estate broker, but shall apply in writing upon forms provided by the board, and shall meet the following requirements:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a rental location agent as defined in § 54.1-2102 of the Code of Virginia.

2. The applicant shall be at least 18 years old.

3. A rental location agent shall not be concurrently registered with more than one rental location agency.

4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. 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.

§ 2.8. Rental location agency.

A. Each business operating as a rental location agency, whether in the form of a sole proprietorship, association, partnership, or corporation, shall obtain from the board a firm registration as a rental location agency.

B. Every rental location agency shall be supervised by a supervising rental location agent designated by the agency and registered with the board. The supervising rental

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location agent shall have responsibility for supervising the activities of the agency and all its registrants.

C. Each rental location agent registration shall be issued only to the agency where the agent is affiliated or employed. The supervising rental location agent shall keep such registrations in his custody and control for the duration of the agent's employment or association with that agency.

D. When any rental location agent is discharged or in any way terminates his employment or affiliation with an agency, it shall be the duty of the supervising rental location agent to notify the board of the termination by returning the registration by certified mail to the board within 10 calendar days. The supervising rental location agent shall indicate on the registration the date of termination, and shall sign the registration before returning it.

§ 2.9. Application and registration fees.

All application fees for licenses and registrations are nonrefundable.

A. Application fees for original licenses or registrations are as follows:

Salesperson by education and examination	\$50
Salesperson by reciprocity	\$75
Broker by education and examination	\$70
Broker by reciprocity	\$100
Broker concurrent license	\$60
Rental location agent	\$60
Rental location agency	\$100
Firm license	\$100
Branch office license	\$50
Transfer application	\$35
Activate application	\$35
Certification of licensure	\$35

B. Examination fees are as follows:

Preregistration for sales and brokers	\$15
Late registration for sales and brokers	\$25
Walk-in registration for sales and brokers	\$27

PART III.

RENEWAL OF LICENSE/REGISTRATION.

§ 3.1. Renewal required.

Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license. Registrations issued under these regulations for rental location agents and rental location agencies shall expire every two years on June 30.

§ 3.2. Qualification for renewal.

A. Continuing education requirements.

As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all *active* brokers and salespersons ~~either active or inactive~~, resident or nonresident, *except those called to active duty in the Armed Forces of the United States*, shall be required to satisfactorily complete a course of not less than six classroom hours during each licensing term. *Active licensees called to active duty in the Armed Forces of the United States may complete this course within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see § 2.6, Activation of license).*

1. Schools and instructors shall be those as required under § 54.1-2105 of the Code of Virginia, and § 7.2 of these regulations.

2. The specific course content and curriculum shall be prescribed and approved by the board. The course curriculum shall be provided to each school in final form prior to the course offering and updated periodically to reflect recent developments in federal, state, and local real estate law, regulations and case decisions.

a. Continuing education courses offered in other jurisdictions must meet Virginia's statutory requirements and must conform to the board's specifically prescribed course content and curriculum as described in § 54.1-2105 of the Code of Virginia. Such courses must be approved in advance of offering to be certified for course credit for licenses.

b. Correspondence courses will not be approved for credit for continuing education.

3. Attendance. Credit for continuing education course completion is to be given only for attendance in its entirety. It will be the instructor's responsibility to ensure compliance with this regulation.

4. Certification of course completion. It shall be the responsibility of the licensee to provide continuing education course completion certification. Proof of course completion shall be made on a form prescribed

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by the board. Failure to provide course completion certification will result in the license not being renewed and reinstatement will therefore be required.

5. Credit earned by instructors. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses. Verification of instructor compliance with the continuing education course required must be verified by the director or dean of the school at which the course was taught.

B. Applicants for renewal of a license shall meet the standards for entry as set forth in §§ 2.2 1, 2.2 3 and 2.2 4 of these regulations.

§ 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 30 days after the expiration of the licenses of salespersons and brokers associated with the firm. Failure to receive these notices shall not relieve the licensee or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring to renew his license or registration shall return to the board the renewal application forms and the appropriate fee as outlined in § 3.4 of these regulations.

§ 3.4. Fees for renewal.

All fees for renewals are nonrefundable and are as follows:

Salesperson	\$50
Broker	\$70
Concurrent broker	\$ 50 70
Firm	\$100
Rental location agent	\$60
Rental location agency	\$100
Branch office	\$50

§ 3.5. Board discretion to deny renewal.

The board may deny renewal of a license for the same reasons as it may

PART IV. REINSTATEMENT.

§ 4.1. Failure to renew - reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in §§ 3.2 A and 3.2 B of these regulations. Applicants for reinstatement of an active license must have completed the continuing education requirement prior to the license expiration date. If the continuing education requirement was not completed during that licensing term, then the individual is not eligible for reinstatement and must reapply as a new applicant in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. Additional fees for reinstatement are required as follows: 1. If the renewal fee is not received by the board within 30 days of the expiration date noted on the license or registration, a reinstatement fee equal to twice the renewal fee is required of \$200.00 is required .

2. If the reinstatement fee is not received by the board within 180 days of the expiration date noted on the license or registration, a reinstatement fee equal to four times the renewal fee is required.

C. After 12 months, reinstatement is not possible under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. While a license may be reinstated with additional fee for up to one year following expiration, any real estate activity conducted subsequent to the expiration shall constitute unlicensed activity and may be subject to prosecution under Chapter 1 of Title 54.1 of the Code of Virginia.

§ 4.2. Board discretion to deny reinstatement.

The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline an extant license.

PART V. STANDARDS OF PRACTICE.

§ 5.1. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and

2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

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B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

C. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office and shall be at the office or within easy access during regular business hours.

D. Every individual, partnership, association, or corporation acting as a real estate broker may display signage on the outside of each place of business maintained in the Commonwealth for the purpose of transacting business as a real estate broker. If displayed, the sign shall state the name of such individual, partnership, association, or corporation, as set forth in the license issued by the board, and contain the words "real estate," "realty" or other words or phrases designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable.

E. Every principal broker shall have readily available in the firm's main place of business his license and the license of every salesperson and broker associated with or employed by the firm. The licenses shall be displayed together, not individually, in such a manner that the public can readily determine the names of the licensees.

F. Notice in writing, accompanied by all the current licenses, shall be given to the board in the event of any change of business name or location. Such notice shall be mailed to the board within 10 days of the change of name or location, whereupon the board shall reissue the license for the unexpired period.

§ 5.2. Maintenance of licenses.

A. Salespersons and individual brokers shall at all times keep the board informed of their current home address. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address.

B. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm with which the salesperson or broker is affiliated or at which such licensee is employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board.

C. Salespersons and brokers on inactive status shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued since they are not affiliated with a sole proprietorship or firm.

D. When any salesperson or broker is discharged or in any way terminates his employment or affiliation with a

sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

E. The board, upon receipt of a transfer application or request for placement of a license on inactive status from a salesperson or associate broker, will notify the former principal broker of the licensee's change of affiliation or status at the firm's address of record. If the license has not been received by the board by the date on which above notification is issued, then it shall be the duty of the former principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of the above notification.

F. All certificates of licensure in any form are the property of the Real Estate Board. Upon termination of a licensee, closing of a firm, death of a licensee, change of licensee name and/or address such licenses must be returned with proper instruction to the board within 10 days.

§ 5.3. Maintenance and management of escrow accounts and financial records.

A. Maintenance of escrow accounts.

1. Each firm or sole proprietorship shall maintain in the name by which it is licensed one or more separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's principal or expended on behalf of the principal, or other escrow funds received by him or his associates on behalf of his principal or any other person shall be deposited unless all parties to the transaction have agreed otherwise in writing. The principal broker shall and the supervising broker may be held responsible for these accounts. All such accounts shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account will necessarily include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by § 6.12 5 of these regulations, provided that

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there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by § 6.12 5 of these regulations.

B. Disbursement of funds from escrow accounts.

1. Upon acceptance of a contract (ratification), earnest money deposits and down payments received by the principal or supervising broker or his associates shall be placed in an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall hold such funds in escrow until (i) all parties to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the party who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each party by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that party is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

2. Unless otherwise agreed in writing by all parties to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

3. On funds placed in an account bearing interest, written disclosure at contract writing shall be made to the principals involved in the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from a property management account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all parties to the transaction, expenses incidental to closing a

transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. Maintenance of financial records.

1. A complete record of financial transactions conducted under authority of the principal broker's Virginia license or the rental location agent's registration shall be maintained in the principal broker's place of business, or in a designated branch office, or in the office of the rental location agency. When the principal broker's office or the main office of the rental location agency is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

2. The principal broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in § 5.3 of these regulations. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

§ 5.4. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

A. Definitions.

The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, advertisements, telephone directory, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements; and

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"Institutional advertising" means advertising in which neither the licensed name nor any other identification of any licensed individual is disclosed, no real property is identified, and a service mark is identified.

"Service mark" means the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

B. Every salesperson or associate broker is prohibited from advertising and marketing under the licensee's own name in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising and marketing must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. The name of the firm must be displayed on all display signs and other types of advertising and marketing and must be printed in a size equal to or greater than the size of the name of the salesperson or broker.

C. Notwithstanding the above restrictions, where a salesperson or associate broker is the owner of or has any ownership interest in the property being advertised, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.

D. Service marks and institutional advertising.

1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state, if applicable, that each licensed firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensed firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:

a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease;

b. Advertising by a licensed firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publications in which the advertisement is published;

c. Telephone directory advertisements disclosing that

the licensed brokerage firm or sole proprietorship is independently owned and operated is required in "display" advertisements and in "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

3. In oral, noninstitutional advertising, the speaker shall disclose affirmatively the licensee's name, and except in the case of telephone communication, shall disclose that the licensed firm or sole proprietorship is independently owned and operated.

PART VI. STANDARDS OF CONDUCT.

§ 6.1. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, and to suspend or revoke any license or registration issued under the provisions of Title 54.1, Chapter 21 of the Code of Virginia, and the regulations of the board, at any time after a hearing conducted pursuant to the provisions of the Administrative Process Act, Title 9, Chapter 1.1:1 of the Code of Virginia where the licensee has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 21 of the Code of Virginia, or any regulation of the board.

§ 6.2. Disclosure of interest.

A. If a selling agent or listing agent knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire real property, the agent must disclose that information to the owner in writing in the contract.

B. A licensee selling property in which he has any interest must disclose that he is a real estate licensee to any purchaser in writing in the contract.

§ 6.3. Disclosure of agency relationships.

All licensees shall promptly disclose their agency relationship(s) to all actual and prospective buyers and sellers, lessors and lessees and optionors and optionees in these ways:

A. As soon as the licensee has substantive discussions about specific property(ies) with a principal or prospective principal, the licensee shall disclose to the principal or prospective principal the person(s) whom the licensee represents in a principal-agency relationship, and;

B. Further, this disclosure shall be made in writing at the earliest practical time, but in any case not later than the time when specific real estate assistance is first provided. This written disclosure shall be acknowledged by the principals.

§ 6.4. Licensees dealing on own account.

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Any licensee failing to comply with the provisions of Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

§ 6.5. Provision of records to the board.

A licensee of the Real Estate Board shall upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any real estate transaction in which the licensee was involved as a broker or salesperson, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.

§ 6.6. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in these regulations;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury;
7. Having been found in a court or an administrative body of competent jurisdiction to have violated the

Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed;

8. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct.

§ 6.7. Conflict of interest.

Actions constituting a conflict of interest include:

1. Being employed by, affiliated with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;
2. Acting for more than one party in a transaction without the written consent of all principals for whom the licensee acts;
3. Acting as an agent for any principal in a real estate transaction outside the licensee's brokerage firm(s) or sole proprietorship(s).

§ 6.8. Improper brokerage commission.

Actions resulting in an improper brokerage commission include:

1. Paying a commission or other valuable consideration to any person for acts or services performed in violation of Title 54.1, Chapter 21 of the Code of Virginia, or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate firm licensed in this or another jurisdiction, or to any referral firm in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;
2. Notwithstanding the provisions of § 54.1-2102 of the Code of Virginia, accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;
3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or both principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the

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services;

4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services.

5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor;

6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's principal for expenditures made on behalf of that principal without the written consent of the principal.

§ 6.9. Improper dealing.

Actions constituting improper dealing include:

1. Making an exclusive agency contract or an exclusive right-to-sell contract which does not have a definite termination date;

2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized agent;

4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship;

5. Acting in the capacity of settlement agent in a real estate closing by a salesperson, except:

a. When the salesperson is under the direct supervision of the principal/supervising broker;

b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed;

c. When the settlement agent is a member of the Virginia State Bar or a law firm, the members of which are members of the Virginia State Bar; or

d. When the settlement agent is a title insurance company or an agency thereof or a firm regularly engaged in the business or closing real estate transactions.

§ 6.10. Misrepresentation/omission.

Actions constituting misrepresentation and/or omission include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee or registrant did in fact have at least that quantity for sale or rent;

2. Failing to disclose in a timely manner to a prospective purchaser/licensee, or seller/lessor, any material information related to the property reasonably available to the licensee or registrant;

3. Failing as a licensee to promptly tender to the buyer and seller every written offer or counter-offer to purchase obtained on the property involved;

4. Failing to include the complete terms and conditions of the real estate transaction in any offer to purchase or rent, including identification of all those holding any deposits;

5. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

b. Changes in terms or extensions of time for any of the items listed in § 6.10 5 whether by renewal, deferral of action, or other means without the prior written consent of the principals to the transaction;

c. Acceptance, release, or substitution of security for any of the items listed in § 6.10 5 a without the prior written consent of the principals to the transaction.

6. Making any misrepresentation; and

7. Making a false promise through agents, salespersons, advertising, or other means.

§ 6.11. Delivery of instruments.

Actions constituting improper delivery of instruments include:

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1. Failing to make prompt delivery to each party to a document, complete and legible copies of any written or printed listings, contracts, residential leases, addenda or other agreements being negotiated by a salesperson or broker at the time such listings, contracts, residential leases, addenda or other agreements signed by the parties are secured;

2. Failing to make prompt delivery of fully executed copies of the contract or lease, and addenda signed by the seller/lessor and purchaser/lessee, to both purchaser/lessee and seller/lessor after obtaining a proper acceptance of the offer to purchase or rent;

3. Failing to provide in a timely manner to all parties to the transaction written notice of any material changes to the transaction;

4. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and

5. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

§ 6.12. Record keeping and escrow funds.

Actions constituting improper record keeping and maintenance of escrow funds include:

1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing a complete and legible copy of each contract and agreement, notice and closing statement related to a real estate transaction, and all other documents material to that transaction available and accessible to the broker;

2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing;

3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;

4. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement; and

5. Commingling the funds of any person by a principal or supervising broker or his employees or associates with his own funds, or those of his corporation, firm, or association; or failure to deposit such funds in an account or accounts designated to receive only such funds as required by these regulations, see § 5.3 A 1.

§ 6.13. Rental location agents.

Actions constituting improper activities of a rental location agent include:

1. Accepting or agreeing to accept any fee as a rental location agent without giving the person paying or agreeing to pay such fee a contract or receipt in which the agent sets forth a definite termination date for the services to be provided. The termination date shall not be later than one year from the date of the original agreement or acceptance of a fee. The rental location agent shall agree in the contract or receipt to repay, upon request, within 10 days of the expiration date, any amount of fee collected over and above the sum of the service charge if no rental is obtained. The rental location agent shall further agree in the contract or receipt that if rental information provided by the agent is not current or accurate, the full fee shall be repaid upon request within 10 days of the delivery of the inaccurate rental information;

2. Referring, as a rental location agent, a prospective tenant to any property for which the agent has not verified the availability of the property within seven working days prior to the referral; and

3. Failing, as a rental location agent, to maintain a written registry of all lists of rentals provided to customers and of all advertisements published or caused to be published by the agent, together with the address of the property listed or advertised, the date of verification of the availability, and the name, address, and telephone number, if any, of the party who offered the property for rent. This registry shall be kept for a period of three years from the date of the lists or the publication of any advertisement listed in it.

§ 6.14. Principal broker's responsibility for acts of licensees.

Any unlawful act or violation of any of the provisions of Title 54.1, Chapter 21 or of Title 36, Chapter 5 of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal broker, may not be cause for disciplinary action against the principal broker unless it appears to the satisfaction of the board that the principal broker knew or should have known of the unlawful act or violation.

§ 6.15. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals affiliated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to § 5.2 B.

PART VII. SCHOOLS.

§ 7.1. Definitions.

As used in these regulations, unless a different meaning is plainly required by the context:

“Accredited colleges, universities and community colleges,” as used in § 54.1-2105 2 of the Code of Virginia, means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

“Equivalent course” means any course encompassing the principles and practices of real estate and approved by the board.

“Proprietary school” means a privately owned school, not under the authority of the Department of Education, but approved by the Real Estate Board to teach real estate courses.

§ 7.2. Proprietary school standards.

Every applicant to the Real Estate Board for a proprietary school certificate shall meet the following standards:

A. Educational environment.

All schools must be in a building conducive to academic purposes, with library facilities readily accessible to students at times other than their regularly scheduled class hours. Classroom arrangement should allow for workshop-type instruction and small-group activity. Facilities must meet necessary building code standards, fire safety standards, and sanitation standards.

B. Instructor qualifications.

Every applicant to the Real Estate Board for approval as an instructor shall have one of the following qualifications:

1. Baccalaureate degree in real estate, or in business with a concentration in real estate or a closely related field; or

2. Baccalaureate degree, a real estate license, and two years of discipline-free active real estate experience within the past five years; or

3. Seven years of discipline-free active experience acquired in the real estate field in the past 10 years and an active broker's license.

C. Courses.

All real estate courses must be acceptable to the board and are required to have a monitored, final written examination.

D. All schools must establish and maintain a record for each student. The record shall include: the student's name and address; the course name and clock hours attended; and the date of successful completion. Records shall be available for inspection during normal business hours by authorized representatives of the board.

§ 7.3. Fees.

A. The application fee for original certificate for a proprietary school shall be \$100.

B. The renewal fee for proprietary school certificates expiring annually on June 30 shall be \$50.

C. The Board in its discretion may deny renewal of a certificate. Upon such denial, the certificate holder may request that a hearing be held.

§ 7.4. Posting school certificate of approval and registration.

School certificates of approval and registration, and instructor certificates must be displayed in each approved school facility in a conspicuous place readily accessible to the public.

§ 7.5. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

1. The school, instructors, or courses no longer meet the standards established by the board.
2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.
3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.
4. The school, through an agent or otherwise,

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advertises its services in a fraudulent, deceptive or misrepresentative manner.

5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

§ 7.6. Course content of real estate principles and practices.

The following shall be included in the three-semester-hour or six-quarter-hour course which shall not have less than 45 classroom hours:

1. Economy and social impact of real estate
2. Real estate market and analysis
3. Property rights
4. Contracts
5. Deeds
6. Mortgages and deeds of trust
7. Types of mortgages
8. Leases
9. Liens
10. Home ownership
11. Real property and title insurance
12. Investment
13. Taxes in real estate
14. Real estate financing
15. Brokerage and agency contract responsibilities
16. Real estate marketing
17. Real property management
18. Search, examination, and registration of title
19. Title closing
20. Appraisal of residential and income producing property
21. Planning subdivision developments and condominiums
22. Regulatory statutes

23. Housing legislation

24. Fair housing statutes

25. Real Estate Board regulations

§ 7.7. Related subjects.

“Related subjects,” as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

§ 7.8. Required specific courses.

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

§ 7.9. Credit for broker-related courses.

No more than three semester hours or three quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

§ 7.10. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval. In addition, the school must accompany these materials with a copy of a comparable course syllabus from an accredited university, college, or community college to establish equivalency.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 3, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS900351

STATE CORPORATION COMMISSION

Ex Parte: In the matter
of adopting Rules Governing Private
Review Agents

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein October 23, 1990, the Commission ordered that a hearing be held in the Commission's Courtroom on November 27, 1990, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Governing Private Review Agents";

WHEREAS, the Commission conducted the aforesaid hearing and determined that, based on the comments received at the hearing, the record should remain open until December 14, 1990 for interested persons to file additional comments to the regulation;

WHEREAS, the Commission further ordered that the Bureau prepare a response to all of the comments of interested persons and file such response together with the Bureau's recommendations with respect to possible amendments to the regulation on or before January 31, 1991;

WHEREAS, by order entered herein February 6, 1991, the Commission ordered that a second hearing should be held to receive additional comments from interested persons on the regulation, as amended by the Bureau in its aforesaid response;

WHEREAS, on March 6, 1991, the Commission conducted a hearing on the amended regulation for the purpose of receiving additional comments of interested persons;

WHEREAS, at the conclusion of the aforesaid hearing, the Commission ordered the Bureau to prepare a response to all of the comments of interested persons received by the Commission at the hearing and file such response together with the Bureau's recommendations with respect to possible further amendments to the regulation, which response was filed with the Commission; and

NOW, THEREFORE, having considered the record herein, the comments of interested persons and the recommendations of the Bureau of Insurance, IT IS ORDERED that the regulation entitled "Rules Governing Private Review Agents," which is attached hereto and made a part of hereof, should be, and it is hereby, ADOPTED to be effective July 1, 1991.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Mark E. Rubin, Esquire, Shuford, Rubin, Gibney & Dunn, P.O. Box 675, Richmond, Virginia 23206; Susan C. Ward, Director of Legal & Regulatory Affairs, Virginia Hospital Association, P.O. Box 31394, Richmond, Virginia 23294; Craig T. Merritt, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Michael E. Henry, President, Capp Care, 17390 Brookhurst, Suite 280, Fountain Valley, California 92708-3720; Robert K. Yass, Legislative Director, The Travelers Companies, One Tower Square, Hartford, Connecticut 06138-1060; John J. Madigan, Vice President, Medical Claims Review Services, Inc., 7910 Woodmont Avenue, Suite 700, Bethesda, Maryland 20814-3015; Margaret Diener, Vice President of Operations, HealthCare COMPARE, 3200 Highland Avenue, Downers Grove, Illinois 60515-1223; Gail M. Thompson, Legislative Affairs Representative, BC/BS of the National Capital Area, 550 12th Street, S.W., Washington, D.C. 20065; Allen C. Goolsby, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; John W. Ashenfelter, Esquire, Assistant Counsel, State Farm Mutual Automobile Insurance Companies, One State Farm Plaza, Bloomington, Illinois 61710; Jan Perry, Esquire, Assistant Counsel, Allstate Insurance Company, Law & Regulation Division (ES), Northbrook, Illinois 60062; Richard W. Gorenflo, Vice President, Regulatory Affairs, Mid Atlantic Medical Services, Inc., 4 Taft Court, Rockville, Maryland 20850; Carolyn H. Chrisman, Senior Vice President, OPTIMA Health Plan, 6015 Poplar Hall Drive, Suite 100, Norfolk, Virginia 23502; Joseph J. Kempf, Jr., Assistant Legal Director, Aetna Employee Benefits Division, 151 Farmington Avenue - MC63, Hartford, Connecticut 06156; Terri Pointer, Richmond Area Quality Assurance Professionals, P.O. Box K-70, Richmond, Virginia 23288; Sally Duran, President, Virginia Association of HMO's, P.O. Box 31353, Richmond, Virginia 23294; Terrence E. Dwyer, Executive Director, Medical Society of Virginia Review Organization, P.O. Box K70, Richmond, Virginia 23288; Joan M. Gardner, Esquire, BC/BS of Virginia, P.O. Box 27401, Richmond, Virginia 23279; Regina G. Jamerson, Health Insurance Association of America, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036-3998; Jay W. Deboer, Esquire, 16 E. Tabb Street, Petersburg, Virginia 23802; Reginald N. Jones, Esquire, 1700 Bayberry Court, Suite 300, Richmond, Virginia 23226; Theodore F. Adams, Esquire, Christian, Barton, Epps & Chappell, 1200 Mutual Building, Richmond, Virginia 23219-3095; William G. Shields, Esquire, P.O. Box 7439, Richmond, Virginia 23221; Sandra Kramer, Esquire, 700 East Main Street, Suite 1612, Richmond, Virginia 23219; Marguerite A. Snyder, Director of Government Affairs, American Managed Care and Review Association, 1227 - 25th Street, N.W., Suite 610, Washington, D.C. 20037; Debbie L. Scheff, Health Cost Consultants, Inc., 1945 Old Gallows Road, Vienna, Virginia 22120; E. Daniel Kay, Jr., M.D., Psychiatric Society of Virginia, 4037 Taylor Road, Chesapeake, Virginia 23321; Philip B. Morris, Esquire, Morris & Morris, 1200 Ross Building, 801 East Main Street, Richmond, Virginia 23219; and the Bureau of Insurance in

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care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order together with a copy of the regulation to all insurers licensed to sell accident and sickness insurance and property and casualty insurance in the Commonwealth of Virginia.

RULES GOVERNING PRIVATE REVIEW AGENTS

Section 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223, 38.2-4214, 38.2-4319 and §§ 38.2-5300 through 38.2-5309 of the Code of Virginia.

Section 2. Purpose.

The purpose of this Regulation is to implement §§ 38.2-5300 through 38.2-5309 of the Code of Virginia with respect to private review agents.

This Regulation is designed to:

- (a) provide minimum qualifications for private review agents operating in this Commonwealth;
- (b) provide guidelines for the protection of consumers regarding the confidentiality of medical records; and
- (c) promote the delivery of quality health care in a cost effective manner.

Section 3. Effective Date.

This Regulation shall be effective on July 1, 1991.

Section 4. Scope.

This Regulation applies to all private review agents performing utilization review in this Commonwealth. This regulation does not apply to insurers, health services plans, hospital service corporations, preferred provider organizations, or health maintenance organizations conducting utilization reviews solely for their own insureds, subscribers, members, or enrollees. This regulation does not apply to a private review agent in its conduct of utilization review for self-insured groups or a private review agent in its fulfillment of a contract with the federal government for utilization review of patients eligible for hospital services under Title XVIII of the Social Security Act or in its fulfillment of a contract with a plan otherwise exempt from operation of Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. pursuant to the Employee Retirement Income Security Act of 1974. This regulation does not apply to utilization review conducted in Worker's Compensation claims or bodily injury liability claims, including uninsured motorist claims. This regulation does not apply to utilization reviews conducted by a provider peer review organization solely for the use of such organization or its members.

Section 5. Definitions.

For the purposes of this Regulation:

A. "*Adverse decision*" means a utilization review determination by the private review agent that a health service given or proposed to be given was or is not necessary, appropriate, or efficient when such determination may result in non-coverage of the health services. If the provider and private review agent reach agreement prior to the issuance of an adverse decision, then no adverse decision has occurred. Adverse decision means "final denial".

B. "*Attending physician*" means the physician with primary responsibility for the care subject to review.

C. "*Business days*" means all days other than weekends and legal holidays.

D. "*Certificate*" means a certificate of registration granted by the Commission to a private review agent.

E. "*Initial adverse recommendation*" means a reviewer's recommendation, made prior to providing the attending physician a reasonable opportunity to consult with a physician advisor, that an adverse decision be issued.

F. "*Insurer*" means an insurance company, health services plan, health maintenance organization, preferred provider organization or multiple employer welfare arrangement.

G. "*Operating in this Commonwealth*" means providing utilization review services affecting insureds, subscribers, members or enrollees with respect to an insurance or subscription contract issued for delivery or delivered in Virginia.

H. "*Peer*" means a person who has an equivalent degree of education, skill, and licensure as another.

I. "*Physician advisor*" means a physician licensed to practice medicine who provides medical advice or information to a private review agent in connection with its utilization review activities.

J. "*Private review agent*" means a person or entity performing utilization review, except that the term shall not include an insurer, health services plan, hospital service corporation, preferred provider organization, or health maintenance organization conducting utilization reviews solely for its own insureds, subscribers, members, or enrollees.

K. "*Provider*" means an individual or organization that provides personal health services.

L. "*Staff*" means persons employed or under contract to perform utilization review on behalf of a private review agent.

M. "Utilization review" means a system for reviewing the necessity, appropriateness and efficiency of hospital, medical or other health care resources provided or to be provided to a patient or group of patients for the purpose of determining whether such services should be covered or provided by an insurer, health services plan, health maintenance organization or other entity or person. "Utilization review" shall include, but not be limited to, preadmission, concurrent and retrospective medical necessity determination and review related to the appropriateness of the site at which services were or are to be delivered. "Utilization review" shall not include review of issues concerning insurance contract coverage or contractual restrictions on facilities to be used for the provision of services or any review of patient information by an employee of or consultant to any licensed hospital for patients of such hospital.

N. "Utilization review program" means a program for conducting utilization review by a private review agent.

Section 6. Certificates to Perform Utilization Review.

A. Beginning July 1, 1991 a private review agent not operating in this Commonwealth shall obtain a certificate from the Commission prior to operating in this Commonwealth.

B. Private review agents operating in this Commonwealth prior to the effective date of this regulation shall submit an application for a certificate on or before July 1, 1991.

C. An applicant for a certificate shall pay an application fee and shall submit an application to the Commission on the forms or in the manner prescribed by the Commission. The applicant shall also submit the following information required by § 38.2-5302 of the Code of Virginia:

- (1) A description of the procedures to be used in evaluating proposed or delivered hospital, medical or other health care services;
- (2) The procedures by which patients or providers may seek reconsideration of determinations by private review agents;
- (3) The type and qualifications of the staff either employed or under contract to perform the utilization review;
- (4) Procedures and policies which ensure that patient-specific medical records and information shall be kept strictly confidential except as authorized by the patient or by Section 11 of this regulation; and
- (5) Assurances that reviewers will be readily accessible by telephone to patients and providers at least forty hours per week during normal business hours.

Section 7. Fee For Certificate.

A. Every private review agent shall pay an application fee of five hundred dollars and a biennial renewal fee of five hundred dollars to the Commission. Each certificate shall expire on June 30 of the appropriate year. Prior to April 1 of the renewal year, each private review agent shall remit a renewal application form and fee to the Commission.

B. The Commission may refuse to issue an agent's certificate to any person and, in addition to or in lieu of a penalty imposed under § 38.2-218, may suspend or revoke the certificate of any certificate holder whenever it finds that the applicant or certificate holder:

- (1) has failed to meet or maintain the requirements of § 38.2-5302;
- (2) has violated any sections of this regulation;
- (3) has failed to adhere to its procedures as submitted to the Commission;
- (4) has violated any provisions of any law of this Commonwealth applicable to private review agents; or
- (5) has been guilty of fraudulent or dishonest practices.

C. A certificate issued to a private review agent shall authorize him to act as a private review agent until his certificate expires or is otherwise terminated, suspended or revoked. The Commission shall not revoke or suspend an existing certificate until the certificate holder is given an opportunity to be heard before the Commission. If the Commission refuses to issue a new certificate or proposes to revoke or suspend an existing certificate it shall give the applicant or certificate holder at least ten days' notice in writing of the time and place of the hearing if a hearing is requested. The notice shall contain a statement of the objections to the issuance of the certificate or the reason for its proposed revocation or suspension, as the case may be. The notice may be given to the applicant or certificate holder by registered or certified mail sent to the last known address of record. The Commission may summon witnesses to testify with respect to the applicant or certificate holder and the applicant or certificate holder may introduce evidence in its behalf. No applicant to whom a certificate is refused after a hearing, nor any certificate holder whose certificate is revoked shall again apply for a certificate until after the time, not exceeding two years, the Commission prescribes in its order.

Section 8. Minimum Qualifications of Staff.

A. The staff of a private review agent responsible for making utilization review decisions (including non-adverse decisions), as a minimum, shall have qualifications equivalent to or exceeding those of Accredited Record Technicians (ARTs) as awarded by the American Medical

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Record Association. The staff of a private review agent who are responsible for making utilization review decisions and who are required to be licensed to practice their health care profession shall be licensed by a jurisdiction of the United States.

B. The private review agent shall have available the services of a sufficient number of medical records technicians, licensed practical nurses, registered nurses, or other similarly qualified professionals, supported and supervised by appropriate licensed physicians, to carry out its utilization review activities. The staff shall include non-physician providers, as appropriate, and physicians in appropriate specialty areas. The physician staff shall include physicians who are Board Certified or Board Eligible.

Section 9. Adverse Decisions.

A. With the exception of adverse decisions made on the basis of retrospective review, prior to the issuance of an adverse decision, and if requested by the provider, the case in question must be reviewed either by a physician advisor or by a peer of the provider proposing the care. In addition, to the extent appropriate, the case in question must be reviewed in consultation with a physician advisor with experience in the same field of practice as the attending physician. The physician advisor or peer must be on the staff of the private review agent.

B. With the exception of retrospective reviews, the private review agent must make a reasonable attempt to communicate an initial adverse recommendation to the attending physician prior to the issuance of an adverse decision. With the exception of retrospective reviews, the private review agent must provide the attending physician a reasonable opportunity to consult with a physician advisor prior to the issuance of an adverse decision. Attending physicians and private review agents shall attempt to share the maximum information by telephone, facsimile machine, or otherwise prior to the issuance of an adverse decision.

C. Written notification of an adverse decision shall be given to the individual provider and provider organization and shall include the type of review performed, the reason for the adverse decision, the alternate length of treatment or the alternate treatment setting(s), if any, that the private review agent would approve or would have approved, and a description of the appeal process. Written notification of an adverse decision shall be given to the patient and shall include a description of the appeal process. The description of the appeal process shall include relevant information including, but not limited to, time limits, addresses, and telephone and facsimile numbers. The insurer who contracts with the private review agent for utilization review may fulfill the notification requirements for the private review agent.

Section 10. Appeals of Adverse Decisions.

A. Private review agents shall include in their procedures, an appeal process that can be utilized when an adverse decision is made. In addition to any notice provided to the patient by a private review agent, providers also may notify the patient of any adverse decision and providers may file an appeal on behalf of the patient. A private review agent and/or insurer may set a reasonable period of time after notification of an adverse decision within which an appeal must be filed.

B. Any case under appeal shall be reviewed by a physician advisor or peer of the provider who proposes the care under review or who was primarily responsible for the care under review. Chiropractic appeals shall be reviewed by a Chiropractor. With the exception of expedited appeals, physician advisors who review cases under appeal must be Board Certified or Board Eligible and must be specialized in a discipline pertinent to the issue under review. Those who review cases under appeal must not have participated in the adverse decision being appealed.

C. When an adverse decision is made during ongoing treatment and the attending physician believes that the determination warrants immediate appeal, the attending physician shall have an opportunity to appeal that determination by telephone on an expedited basis. Private review agents shall provide for reasonable access by providers to their physician advisor(s) for such appeals. Both providers and private review agents shall attempt to share the maximum information by telephone, facsimile machine, or otherwise to satisfactorily resolve the expedited appeal. Expedited appeals which cannot resolve a difference of opinion may be reconsidered in the standard appeals process unless the physician advisor reviewing the case under expedited appeal meets the requirements set out in subsection 10.B. for standard appeals, and all material information and documentation was reasonably available to the provider and to the private review agent at the time of the expedited appeal. The private review agent shall make decisions on expedited appeals within four business days of receiving all pertinent information.

D. The private review agent shall provide an opportunity during the appeal process for the provider to provide additional information and documentation. For appeals not subject to subsection C, appeals will be made in writing or telephonically by the process established by the private review agent. Private review agents shall transmit their determination on the appeal as soon as practicable, but in no case more than sixty days after receiving the required documentation on an appeal. The required documentation may include among other things, copies of part or all of the medical record and§ or a written statement from the provider. The private review agent shall provide that such documentation be reviewed by a physician advisor or peer of the provider individual who proposes the care under review or who was primarily responsible for the care under review. In the case of chiropractic appeals, such documentation shall be reviewed by a Chiropractor. A

provider who has been unsuccessful in overturning an adverse decision has the right to request of the private review agent the medical basis for that determination. The private review agent shall furnish the support for that determination within thirty business days.

Section 11. Access to and Confidentiality of Medical Records and Information.

A. Private review agents who have been granted a certificate by the Commission shall have reasonable access to patient specific medical records and information.

B. The private review agent's procedures shall specify that specific information exchanged for the purpose of conducting review will be considered confidential, be used by the private review agent solely for the purposes of utilization review, and shared by the private review agent with only those parties who have authority to receive such information, such as the claim administrator. The private review agent's process shall specify that procedures are in place to assure confidentiality and that the private review agent agrees to abide by any Federal and State laws governing the issue of confidentiality. Summary data which does not provide sufficient information to allow identification of individual patients or providers need not be considered confidential.

C. When consistent with the above and Federal and State statutes and regulations, patient specific data gathered by the private review agent which raises questions of deficiencies in quality may be shared with the hospital's or other facility's Quality Assurance Committee. Prior to the sharing of such information, a private review agent may require the hospital or other facility to assure compliance with confidentiality requirements, to assure the appropriate review and follow-up within that hospital's or other facility's Quality Assurance Committee, and to indemnify the private review agent from inappropriate use of such information.

D. Chapter 6 of Title 38.2 shall apply to private review agents. Prior to the release of patient specific information to a private review agent, a patient shall provide written consent for the release of such information. If the patient will not authorize the release of information, or has refused to sign the release of information forms, the private review agent may then follow its own policy or that of the insurer regarding that refusal.

E. Medical records and patient specific information shall be maintained by the private review agent in a secure area with access limited to essential personnel only.

F. Information generated and obtained by private review agents in the course of utilization review shall be retained for at least five years if the information relates to a case for which an adverse decision was made at any point or if the information relates to a case which may be reopened.

Section 12. Accessibility.

A. A private review agent shall provide free telephone access to patients and providers at least 40 hours per week during normal business hours. Private review agents must have a mechanism for informing patients and providers of the eastern time zone hours during which those agents are accessible; such eastern time zone hours shall be no less than 40 hours per week during normal business hours.

B. It is the responsibility of the private review agent to install and maintain an adequate telephone system that accepts and records messages or accepts and provides recorded business hour information for incoming calls outside of normal business hours.

C. The Commission may determine, upon written request, that other telephone systems are adequate in special circumstances.

Section 13. Examination of Private Review Agents.

A. The Commission may conduct reviews of the operations of private review agents operating in this Commonwealth to determine if the private review agent is operating in compliance with this regulation and Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. of the Code of Virginia. The reviews may include telephone audits to determine if the private review agents are accessible as required by this regulation.

B. The Commission may investigate any complaint from a health care provider or patient regarding the compliance of a private review agent with the requirements of this regulation or Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. of the Code of Virginia.

C. The investigation of private review agents shall not include individual determinations of medical necessity or appropriate charges for covered services. If there is evidence which indicates an alleged pattern of misconduct with respect to utilization review performed by a private review agent, the Commission may take such action it deems appropriate to correct such pattern of misconduct.

Section 14. Severability.

If any provision of this Regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of this Regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

State Corporation Commission

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 1, 1991

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE900053

Ex Parte, In re: Priorities for available gas supplies

FINAL ORDER

Procedural History of the Case

On October 8, 1975, the State Corporation Commission ("the Commission") entered an order adopting rules addressing natural gas curtailment priorities and conservation guidelines as part of Case No. 19548. In that proceeding, we determined it was necessary to establish priorities for natural gas service, to be applied on a state-wide basis because of the then existing natural gas shortage. We adopted a schedule of natural gas service priorities to promote conservation of gas and to provide for the most efficient use of available gas to meet essential human needs and to protect the State's economy. Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, in re: Investigation to determine priorities for available gas supplies, Case No. 19548, 1975 S.C.C. Ann. Rept. 328.

On May 11, 1979, we considered and adopted further revisions to our rules governing gas curtailment priorities. These revisions became effective on May 15, 1979. Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, in re: Priorities for available gas supplies, Case No. 20104, 1979 S.C.C. Ann. Rept. 416.

After being advised by our Staff, we entered an Order on September 13, 1990, establishing the captioned proceeding. It appeared that, given the continuing evolution within the natural gas industry, the rules governing natural gas curtailment which became effective on May 15, 1979, could require revision.

The rules which became effective in 1979 were established before the advent of natural gas transportation. Staff advised that transportation end-users have begun acquiring rights on upstream interstate pipeline systems. These end-user rights could result in the continued delivery of natural gas to an end-user transporting gas, while natural gas supplies for essential human needs were limited. Staff further advised that the number of gas-fired electric generating projects have increased and are expected to continue to do so. This phenomenon could also necessitate changes in the rules. Further, the current rules contemplate that Commonwealth Gas Pipeline Corporation ("Pipeline") would serve as the initial emergency coordinator in the event of a gas supply emergency. Pipeline has now merged with Columbia Gas Transmission Corporation. Thus, the need for and identity of an emergency coordinator requires re-examination.

As the first phase of this investigation, we directed our Staff to conduct a general inquiry into the priorities to be assigned various gas usages, including the priorities appropriate for transportation customers and natural gas used as boiler fuel in order to generate electricity. We instructed our Staff to use data requests, surveys, and informal meetings with utilities and end-users as part of its research resources. To assist our Staff, we invited natural gas public utilities and various end-users to submit informal comments to the Division of Energy Regulation ("the Division") on the following issues: the priority to be assigned to natural gas transported on behalf of an end-user in the event of a natural gas shortage; the necessity for an emergency coordinator; if necessary, the role of the coordinator; and the priority to be assigned to natural gas supplied for boiler fuels in the event of natural gas curtailment.

We also directed our Staff to summarize its investigatory procedures, findings and recommendations, including any recommended rules or rate revisions, in a report to be filed with the Clerk of the Commission. We anticipated that the Staff's Report would serve as the basis of proposed rules and policies which would be the subject of public notice, comment, and opportunity for hearing or oral argument.

In response to our September 13, 1990 order, the following entities filed informal written comments with the Division: Allied-Signal Inc. ("Allied"); Brick and Tile Corporation of Lawrenceville ("Brick and Tile"); City of Richmond ("Richmond" or "the City"); Commonwealth Gas Services, Inc. ("Services"); Potomac Edison Company ("Potomac Edison"); Virginia Industrial Gas Users' Association ("the Association"); Virginia Natural Gas, Inc. ("VNG"); Virginia Electric and Power Company ("Virginia Power"); Westvaco; Philip Morris, U.S.A. ("Philip Morris"); Northern Virginia Natural Gas, a Division of Washington Gas Light Company ("NVNG") and Shenandoah Gas Company ("Shenandoah"). The Staff reported that Appalachian Power Company ("APCO") offered informal verbal comments to it and expressed a desire to comment further upon completion of the Staff's Report. On October 25, 1990, we granted Staff's request for an extension of time in which to file its Report. On November 2, 1990, the Staff filed its Report.

On November 9, 1990, we entered our Order Directing Notice and Inviting Comment. In that Order, we directed the Division of Energy Regulation to publish notice of our intent to consider revisions to the existing rules governing gas curtailment priorities and conservation guidelines as well as the recommendations in the Staff's Report. We invited interested persons to file written comments or requests for hearing with the Clerk of the Commission on or before December 21, 1990, and we authorized the Staff to file a Supplemental Report.

In response to our November 9 Order, eleven interested persons filed written comments with the Commission. They were: VNG, Services, NVNG and Shenandoah, Richmond,

Virginia Power, Richmond Power Enterprise, L.P. ("RPE"), APCO, CRSS Capital, Inc. ("CRSS"), Allied, Philip Morris, and the Association. VNG and the City asked to meet informally with the Staff to discuss the filed comments. While no party requested a hearing, several requested permission to respond to the written comments of other participants and to respond to Staff's Supplemental Report when it was filed. Many of the comments supported the Staff's Report generally but suggested various modifications. The areas of the Staff's Report most frequently addressed included the authority of the Commission to direct the forcible banking of transportation gas during an emergency; the proper compensation for transportation gas which was forcibly banked; the higher priority assigned to electric generation; and the role of and representation on the emergency coordination committee.

By Order dated January 9, 1991, we extended the time for filing the Staff's Supplemental Report to February 15, 1991, in order to allow interested persons an opportunity to meet with the Staff. We also set oral argument for March 7, 1991, to hear any argument on the proposed revisions to the rules addressed in the November 2 Staff Report, the Supplemental Staff Report, and the filed comments.

On February 15, 1991, the Staff filed its Supplemental Report. This Report addressed many of the concerns raised by the participants, and clarified the conditions under which the rules would be applicable. It also identified the constitutional and statutory sources of authority under which the Commission could direct the forcible banking of transportation gas.

Counsel appearing at the March 7, 1991, oral argument were James C. Dimitri, Esquire, counsel for Allied; Louis R. Monacell, Esquire, counsel for the Association; Guy T. Tripp, III, Esquire, counsel for VNG; David B. Kearney, Esquire, counsel for Richmond; Donald R. Hayes, Esquire, counsel for NVNG and Shenandoah; and Sherry H. Bridewell, Esquire, counsel for the Commission Staff.

Most of those offering argument supported the revisions made by the Staff in its Supplemental Report. Allied asserted, among other things, that the Commission did not have jurisdiction to permit the forcible banking of transportation gas during an emergency. It argued that the rule governing terms of compensation for use of transportation gas should be broadened to include the economic value of this gas as well as other costs. Allied and the Association emphasized that the rules should apply in emergency situations only.

Analysis, Findings of Fact and Conclusions of Law

Our authority to adopt rules and priorities applicable to emergency situations is expressly recognized by Virginia statutes, particularly Va. Code § 56-250, which provides:

- (1) Whenever it shall appear by satisfactory

evidence that any public utility furnishing in this State power, heat, light or water cannot supply all of its customers the usual requirements of each by reason of strikes, accidents, want of fuel, or for any other reason, the Commission may authorize such public utility to take such action as, in the opinion of the Commission, will minimize adverse impact on the public health and safety and facilitate restoration of normal service to all customers at the earliest time practicable.

- (2) To facilitate implementation of this section, the Commission may require any such public utility to file, as a part of the rules and regulations referred to in § 56-236, its plan for curtailment of service in such a condition of emergency or shortage. Such plans shall be considered and shall take effect in the manner provided in this chapter for the schedules of rates and charges and rules and regulations of public utilities.

Section 56-250 has been a part of Virginia law since 1920. In 1975, the General Assembly enacted Va. Code § 56-249.1, granting the Commission additional authority to require a public utility to transfer to another public utility of like business, gas, water or electricity, whenever the public health, welfare or safety were found to so require. Section 56-249.1 also authorized the Commission to fix the rate at which the transferring public utility could be compensated for all of its deliveries to the receiving public utility. We incorporated § 156-249.1 into our rules governing curtailment and priorities which became effective in 1979. We read §§ 56-249.1 and -250 to be complementary, and we have no doubt that the Commission is authorized to adopt rules and priorities governing gas curtailment.

The record herein supports revision of portions of the currently effective emergency rules and priorities. The natural gas industry has undergone a number of changes since we first adopted rules for natural gas curtailment priorities. These changes include deregulation of natural gas at the wellhead. Even though deregulation has allowed the price and supply of gas to respond to the dynamics of the marketplace, there is still a need for rules governing gas curtailment and priorities as increased demands for gas supplies and capacity are made on interstate and local systems. Another notable change in the natural gas industry is that transportation gas now represents a growing part of the throughput moved by jurisdictional gas utilities serving in Virginia. VNG has noted that as much as 20% of its throughput is gas owned by its customers and transported for them by VNG. The record also indicates that various institutions important to Virginians, e.g., hospitals and schools, now purchase their own gas and have it transported to them by our jurisdictional gas utilities. In the event of a gas supply shortage or an emergency of some other nature, these institutions could be harmed if they were unable to obtain their gas or other gas supplies to meet their energy needs.

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We find that the record supports continued apportionment of gas during an emergency on the basis of a customer's end-use rather than on the basis of the type of service selected by the utility customer. Therefore, we will accept Staff's recommendation that transportation customers have end-use priorities equivalent to sales customers. If a customer's end-use requirements come under two or more priorities, then these requirements must be treated separately when applying the schedule of priorities adopted herein.

The following analysis addresses the principal concerns raised by the comments and oral argument received in this case. We will address the scope of the rules, the forcible banking issue, compensation for the use of transportation gas, the heightened priority for electric generation, the identity and role of an emergency coordinator, and various proposals raised by the participants in this proceeding.

We agree with Staff and the City of Richmond's observations that the priorities created herein and rules implementing these priorities should apply to all jurisdictional natural gas utilities subject to our jurisdiction (hereafter referred to as "jurisdictional natural gas utilities"). We therefore adopt the amendment to the introductory paragraph found in the natural gas priorities and rules appended to the Staff's Supplemental Report. Further, we find it appropriate to change references within the text of the rules from "distribution companies" to "jurisdictional natural gas utility," where appropriate. By adopting this revision, we intend for these rules to embrace all Virginia gas utilities subject to our jurisdiction, including intrastate pipelines.

Moreover, we note that the rules adopted herein govern emergency situations only. They do not apply under normal conditions of operation and are not applicable to normal seasonal supply imbalances. An emergency, given its plain meaning, may be defined as "a sudden unexpected happening; an unforeseen occurrence or condition." Black's Law Dictionary 615 (4th ed. 1968). See also *DuVal v. VEPCO*, 216 Va. 226, 228 (1975). We believe the definition found in the introductory paragraph to the priorities and rules attached to the Supplemental Report is appropriate and should be adopted, with the following clarification:

...An 'emergency,' as contemplated within these rules, includes, but is not limited to, an unforeseen, or unplanned event resulting in a shortage of gas supplies or an inability to deliver gas such that human needs requirements are threatened...

(Underscore indicates the revision.) By adding the reference to "human needs requirements", we have further identified a standard of need expressly defined in the body of the priorities and rules. The foregoing discussion, together with the definition of "emergency" set out in the rules' preamble, is sufficient to address the concerns raised by the Association and other parties that

the rules may be abused or substituted for good planning by both utilities and their customers.

We agree with the Staff that jurisdictional gas utilities have a responsibility to arrange adequate supplies to provide gas for all system needs, including a reasonable level of reserves. Arrangements for adequate gas reserves may vary from company to company. However, we will not hesitate to apply appropriate sanctions in the event that an emergency is caused by a gas utility's failure to provide adequate gas supplies. These sanctions may include, but are not limited to, disallowance of the recovery of imprudently incurred gas costs through the PGA, disallowance of costs or the reduction of a utility's return on equity in the context of rate cases, monetary penalties for violation of Commission rules and orders, or any other sanctions which may be supported by the facts of a particular case.

I.

We turn now to the most controversial issues raised in the proceeding: (1) Whether the Commission has the authority to condition the offering of transportation gas service by including forcible banking as a term of a jurisdictional natural gas utility's tariffs; and (2) if the Commission has the authority to so condition transportation service, whether the rules provide adequate compensation for such use of transportation gas.

As we have previously noted, the Commission possesses broad authority to resolve emergencies involving heat, light or water. It also has equally broad authority when regulating the rates, charges, and conditions under which service to the public is provided by a public service corporation. Under Va. Code § 56-35, for example, the Commission has the duty and power to regulate public service companies doing business in the Commonwealth, in all matters relating to the performance of their public duties, their charges therefor, and to correct abuses therein by such companies. Further, under § 56-235, we may investigate the tolls, charges, schedules or joint rates of any public utility operating in the State and if we find them unjust, unreasonable, insufficient, unjustly discriminatory, preferential or otherwise in violation of any of provisions of law, we may substitute such rates, tolls, charges or schedules as shall be reasonable. Under Va. Code § 56-247, we may alter any regulation, measurement, practice, act or service of any public utility found to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the law, and we may substitute regulations, measurements, practices, service or acts and make such other changes in the regulations, measurements, practices, service or acts of a utility as shall be just and reasonable. The combination of our broad ratemaking authority and the authority delegated to us by the General Assembly in § 56-250 empowers the Commission to condition the offering of transportation service so as to minimize the adverse impact on the public health and safety and to facilitate restoration of normal service to all customers at the

earliest time practicable.

We clearly have the authority to define the terms under which any service is offered by a utility. A customer plainly has no vested right in any particular service provided by a utility. See A. Priest, 1 Principles of Public Util. Regulation, 244-245 (1969). Services provided under tariff may be terminated if they are no longer just and reasonable. When a customer contracts for a utility's service, the utility's tariffs and accompanying regulations become terms of its service contract. The effect of these terms and conditions of service are binding whether or not the customer agrees to them. *Id.*, at 245 (1969).

Applying the foregoing concepts to the record before us, it is clear that tariffed transportation service may be made subject to such conditions as are reasonably related to the offering of that service. We agree with Staff and many of the natural gas utilities that transportation gas will likely become an increasingly significant portion of jurisdictional gas utility throughput. In order to assure service for essential human needs, it may be necessary to delay delivery of ("forcibly bank") transported gas. We therefore find it appropriate to include such a condition as part of a utility's tariffed offering of transportation service. If transportation customers are going to receive treatment equivalent to sales end-users during a gas emergency, we find imposition of forcible banking to be a reasonable condition of transportation service. We note that current utility transportation tariffs already define the terms under which banking and balancing in nonemergency circumstances may take place in order to assure continued deliveries of gas to both transporters and other customers of natural gas utilities. Moreover, even under normal operating circumstances, transportation customers may enjoy the use of a jurisdictional gas utility's system supply gas, consistent with the provisions of the utility's tariffs.

A natural gas utility requires sufficient flexibility to respond to emergencies where it may be unable to provide sufficient gas supplies to satisfy essential human needs. Thus, we will direct natural gas utilities to forcibly bank gas if transporters do not voluntarily allow the use of their gas and if the natural gas utility is unable to provide sufficient gas supplies to meet the natural gas demands for essential human needs during an emergency. However, we wish to monitor which utilities forcibly bank transportation gas as well as the frequency of such occurrences. Consequently, we will require a utility which forcibly banks a transportation customer's gas to notify us that it has done so. If we find that a utility appears to be relying on transportation gas as a supply resource or that it has forcibly banked gas when essential human needs were not threatened, we will not hesitate to impose appropriate sanctions. Based upon the foregoing consideration, we will revise Rule 6 as follows:

6. Each jurisdictional natural gas utility shall be authorized to request that transportation customers allow the use of their customer-owned gas to supply higher priority end-usages. Should transportation

customers refuse to allow the use of their gas during emergencies and the ability of the gas utility to serve essential human needs is threatened, a jurisdictional natural gas utility shall delay delivery of customer-owned gas and utilize that gas to serve essential human needs when significant relief would be provided by the use of such gas, until such time as the supply threat to essential human needs has been resolved. The natural gas utility shall notify the Commission that it has delayed transportation gas deliveries under this Rule without the customer's agreement.

II.

We turn now to the issue of compensation for use of transportation gas during an emergency. Staff's proposed Rule 7 identifies a standard for compensation for use of transportation gas. We agree with Staff and Virginia Power that jurisdictional gas utilities should attempt to negotiate supply arrangements in advance of emergencies. We believe it may be appropriate for a utility to specify the terms of such compensation in the utility's tariffs. These tariff revisions may be considered during a rate proceeding or during any proceeding to revise terms and conditions of service wherein notice and opportunity for hearing are afforded.

As CRSS' comments have acknowledged, the usual measure of economic loss to a transporter is the reasonable costs associated with alternate fuels or the price difference associated with resupplying gas to a transportation customer. We believe revised Rule 7, as set out in the Supplemental Report, properly considers these concepts. Rule 7 also appropriately recognizes the need for flexibility in compensation for the use of customer-owned gas and permits either transporters or jurisdictional gas utilities to apply for a waiver of the compensation limit for the purpose of negotiating contingency supply agreements. We find this rule to be just and reasonable.

We further find that Rules 6 and 7 may be incorporated in the utility's tariffs now. However, they should only be applied to new contracts for gas transportation and as a condition of renewal for existing gas service agreements as they expire. In this way, customers may be aware of the conditions attached to receipt of transportation service before they contract for or continue their contracts for transportation service.

III.

The record indicates that another source of disagreement among the participants in this proceeding related to Priority 4, electric generation requirements for essential electric human needs that do not have available supplies of alternate fuels or alternate sources of electricity. The record shows that gas-fired electric generation is a growing phenomenon. To assure adequate energy supplies for essential human needs, we find it appropriate to recognize a higher priority for electric

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generation required for "essential electric human needs", as defined in the Staff's Supplemental Report. We agree with Staff and Services that it is appropriate to require electric utilities to have implemented emergency procedures before Priority 4 is triggered. In this way we can assure that electric utilities do not seek a higher priority for economic reasons rather than because an emergency exists.

We further find that non-utility generators ("NUGs") should not be automatically eligible for Priority 4 status. During an emergency, a NUG may experience difficulty in getting gas supplies but may not have been dispatched by the utility to whom it sells its electricity. Therefore, it cannot be assumed that any essential human needs requirements have been threatened if a NUG's gas supply is curtailed, unless the purchasing utility demonstrates that the NUG's generation is necessary to meet essential electric human needs. Further, NUGs commenting in this proceeding presented little affirmative evidence to support their assertion that the energy they produce must be presumed to be used for essential human needs. We will therefore accept Staff's proposal relative to Priority 4 gas supplies as well as its suggested definition of "Essential Electric Human Needs" as reasonable.

IV.

We also find that the record supports the need for a coordinator in the event of an emergency, that an emergency coordination committee rather than a coordinator is appropriate, and that this committee should perform the functions described in the Staff's Supplemental Report. The coordination committee established herein should be available to address emergency situations, but should not act as a gas supply planning review board for the natural gas utilities subject to our jurisdiction.

In addition, we believe proposed Staff Rule 5(e) incorporates appropriate flexibility to invite participants other than natural gas utilities to assist in the resolution of gas emergencies where appropriate. Under Rule 5(e) as it is now drafted, entities such as Virginia Power or an interstate pipeline may be invited to serve on the coordination committee by the Director of the Division of Energy Regulation or his designee. Therefore, we will accept Rule 5(e) as reasonable and as supported by the record in this proceeding. Jurisdictional gas utilities should immediately provide the Director of the Division of Energy Regulation with the name, address, business telephone, and home telephone number of their respective representatives who will serve on the emergency coordination committee. We note that these representatives must have authority to direct transfers of gas on behalf of the gas utility they represent.

Finally, we hereby authorize the Director of the Division of Energy Regulation or his designee to invite parties who are not jurisdictional natural gas utilities to serve on the emergency coordination committee. Given the major role Virginia Power plays in providing electric service in

Virginia and the amount of natural gas it uses in its generating processes, we find that Virginia Power should be included on the coordination committee. Further, we encourage parties who are not subject to our jurisdiction to participate on and nominate representatives to serve on the committee if they are invited to participate. Nonjurisdictional parties who are invited and decide to participate on the committee should select committee representatives who are authorized to commit gas resources on behalf of the respective organizations they represent.

V.

We turn now to the miscellaneous changes proposed by various participants in their comments and arguments. We deny Services' request for the application of a different boiler fuel definition as not supported by the record. We note that Services' customers, which are schools, will enjoy a higher priority under these rules than entities which have end-uses that do not constitute essential human needs and are boiler fuel users only.

Services also commented that a moratorium on new customer connections should not be imposed upon a utility assisting another utility during an emergency. We note that a moratorium on new customer connections should be considered by the utility confronted with the emergency, but, as a general rule, the utility rendering assistance should not be required to implement a moratorium on customer connections in order to render assistance. In addition, we will amend Rule 4 to expressly recognize that the Commission may establish a temporary moratorium on the connection of new customers if circumstances so warrant.

Further, we find that the rules already adequately address the Association's concerns relative to industrial users with and without alternate fuel capability ("AFC"). To the extent that members of the Association have uses that come under two or more priorities, each usage will be treated separately when applying the schedule of priorities.

In sum, we find the priorities, rules, and definitions set out in the Staff's Supplemental Report, as modified by various changes of a housekeeping nature and the findings made herein, are reasonable and should be adopted. These priorities, rules, and definitions are set out in Attachment A hereto, which we find should be incorporated in this Order and made a part hereof. The priorities, rules, and definitions, found in Attachment A, should be made effective as of the date of this Order, except as otherwise provided herein.

Accordingly, IT IS ORDERED:

- (1) That, consistent with the findings made herein, Attachment A hereto is hereby adopted, effective as of the date of the entry of this Order, unless otherwise provided herein;

(2) That, consistent with the findings made herein and Rule 1 to Attachment A hereto, jurisdictional gas utilities shall forthwith file with the Commission revised tariffs which comply with the schedule of priorities, rules and definitions adopted herein;

(3) That each jurisdictional gas utility and Virginia Power shall forthwith file the following information with the Director of the Division of Energy Regulation: (1) the name of its representative on the emergency coordination committee; (2) the business and home addresses of said representative; and (3) the business and home telephone numbers of said representative;

(4) That the Director of the Division of Energy Regulation or his designee is hereby authorized to invite appropriate parties who are not jurisdictional natural gas utilities to serve on the emergency coordination committee; those parties who are invited and desire to serve on the coordination committee shall file with the Director (1) the name of its representative on the emergency coordination committee; (2) the business and home addresses of said representative; and (3) the business and home telephone numbers of said representative;

(5) That the rules adopted herein shall be published in accordance with Va. Code § 9-6.18 in the Virginia Register; and

(6) That there being nothing further to be done herein, this matter shall be dismissed, and the papers filed herein made a part of the Commission's file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all natural gas and electric utilities subject to the Commission's jurisdiction; Louis R. Monacell, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Donald R. Hayes, Esquire, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; Guy T. Tripp, III, Esquire, Hunton & Williams, Riverside Plaza East Tower, 951 E. Byrd Street, Richmond, Virginia 23219; David B. Kearney, Assistant City Attorney, City of Richmond, Room 300, City Hall, 900 East Broad Street, Richmond, Virginia 23219-0474; Steven H. Theisen, Esquire, Midkiff and Hiner, P.C., 100 West Franklin Street, Chesterman Place, Richmond, Virginia 23220; John E. Cunningham, Manager-Regulation Services, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Charles F. Midkiff, Midkiff and Hiner, P.C., 100 West Franklin Street, Chesterman Place, Richmond, Virginia 23220; Mary K. Lloyd, Assistant General Counsel, CRSS Capital, Inc., P.O. Box 22427, Houston, Texas 77227-2427; James R. Bacha, Esquire, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215; David K. Schumacher, Esquire, Chadbourne & Parke, 1101 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005; James C. Dimitri, Esquire, Christian, Barton,

Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; August Wallmeyer, Esquire, Wallmeyer Communications, 700 Franklin Street, #804, Richmond, Virginia 23219; Marjorie H. Brant, Esquire, Commonwealth Gas Services, Inc., P.O. Box 117, Columbus, Ohio 43216-0117; Philip J. Bray, Esquire, The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; J. Reid Wrenn, President, Brick and Tile Corporation of Lawrenceville, P.O. Box 45, Lawrenceville, Virginia 23868; John J. Carrara, Esquire, Westvaco Corporation, 299 Park Avenue, New York, New York 10171; and the Commission's Office of General Counsel, and Divisions of Energy Regulation, Public Utility Accounting, and Economics and Finance.

ATTACHMENT A

NATURAL GAS PRIORITIES AND RULES

This plan sets forth the priorities which shall apply whenever any jurisdictional natural gas utility operating in Virginia has insufficient gas available to meet the end-use needs of its customers during a gas supply emergency. An "emergency," as contemplated within these rules, includes, but is not limited to, an unforeseen, or unplanned event resulting in a shortage of gas supplies or an inability to deliver gas such that human needs requirements are threatened. When it becomes necessary for any jurisdictional natural gas utility to curtail gas deliveries to its customers during such an emergency, the following priorities will apply beginning with the highest number and proceeding in reverse order to Priority 1. All customers within a priority class, or all customers within any subclass thereof, which is subject to curtailment shall be curtailed to the extent practicable on an equal basis. If a customer's end-use requirements come under two or more priorities, then such requirements must be treated separately when applying this schedule of priorities. Transportation customers will have equivalent end-use priorities as sales customers.

PRIORITIES FOR SERVICE

Priority 1 - Customer requirements for residential service, and requirements for human needs without alternate fuel capability (AFC).

Priority 2 - Customer requirements under 1500 Mcf per peak month without AFC.

Priority 3 - Customer requirements over 1500 Mcf per peak month without AFC.

Priority 4 - Electric generation requirements for essential electric human needs that do not have available supplies of alternate fuels or alternate sources of electricity.

Priority 5 - Customer requirements for human needs with AFC.

Priority 6 - Requirements of customers with AFC that do

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not come under any other priority.

Priority 7 - Requirements for boiler fuel.

RULES

1. Each jurisdictional natural gas utility shall develop a plan for curtailment of gas sales which complies with the schedule of priorities and rules adopted herein. To the extent necessary, such plan may provide for subclasses under each of the priority classes. Each curtailment plan shall be filed as a part of the jurisdictional natural gas utility's tariffs.

2. Each jurisdictional natural gas utility shall be responsible for the administration of its curtailment plan, including the determination of Alternate Fuel Capability (AFC).

3. Interruptible gas service may be furnished, in management's discretion, as available gas supplies permit. However, the Commission may terminate, or alter, the sale of gas to interruptible customers if it is determined that such sales unreasonably affect the reliability of supplies of gas for priority end-uses.

4. In the event of an unforeseen emergency of limited duration, each jurisdictional natural gas utility experiencing the emergency shall:

(a) Encourage maximum conservation by all customers.

(b) Use its own emergency facilities to the limit of their capability.

(c) Consider establishing a temporary moratorium against the connection of new customers.

(d) If the Commission finds that a jurisdictional natural gas utility cannot supply all of its customers natural gas because an emergency exists, the Commission may, by order, establish a temporary moratorium on the connection of new customers if such moratorium is necessary to minimize the adverse impact on the public health and safety and to facilitate restoration of normal service to all customers at the earliest time practicable.

5.

(a) In the event of regional emergencies, natural gas may be temporarily redistributed among the jurisdictional natural gas utilities operating within the State to assure continued service for essential human needs.

(b) Transfers of gas will be directed, if necessary, by the Commission pursuant to Section 56-249.1 of the Code of Virginia which reads in pertinent part:

The Commission may require a public utility to transfer to another public utility of like business, gas, water or electricity, whenever the public health, welfare or safety shall be found to so require; provided, however, that the transferring public utility shall be compensated, at a rate fixed by the Commission, for all such deliveries by the receiving public utility.

(c) The Commission may direct that customers in certain areas having usage under Priorities 5 and 6 use alternate fuel, even though there is gas available, when such gas is required for public health, welfare, and safety or for higher priority uses in other areas.

(d) Each jurisdictional natural gas utility shall designate an individual to serve on a coordination committee to facilitate transfers of gas between companies operating within the State. These individuals should be familiar with their respective company's sources of supply and have the authority to make commitments necessary to redistribute available gas supplies.

(e) The Director of the Commission's Division of Energy Regulation, or his designee, shall be responsible for preparing and maintaining a list of the designated personnel described in Rule 5(d) and have the authority to call for meetings of the coordination committee to consider requests for assistance. The Director may also invite parties other than gas companies to join the coordination committee.

(f) In responding to requests for a redistribution of natural gas, the coordination committee will seek to:

(i) Ascertain the extent, nature and circumstance of the emergency.

(ii) Determine which companies operating within the State might be able to assist by a temporary redistribution of some portion of their supplies.

(iii) Place natural gas utilities requesting assistance into direct communication with companies providing assistance to determine the most effective transfer procedure.

(g) In the event that emergency assistance is requested of any jurisdictional natural gas utilities operating within the State of Virginia, it shall be the responsibility of the jurisdictional natural gas utility from whom assistance is required to consider carefully the request and use its aid as is warranted and possible under the circumstances without jeopardizing the integrity of its own service. As this plan is one of voluntary mutual aid without binding and legal commitment, adherence to this precept is essential to successful implementation.

(h) The jurisdictional natural gas utility requesting emergency gas and the utility providing such aid shall obtain Commission approval of the price for the emergency gas furnished prior to the actual exchange thereof.

6. Each jurisdictional natural gas utility shall be authorized to request that transportation customers allow the use of their customer-owned gas to supply higher priority end-usages. Should transportation customers refuse to allow the use of their gas during emergencies and the ability of the gas utility to serve essential human needs is threatened, a jurisdictional natural gas utility shall delay delivery of customer-owned gas and utilize that gas to serve essential human needs when significant relief would be provided by the use of such gas, until such time as the supply threat to essential human needs has been resolved. The natural gas utility shall notify the Commission that it has delayed transportation gas deliveries under this Rule without the customer's agreement.

7. Transportation customers shall be compensated for the use of transportation gas voluntarily supplied or otherwise used in an emergency to assist a jurisdictional natural gas utility. The level of compensation should be determined through negotiation. Compensation should be limited to reasonable costs associated with alternate fuels or the price difference associated with resupplying gas to the customer. Compensation is not intended to reflect damages that may result from the use of customer-owned gas. Transportation customers or jurisdictional natural gas utilities may request that the State Corporation Commission waive the foregoing compensation limit for the purpose of negotiating contingency emergency supply agreements. Any such agreement must be approved by the Commission. Jurisdictional natural gas utilities may specify the terms of compensation in tariffs, approved pursuant to Va. Code § 56-237 et seq.

8. Transportation customers receiving gas supplies from a jurisdictional natural gas utility pursuant to the enactment of curtailment priorities shall be charged a rate equivalent to the gas utility's incremental cost of gas, adjusted for unaccounted for losses and gross receipts taxes plus the gas utility's normal transportation rate.

Each jurisdictional natural gas utility shall be authorized to grant exemptions to the priorities and rules adopted herein, and the filed tariffs conforming therewith, for a period not to exceed ten days. Such exemptions shall be granted, in management's discretion, to avoid undue hardship.

A written report of all requests for an exemption and each exemption granted by a jurisdictional natural gas utility shall be filed with the Director or a designated

member of the Commission's Division of Energy Regulation.

10. A gas customer, or a jurisdictional natural gas utility on behalf of a gas customer, may request of the State Corporation Commission an exception to these rules, for a period of time greater than ten (10) days based on hardship or other justifiable circumstances.

11. If gas supplies become inadequate to meet the requirements of customers in Priorities 1 and 2, an Essential Human Needs Emergency may be declared and limitations may be imposed restricting gas usage to Essential Human Needs.

DEFINITIONS

1. Alternate Fuel Capability (AFC) shall mean that gas usage for which the customer has the installed facilities to use an alternate fuel, and shall mean that gas usage of 10,000 Mcf or more, per peak month for which it would be reasonable to install facilities to use an alternate fuel. A customer may be deemed not to have AFC if alternate fuel supplies are unavailable or their use restricted, for reasons beyond the control of the customer, during a gas supply emergency. Any exceptions to the definition of AFC must be approved by the Commission.

2. Boiler Fuel shall mean that usage of gas of 1500 Mcf, or more, per peak month for the generation of electricity, production of steam, or heating of water. The only exception shall be for Washington Gas Light Company (including Shenandoah Gas Company). Washington Gas Light Company may define boiler fuel as that industrial usage of gas of 100,000 therms, or more, per peak month for the generation of electricity, production of steam, or heating of water.

3. Commercial Services: Service to customers engaged primarily in the sale of goods or services, to educational institutions, to correctional institutions, and to local, state and federal government agencies for uses other than those involving manufacturing or electric power generation.

4. Essential Human Needs Emergency: A situation in which gas supply, for whatever reason, is inadequate to meet requirements of customers in Priorities 1 and 2.

5. Essential Human Needs: That gas usage necessary to maintain service to all residential customers and customers qualifying for human needs requirements without AFC, subject to the following restrictions: (a) thermostats in residences, apartments, sanatoriums, rest homes, hospitals, hotels, motels, prisons, and anywhere else that people reside shall be set to 65o in the day and 55o at night, unless such setting causes health hazards; and (b) thermostats in office buildings,

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retail stores, schools, and other commercial, government and industrial facilities shall be set to the minimum level required to prevent injury to life or property.

6. Human Needs Requirement: Requirements for residences, critical child care and medical facilities, sanatoriums, rest homes, hotels, certain schools, essential agricultural users and food process needs, commercial cooking, prisons, plant protection, water and sewage treatment and electric generating unit start-up and flame stabilization.

7. Interruptible Service: That service provided under interruptible rate schedules or under special interruptible contracts.

8. Plant Protection: That minimum use of gas necessary to prevent physical damage to plant facilities, danger to plant personnel, and to protect material in production. It shall not include gas to maintain ongoing production of materials.

9. Residential Usage: That gas used for normal purposes in maintaining permanent single and multi-family dwellings.

10. Peak Month shall remain as presently defined in individual tariffs or past practices of jurisdictional natural gas public utilities; however, for purposes of priority classifications, when a customer's usage is increased, or reduced, on a permanent basis then the customer shall be moved to the priority consistent with the change in usage.

11. Electric Generating Start-up Requirements shall mean that usage of gas associated with the start-up of base load generating units including requirements for flame stabilization where alternate start-up fuels are unavailable. It shall not include gas used for co-firing.

12. Essential Electric Human Needs: That electric usage necessary to maintain service to all residential customers and customers qualifying for human needs requirements, subject to the following restrictions: (a) thermostats in residences, apartments, sanatoriums, rest homes, hospitals, hotels, motels, prisons, and anywhere else that people reside shall be set to 65° in the day and 55° at night, unless such setting causes health hazards; and (b) thermostats in office buildings, retail stores, schools, and other commercial, government and industrial facilities shall be set to the minimum level required to prevent injury to life or property. Electric generation will be deemed to be required for essential electric human needs if the electric utility has implemented emergency load reduction procedures at least to the point of shedding non-critical curtailable load.

The Director or a designated member of the Commission's Division of Energy Regulation shall be responsible for administering the Schedule of Priorities and Rules adopted herein, subject to review by the Commission as provided by the Commission's Rules of Practice and Procedure.

All written correspondence concerning the foregoing shall be addressed to Natural Gas Priorities and Rules, Attn: Director, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23209.

ADMINISTRATION

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER NINE (91)

"LUCKY 21"; PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Lucky 21" promotional game and drawing rules for the kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, May 9, 1991. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until May 10, 1991, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director
Date: April 8, 1991

DIRECTOR'S ORDER NUMBER TEN (91)

VIRGINIA'S FIFTEENTH INSTANT GAME LOTTERY; "FIRST AND \$10,000," END OF GAME

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's fifteenth instant game lottery, "First and \$10,000," will officially end at midnight on Thursday, May 9, 1991. The last day for lottery retailers to return for credit unsold tickets from "First and \$10,000" will be Thursday, May 30, 1991. The last day to redeem winning tickets for "First and \$10,000" will be Tuesday, November 5, 1991, 180 days from the declared official end of the game. Claims for winning tickets from "First and \$10,000" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of November 5, 1991, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: April 10, 1991

DIRECTOR'S ORDER NUMBER ELEVEN (91)

VIRGINIA'S EIGHTEENTH INSTANT GAME LOTTERY; "LUCKY 21," FINAL RULES FOR GAME OPERATION

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's eighteenth instant game lottery, "Lucky 21." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: May 1, 1991

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

Title of Regulation:

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

VR 115-04-23. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act.

Governor's Comment:

These regulations are intended to provide for the safety of the public and the environment by ensuring that all individuals applying pesticides are trained in and informed about the proper handling of pesticides. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: May 8, 1991

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: **VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.**

Governor's Comment:

I concur with the purpose of this proposal. My final approval will be contingent upon the Board's consideration of DPB's suggestion to improve the clarity of the proposal and upon a review of the public's comment.

/s/ Lawrence Douglas Wilder
Governor
Date: May 9, 1991

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **VR 460-04-8.8. Regulations for Hospice Services.**

Governor's Comment:

I concur with the concept of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: May 8, 1991

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: **VR 480-03-19. Coal Surface Reclamation Mining Regulations.**

Governor's Comment:

These regulations are intended to bring Virginia regulations in line with federal regulations governing surface mining. Pending public comment, I approve the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: May 8, 1991

FORMS

REAL ESTATE APPRAISER BOARD

NOTICE: The forms used in administering the current emergency regulations of the Real Estate Appraiser Board are listed below. 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, Room 262, Richmond, Virginia.

Virginia Real Estate Appraiser Board - Application Guidebook, April 1991

Real Estate Appraiser License Application Form - Form No. REA1 (12/27/91)

Course Identification Form

Course Title/Number - Subject Form

Real Estate Appraiser Board Experience Log

Real Estate Appraiser Business Registration Application - Form No. REA2 (12/27/91)

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-01. Public Participation Guidelines, VR 125-01-02. Advertising, VR 125-01-03. Tied House, VR 125-01-05. Retail Operations, VR 125-01-06. Manufacturers and Wholesalers Operations, and VR 125-01-07. Other Provisions.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending and repealing the board's regulations.

Pursuant to the Public Participation Guidelines contained in VR 125-01-1 § 5.1, the board intends to consider proposals to amend the regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. VR 125-01-1 § 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

a. Subject of Proposal: To require the Department of Alcoholic Beverage Control ("A.B.C.") to initiate rulemaking procedures at least once every two years, rather than once a year, unless regulatory changes are otherwise necessitated by virtue of legislative mandate or by "special" or "emergency" requirements.

b. Entities Affected: A.B.C., A.B.C. licensees and the public.

c. Purpose of Proposal: To reduce the amount of time, expense and resources devoted by A.B.C., the public and A.B.C. licensees to an annual review of A.B.C. regulations which often includes redundant consideration of the same regulatory proposals.

d. Issue: Initiation of rulemaking procedures at least once every two years rather than every year.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-103(b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

2. VR 125-01-1 § 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

a. Subject of Proposal: To make it discretionary rather than mandatory that an ad hoc advisory panel be selected to make recommendations on proposed regulations and to formulate draft language.

b. Entities Affected: A.B.C. and the public.

c. Purpose of Proposal: To allow the board the discretion to streamline the rulemaking procedures.

d. Issue: Board discretion to appoint, or not appoint, an ad hoc advisory panel.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-103(b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

3. VR 125-01-2 § 1. Advertising; generally; cooperative advertising; federal laws; beverages and cider; restrictions.

a. Subject of Proposal: (1) To clarify that if federal advertising regulations pertaining to alcoholic beverages conflict with more restrictive state regulations, then state regulations shall be followed; (2) to permit individuals who are of legal drinking age to order alcoholic beverages by mail from Virginia retail licensees; (3) to repeal subdivision F 8 so that sale prices for alcoholic beverages will no longer be required to "significantly conform in size, prominence and content to the advertising of nonalcoholic merchandise"; and (4) to clarify that a manufacturer may require the purchase of alcoholic beverages for a refund.

b. Entities Affected: A.B.C., A.B.C. licensees and the public.

c. Purpose of Proposal: (1) and (4) clarification; (2) to allow Virginia farm wineries and Virginia retail licensees to receive mail orders for alcoholic beverages; phone orders for alcoholic beverages are currently permitted; and (3) to repeal subdivision F 8 because discount chains currently advertise a page of alcoholic beverages at their every day low prices without being required to advertise nonalcoholic merchandise.

d. Issues: (1) Clarification that more restrictive state regulations pertaining to alcoholic beverages shall be followed when they conflict with federal regulations pertaining to alcoholic beverages; (2) allowing adults 21 years or older to order alcoholic beverages by mail from Virginia retail licensees; (3) less restrictive advertising for alcoholic beverages; and (4) clarification that a manufacturer may require the purchase of alcoholic beverages for a refund.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

4. VR 125-01-2 § 2. Advertising; interior; retail licensees; show windows.

a. Subject of Proposal: (1) To allow neon illuminated alcoholic beverage advertising inside licensed retail establishments; and (2) to clarify "works of art."

b. Entities Affected: Restaurant and bar owners (retail licensees).

c. Purpose of Proposal: (1) By opening up the regulations on materials used for advertising, more personal control will be given to the owners of establishments to decorate, interest clients, market products, and establish decor which should be the right of owners who depend on a business to make a living in a very competitive market. Government control of this type serves nothing but to make enforcement more expensive on taxpayers and reduce the rights of business professionals. As long as local building and safety codes are met, this area should be opened up to all types of display including neon lighting and clay reproductions as examples. (2) Insofar as the regulation concerning art work, this regulation leaves the subject open to opinion which will vary from one person to another. This can have great financial impact on products purchased as art for display when A.B.C. decides these products are not "works of art." This again is over regulation on the part of the government and should be clarified.

d. Issues: (1) Usage of neon illuminated alcoholic beverage advertising inside licensed retail establishments; and (2) clarification of the term "works of art."

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-60(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Paul Roxenberg, President of Paul Roxy Inc. t/a Graphic Neon.

5. VR 125-01-2 § 2. Advertising; interior; retail licensees; show windows.

a. Subject of Proposal: (1) To repeal all interior advertising requirements for alcoholic beverage advertising including size, material, mechanical and illumination limitations, as long as alcoholic beverage advertising is purchased at the normal wholesale price and is not displayed so that it can be seen from the exterior of the premises. Retail licensees may purchase alcoholic beverage advertising and service items, from any source, including manufacturers and wholesalers; (2) to permit retail licensees to advertise any brand of alcoholic beverages inside their licensed establishments; (3) to repeal subsection C which restates § 4-79.1; and (4) to move subsection D. on show windows to § 3, exterior advertising.

b. Entities Affected: A.B.C., manufacturers, wholesalers, retailers and the public.

c. Purpose of Proposal: (1) and (2) To make interior advertising less restrictive; (3) to repeal a subsection which restates statute; and (4) to move show window advertising under § 3, exterior advertising, because it faces the exterior rather than the interior of a licensed establishment.

d. Issues: (1) and (2) less restrictive interior advertising requirements for alcoholic beverages; (3) the repeal of subsection C which restates the tied house statute; and (4) under what section should show windows be placed - § 2 (interior advertising) or § 3 (exterior advertising).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

6. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: (1) To allow vehicles with alcoholic beverage advertising to appear in parades and promotions; (2) to permit billboard advertising within stadiums or coliseums who have professional or semiprofessional athletic events; (3) to allow the terms "bar," "bar room," "saloon" and "speakeasy" to be used on exterior advertising if these terms are part of the licensee's trade name; (4) to clarify that an exterior sign may contain only one reference to the words and terms appearing on the face of the license; and (5) to create a new subsection for show windows which is currently under § 2 D of this regulation.

b. Entities Affected: Manufacturers, wholesalers, and retailers.

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c. Purpose of Proposal: (1) To permit vehicles with alcoholic beverage advertising, which are not used exclusively in the business of a manufacturer or wholesaler, to appear in parades or promotions; (2) to allow billboard advertising within stadiums or coliseums which have professional or semiprofessional athletic events; (3) to allow prohibited terms to be used on exterior signs if they are part of the licensee's trade name; (4) clarification; and (5) to move show window advertising under exterior advertising because it faces the exterior rather than the interior of a licensed establishment.

d. Issues: (1) Allowing vehicles with alcoholic beverage advertising, which are not used exclusively in the business of a manufacturer or wholesaler, to appear in parades or promotions; (2) allowing billboard advertising within stadiums or coliseums; (3) usage of the terms "bar," "bar room," "saloon" and "speakeasy" when they are part of the licensee's trade name; (4) clarification; and (5) under what section should show windows be placed - § 2 (interior advertising) or § 3 (exterior advertising).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

7. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: To allow outdoor (i.e., billboard) advertising for nonalcoholic beers.

b. Entities Affected: Manufacturers, wholesalers, advertisers of nonalcoholic beers and the driving public.

c. Purpose of Proposal: There are two specific reasons why the current regulation warrants changing 8 (1) radio and television are currently allowed to promote these items and (2) the main reasoning for outdoor advertising's prohibition is that the brewery's logo on the board is regarded as a "subliminal stimulation."

d. Issues: Outdoor (i.e., billboard) advertising of nonalcoholic beer.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Greg Franz, Lamar Advertising Company.

8. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: To allow the word "saloon" to be used on exterior signs for a licensed retail establishment.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: There are currently two Lone Star Steakhouses under construction in the State of Virginia. One of which will be operated by Lone Star Steakhouse of Richmond, Inc., and the other by Lone Star Steakhouse of Virginia Beach, Inc. Except for the prohibition contained in the above referenced section, both restaurants would be operated as "Lone Star Steakhouse and Saloon" rather than "Lone Star Steakhouse." There are currently three Lone Star Steakhouse and Saloon restaurants operating in North Carolina with another under construction. In addition, there are Lone Star Steakhouse and Saloon restaurants under construction in both Delaware and Indiana. It is the company's intention to develop a number of these restaurants throughout the country and it is of great benefit to them to be able to operate under one trade name nationwide regarding customer recognition, and the preparation and purchasing of advertising, paper goods including menus, uniforms and signage.

In addition, it seems that is discriminatory to allow some license holders to utilize the words "bar" and "tavern" in their trade names and not to allow the use of the word "saloon" in the trade name of other license holders. It is the position of Lone Star Steakhouse of Richmond, Inc., that either all descriptive words of similar import should be allowed, or prohibited, so that all license holders receive equal treatment and to avoid confusion by the public.

d. Issues: Usage of the word "saloon" on exterior signs for a licensed retail establishment.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Lone Star Steakhouse of Richmond, Inc.

9. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: To allow the word "saloon" to be used in print or electronic media when advertising beer, wine and mixed beverages.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: There are currently two Lone Star Steakhouses under construction in the State of Virginia. One of which will be operated by Lone Star Steakhouse of Richmond, Inc., and the

other by Lone Star Steakhouse of Virginia Beach, Inc. Except for the prohibition contained in the above referenced section, both restaurants would be operated as "Lone Star Steakhouse and Saloon" rather than "Lone Star Steakhouse." There are currently three Lone Star Steakhouse and Saloon restaurants operating in North Carolina with another under construction. In addition, there are Lone Star Steakhouse and Saloon restaurants under construction in both Delaware and Indiana. It is the company's intention to develop a number of these restaurants throughout the country and it is of great benefit to them to be able to operate under one trade name nationwide regarding customer recognition, and the preparation and purchasing of advertising, paper goods including menus, uniforms and signage.

In addition, it seems that is discriminatory to allow some license holders to utilize the words "bar" and "tavern" in their trade names and not to allow the use of the word "saloon" in the trade name of other license holders. It is the position of Lone Star Steakhouse of Richmond, Inc., that either all descriptive words of similar import should be allowed, or prohibited, so that all license holders receive equal treatment and to avoid confusion by the public.

d. Issues: Usage of the word "saloon" when advertising beer, wine and mixed beverages in the print or electronic media.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Lone Star Steakhouse of Richmond, Inc.

10. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: (i) To allow the terms "bar," "bar room," "saloon" and "speakeasy" to be used in print or electronic media if they are part of the licensee's trade name; (2) to clarify subdivision B 2 which allows manufacturers, bottlers and wholesalers to advertise in the trade publications of associations of retail licensees; and (3) to define the term "general circulation" as it relates to publications which are distributed or intended to be distributed primarily to persons under 21 years of age.

b. Entities Affected: Manufacturers, wholesalers, retailers and publications not of general circulation which are distributed primarily to persons under 21 years of age.

c. Purpose of Proposal: (1) To conform with proposed amendments for VR 125-01-2 § 3 2 b; (2)

clarification; and (3) to define "general circulation."

d. Issues: (1) Usage of the terms "bar," "bar room," "saloon" and "speakeasy" in the print or electronic media when they are part of the licensee's trade name; and (2) and (3) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

11. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: To repeal all restrictions on alcoholic beverage advertising in college student publications.

b. Entities Affected: Manufacturers, wholesalers, retailers and college student publications.

c. Purpose of Proposal: To remove illegal constraints on the college press and allow A.B.C. to explore more effective ways of enforcing the minimum drinking age law.

d. Issue: The repeal of all restrictions on alcoholic beverage advertising in college student publications.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Laurel Wissinger, 1990-91 editor of The Breeze, James Madison University.

12. VR 125-01-2 § 5. Advertising; newspaper; magazines, programs; distilled spirits.

a. Subject of Proposal: (1) To amend § 5.1 C requiring "information on contrasting background in no smaller than eight-point size type" to "Any written, printed or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible"; and (2) to repeat the prohibition against statements that refer to "bonded," age and religion.

b. Entities Affected: Manufacturers, importers and wholesalers of distilled spirits.

c. Purpose of Proposal: (1) To delete the eight-point size type; and (2) to repeal the prohibition against statements dealing with "bonded", age and religion.

d. Issues: (1) Deletion of eight-point size type; and (2) repeal of the prohibition against statements that refer to "bonded", age and religion in distilled

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spirits advertising in the print media.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

13. VR 125-01-2 § 6. Advertising; novelties and specialties.

a. Subject of Proposal: (1) To increase the wholesale value limit from \$2.00 to \$5.00 on novelty items to be given away; and (2) to increase from one to ten the number of novelty and specialty items that may be given to a retailer and each of his employees.

b. Entities Affected: Manufacturers, importers, brokers, wholesalers and retail licensees.

c. Purpose of Proposal: (1) The increase of the wholesale value of novelties from \$2.00 to \$5.00 would allow for a greater variety of items to be given to the retail licensees at the same time preserving the low monetary value of the item; and (2) the increase in the number of advertising specialties from one to ten per retailer and per employee per visit would provide parity between the retail establishment with one employee and the larger establishments with ten or more employees.

d. Issues: (1) The increase of wholesale value limits on novelty items to be given away; and (2) the increase of the number of items to be given away to a retailer and his employees.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Virginia Distilled Spirits Representatives Association.

14. VR 125-01-2 § 7. Advertising; fairs and trade shows; wine and beer displays.

a. Subject of Proposal: To allow the display of distilled spirits and the distribution of distilled spirits informational brochures and novelty and specialty items at fairs and trade shows.

b. Entities Affected: Manufacturers and wholesalers of distilled spirits.

c. Purpose of Proposal: To allow distilled spirits to be advertised in the same manner that wine and beer are advertised at fairs and trade shows.

d. Issue: Permitting the display of distilled spirits and the distribution of distilled spirits informational brochures and novelty and specialty items at fairs and trade shows.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

15. VR 125-01-2 § 9. Advertising; coupons.

a. Subject of Proposal: (1) To permit off-premises retail licensees to redeem wine and beer coupons; (2) to delete the requirement in subdivision B 4 that "(c)oupons offered by retail licensees shall appear in an advertisement with nonalcoholic merchandise and conform in size and content to the advertising of such merchandise"; and (3) to clarify that a manufacturer or wholesaler may furnish coupons or materials regarding coupons to retailers.

b. Entities Affected: Manufacturers, wholesalers and retailers.

c. Purpose of Proposal: (1) To make it convenient for consumers to redeem alcoholic beverage coupons at the time of purchase rather than requiring consumers to mail their coupons to the manufacturer or its designated agent; (2) to conform with proposed amendments to VR 125-01-2 § 1 F I 8; and (3) clarification.

d. Issues: (1) Redemption of alcoholic beverage coupons by retailers; (2) less restrictive advertising requirements for retail licensee coupons; and (3) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

16. VR 125-01-2 § 10. Advertising; sponsorship of public events; restrictions and conditions.

a. Subject of Proposal: (1) To repeal the prohibition against an entire season of athletic or sporting events, such as a football season; and (2) to delete the word "program" from § 10 B 1 which prohibits the sponsorship of any public event on a college, high school or younger age level.

b. Entities Affected: Manufacturers and wholesalers.

c. Purpose of Proposal: (1) To permit manufacturers of alcoholic beverages to sponsor an entire season of athletic or sporting events; (2) to prevent any confusion concerning the use of the word "program" in § 10 B 1, which is prohibited and in § 10 B 6 which is allowed.

d. Issues: (1) Permitting the sponsorship of an entire

season of athletic and sporting events by manufacturers; and (2) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

17. VR 125-01-3 § 1. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

a. Subject of Proposal: (1) To repeal the prohibition that wholesalers may not merchandise wine and beer on Sundays; (2) to delete the term "malt beverage" and substitute "beer" in § 1 A 5; (3) to allow nationally discontinued products to be replaced by a wholesaler; and (4) to repeal § 1 B 3 f which permits a wholesaler to exchange wine or beer on an identical quantity, brand or package basis for quality control purposes because it is repetitious.

b. Entities Affected: A.B.C., wholesaler and retailers.

c. Purpose of Proposal: (1) To allow wholesalers to decide whether or not they will merchandise wine and beer on Sundays. Currently wholesalers may accept orders for wine and beer and deliver wine and beer to banquet licensees and ships sailing from a port of call outside the Commonwealth on Sundays; (2) to standardize terms used throughout the regulations; (3) to permit wholesalers to replace nationally discontinued products; and (4) to avoid repetition.

d. Issues: (1) The prohibition against wholesalers merchandising wine and beer on Sundays; (2) standardization of terminology; (3) allowing wholesalers to replace nationally discontinued products; and (4) repetition.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-22.1, 4-33(d), 4-37(e), 4-79.1, 4-103(b) and 4-115 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

18. VR 125-01-3 § 2. Manner of compensation of employees of retail licensees.

a. Subject of Proposal: To move § 2 from VR 125-01-3 to VR 125-01-5.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: Section 2, dealing with the manner of compensation that employees of retail licensees may receive from their employers, is not a tied house issue.

d. Issues: Under what regulation should compensation of employees of retail licensees be placed - VR 125-01-3 (Tied House) or VR 125-01-5 (Retail Operations).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.10(t) and 4-103(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

19. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: To permit electronic fund transfers.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: To eliminate the requirement that cash or checks for the payment of the purchase of alcoholic beverages be kept on the retail premises. Under the existing regulation, the retailer/purchaser has to grant check-writing authority or provide sufficient cash to permit a manager of retail licensed premises to purchase wine, beer and beverages and such checks and cash are subject to loss or theft while in the hands of the driver/salesman representing the distributor.

d. Issues: Use of electronic fund transfers for payment of alcoholic beverages by retailers to wholesalers.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Rite Aid Corporation.

20. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: To include within the definition of "cash" payments made by retailers via wholesaler-initiated electronic fund transfers for purchases of wine, beer and beverages when such payments are made pursuant to (i) a written agreement between the wholesale and retail licensees and (ii) clearly defined conditions and requirements established by A.B.C.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: Some A.B.C. retail licensees desire to utilize electronic fund transfers as a means of payment to wholesale licensees for purchases of wine, beer or beverages. Current regulations require that payment for such transactions be made in

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“cash” which is defined to mean legal tender, money order or checks.

d. Issues: Use of electronic fund transfers for payment of alcoholic beverages by retailers to wholesalers.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

21. VR 125-01-3 § 5. Certain transactions to be for cash; “cash” defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: (1) To repeal the requirement for monthly reporting to A.B.C. of all invalid checks received by wholesalers from retail licensees for the payment of wine, beer or beverages; (2) to require wholesalers to report to A.B.C. all invalid checks received from retail licensees for the payment of wine, beer or beverages that are not satisfied within seven days after notice of the invalid check is given to the wholesaler, and to report all retail licensees who have given them a certain number of invalid checks within a specified time period; (3) to require wholesalers to keep records of all invalid checks received from retail licensees for the payment of wine, beer or beverages on their licensed premises; and (4) to amend subsection E to “Licensee payments to the board shall be for cash as defined in subsection B” and to delete § 5 E 1-6.

b. Entities Affected: A.B.C. wholesalers and retailers.

c. Purpose of Proposal: (1), (2) and (3) to prevent regulatory agents from having to investigate every invalid check report including those checks that have been satisfied; and (4) to condense subsection E.

d. Issues: (1) Agent’s time spent on investigation of invalid checks; and (2) condensation of subsection E.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

22. VR 125-01-3 § 7. Solicitation of licensees by wine, beer and beverage solicitor salesman or representatives.

a. Subject of Proposal: To clarify that solicitation and promotion of educational programs regarding

distilled spirits and mixed drinks is allowed if a distilled spirits solicitor’s permit has been obtained.

b. Entities Affected: Wine, beer and beverage solicitor salesmen.

c. Purpose of Proposal: To clarify that wine, beer and beverage solicitor salesmen may solicit and promote distilled spirits and mixed beverages after first obtaining a distilled spirits solicitor’s permit.

d. Issues: Clarification.

e. Applicable Laws: §§ 4-98.14 and 4-98.16 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

23. VR 125-01-3 § 8. Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; paper, cardboard or plastic advertising materials; clip-ons and table tents.

a. Subject of Proposal: (1) to repeal all size requirements for paper, cardboard and plastic advertising materials which are displayed inside licensed retail establishments; and (2) to define the business relationships between manufacturers and wholesalers on the one hand and retailers on the other concerning the sale of nonalcoholic merchandise to retailers by wholesalers and manufacturers.

b. Entities Affected: A.B.C., manufacturers, wholesalers, and retailers.

c. Purpose of Proposal: (1) To conform with proposed amendments for interior advertising (VR 125-01-2 § 2); and (2) to allow manufacturers and wholesalers to engage in activities with retail licensees which are not related to the alcoholic beverage business of the retailer.

d. Issues: (1) Repeal of size restrictions for paper, cardboard and plastic advertising materials displayed inside licensed retail premises; and (2) the definition of business relationship between manufacturers, wholesalers and retailers when dealing with nonalcoholic merchandise.

e. Applicable Laws: §§ 4-11(a), 4-69.2, 4-79(f) and (h) repealed by Acts 1989, and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

24. VR 125-01-5 § 3. Restricted hours, exceptions.

a. Subject of Proposal: To restrict the sale of

alcoholic beverages from 2 a.m. to 6 a.m. for all on-premises licensees and from 1 a.m. to 6 a.m. for all off-premises licensees.

b. Entities Affected: A.B.C. and retailers.

c. Purpose of Proposal: To standardize restricted hours statewide for all licensees.

d. Issue: Increasing the number of hours a licensee may sell alcoholic beverages.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-36, 4-98.14, 4-103(b) and 4-114.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

25. VR 125-01-5 § 8. Entreating, urging or enticing patrons to purchase prohibited.

a. Subject of Proposal: To clarify that alcoholic beverages placed in containers of ice (i.e., "ice beer/wine to go") by off-premises licensees is a violation of this section.

b. Entities Affected: Retailers and the public.

c. Purpose of Proposal: To place retail off-premises licensees on notice that alcoholic beverages placed in containers of ice are an enticement to purchase alcoholic beverages.

d. Issue: The placement of alcoholic beverages in containers of ice near cash registers and doors by off-premises licensees as an enticement to purchase alcoholic beverages.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-69.2, 4-98.14, 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

26. VR 125-01-5 § 10. Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.

a. Subject of Proposal: (1) Minimum monthly sales and inventory costs for retail off-premises wine and beer licensees will be decreased to \$2,000 for drugstores and \$1,000 for specialty shops; (2) minimum monthly sales and inventory costs for retail off-premises beer licensees will be decreased to \$1,000 for drugstores and increased to \$1,000 for marina stores; and (3) creation of a category for off-premises wine and beer licenses and beer licenses that does not require minimum monthly food sales.

b. Entities Affected: A.B.C., retailers and the public.

c. Purpose of Proposal: (1) and (2) To standardize monthly sales and inventory costs for most licensees; and (3) to expand the types of businesses eligible for off-premises licensee category that does not require minimum monthly food sales.

d. Issues: (1) and (2) The increase and decrease of minimum monthly sales and inventory costs for retail off-premises licensees; and (3) the creation of an off-premises licensee category that does not require minimum monthly food sales.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-25, and 4-31(a) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

27. VR 125-01-5 § 11. Definitions and qualifications for retail on-premises and on- and off-premises licenses generally; mixed beverage licensee requirements; exceptions; temporary licenses.

a. Subject of Proposal: (1) Minimum monthly sales for retail on- and off-premises wine and beer licenses will be standardized at \$2,000; (2) minimum monthly sales for retail on- and off-premises beer licenses will be standardized at \$2,000; (3) minimum monthly sales for mixed beverage licenses will be decreased to \$4,000; (4) the amount of monthly food sales for mixed beverage licensees which must be in the form of meals with entrees will be decreased to \$2,000; (5) to clarify the definition of "designated room"; (6) to repeal the requirements that (a) the seating area of a designated room shall not exceed the seating area of the required dining room and (b) the seating capacity of such room shall not be included in determining eligibility qualifications; (7) to include the seating capacity of an outside terrace or patio which is used continually during seasonal operation when determining eligibility qualifications; (8) to clarify that the definition of a "table" includes a counter or booth; and (9) to repeal § 11 D 6 b which deals with counters.

b. Entities Affected: Retail on- and off-premises licensees and on-premises licensees.

c. Purpose of Proposal: (1) and (2) To standardize minimum monthly sales for retail on-premises beer licensees and on- and off-premises wine and beer licensees; (3) and (4) to decrease minimum monthly sales and the amount of monthly food sales which must be in the form of meals with entrees for mixed beverage licensees in order to make it easier for small mixed beverage licensees to meet qualifications; (5) clarification; (6) and (7) to make eligibility qualifications less restrictive; and (8) and (9) to allow counters to be considered tables for

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meeting the minimum seating requirements.

d. Issues: (1) and (2) The standardization of minimum monthly sales; (3), (4), (6) and (7) less restrictive eligibility qualifications for mixed beverage licenses; (5) clarification; and (8) and (9) less restrictive seating requirements for mixed beverage licensees.

e. Applicable Laws: §§ 4-2(8), 4-7(1), 4-11(a), 4-25, 4-98.2 and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

28. VR 125-01-5 § 13. Clubs; applications; qualifications; reciprocal arrangements; changes; financial statements.

a. Subject of Proposal: (1) To clarify that nonmembers using club premises must be individuals, organizations or groups who qualify for banquet or banquet special events licenses; and (2) to require a club to prepare and keep its financial statement on the licensed premises for three years rather than submitting it annually to A.B.C.

b. Entities Affected: A.B.C. and clubs.

c. Purpose of Proposal: (1) Clarification; and (2) reduction of paperwork required to be filed with A.B.C.

d. Issues: (1) Clarifying nonmember qualifications for using club premises; and (2) requiring financial statements to be kept on club premises for three years rather than requiring annual submission of financial statements to A.B.C.

e. Applicable Laws: §§ 4-2(6), 4-7(1), 4-11(a), 4-61.1, 4-98.2, 4-98.14 and 4-118.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

29. VR 125-01-5 § 17. Caterer's license.

a. Subject of Proposal: To decrease the monthly gross sales average from \$5,000 to \$4,000.

b. Entities Affected: Caterers.

c. Purpose of Proposal: To conform with proposed amendments for qualifications of mixed beverage licensees (VR 125-01-5 § 11).

d. Issue: Decreasing the monthly gross sales average for a caterer.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.2(e), 4-98.7, 4-98.11 and 4-98.18 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

30. VR 125-01-5 § 19. Bed and breakfast licenses.

a. Subject of Proposal: To repeal the minimum number of bedrooms that an establishment must have to qualify for a bed and breakfast license.

b. Entities Affected: Bed and breakfast establishments.

c. Purpose of Proposal: To comply with 1991 statutory changes involving § 4-2 of the Code of Virginia.

d. Issue: Compliance with statutory law.

e. Applicable Laws: §§ 4-2, 4-7(1), 4-11(a), 4-25, 4-33, 4-38, 4-98.14 and 4-103 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

31. VR 125-01-6 § 2. Wines; purchase orders generally; wholesale wine distributors.

a. Subject of Proposal: (1) To repeal the prohibition against peddling wine to retail licensees; and (2) to repeal § 6 B 5 dealing with repossession of wine.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: (1) To allow wholesalers to peddle wine to retail licensees; and (2) to repeal outdated subdivisions.

d. Issues: (1) The peddling of wine by wholesalers; and (2) the repeal of outdated subdivisions.

e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

32. VR 125-01-6 § 6. Wine or beer importer licenses; conditions for issuance and renewal.

a. Subject of Proposal: To comply with 1991 amendments to § 4-25 D of the Code of Virginia.

b. Entities Affected: A.B.C., importers, wholesalers and brand owners of wine and beer imported into the Commonwealth.

c. Purpose of Proposal: To comply with 1991 statutory changes involving §§ 4-25, 4-118.4 and 4-118.43 of the Code of Virginia.

d. Issue: Compliance with statutory law.

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- e. Applicable Laws: §§ 4-7(b) and (1), 4-11, 4-2, 4-118.4 and 4-118.43 of the Code of Virginia.
- f. Proposed By: Virginia Beer Wholesalers Association, Inc.
33. VR 125-01-6 § 8. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits.
- a. Subject of Proposal: To repeal § 8 C which requires distilled spirits solicitor permittees to keep complete and accurate records of the solicitation of any mixed beverage licensee for two years.
- b. Entities Affected: Distilled spirits solicitor permittees and mixed beverage licensees.
- c. Purpose of Proposal: The original purpose of VR 125-01-6 § 8 C (requiring permittees to keep detailed records of solicitation of any mixed beverage licensee for a period of two years) was to monitor the compliance with the new regulations. Since this purpose has been achieved, the detailed reporting is no longer necessary.
- d. Issue: Detailed record keeping of solicitation of any mixed beverage licensee by distilled spirits solicitor permittees.
- e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.14 and 4-98.16 of the Code of Virginia.
- f. Proposed By: Virginia Distilled Spirits Representatives Association.
34. VR 125-01-6 § 8. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits.
- a. Subject of Proposal: To repeal the prohibition against soliciting mixed beverage licensees on Sundays except at conventions, trade association meetings and similar gatherings.
- b. Entities Affected: Distilled spirits solicitor permittees and mixed beverage licensees.
- c. Purpose of Proposal: To allow distilled spirits solicitor permittees to solicit mixed beverage licensees on Sundays.
- d. Issue: The solicitation of mixed beverage licensees on Sundays.
- e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.14 and 4-98.16 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.
35. VR 125-01-6 § 9. Sunday deliveries by wholesalers prohibited; exceptions.
- a. Subject of Proposal: To repeal § 9.
- b. Entities Affected: A.B.C., wholesalers and retailers.
- c. Purpose of Proposal: To allow wholesalers to deliver wine and beer to retailers on Sundays.
- d. Issue: Sunday delivery of beer and wine to retailers.
- e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-103(b) of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.
36. VR 125-01-7 § 4. Alcoholic beverages for culinary purposes; permits; purchases; restrictions.
- a. Subject of Proposal: (1) To delete the term "dining room" and substitute "an establishment where food is prepared on the premises"; and (2) to allow a culinary permittee, who does not have a license to purchase alcoholic beverages from a wholesaler, to purchase alcoholic beverages from a retailer; however, a culinary permittee who only has a beer license may purchase wine from a retailer.
- b. Entities Affected: Culinary permittees and applicants for culinary permits.
- c. Purpose of Proposal: (1) To allow individuals who do not have a dining room, but prepare food on their business premises, to be eligible for a culinary permit; and (2) to incorporate current policy.
- d. Issues: (1) Expansion of the types of businesses eligible for culinary permits; and (2) incorporation of current policy.
- e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a) and 4-61.2 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.
37. VR 125-01-7 § 7. Procedures for owners having alcoholic beverages distilled from grain, fruit, fruit products or other substances lawfully grown or produced by such person; permits and limitations thereon.
- a. Subject of Proposal: To clarify that an owner who contracts with a distiller to manufacture distilled spirits from products that the owner has lawfully grown or produced must obtain a board permit before removing the distilled spirits from the distillery's premises.

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- b. Entities Affected: Owners of distilled spirits manufactured from products that the owners have lawfully grown or produced.
- c. Purpose of Proposal: Clarification.
- d. Issue: Clarification.
- e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a) and 4-89(b) and (e) of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.

38. VR 125-01-7 § 8. Manufacture, sale, etc., of "sterno," and similar substances for fuel purposes.

- a. Subject of Proposal: To repeal § 8.
- b. Entities Affected: A.B.C.
- c. Purpose of Proposal: To repeal an outdated regulation involving "Sterno," canned heat and similar substances intended for fuel purposes.
- d. Issue: The repeal of § 8.
- e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-48 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.

39. VR 125-01-7 § 13. Special mixed beverage licenses; location; special privileges; taxes on licenses.

- a. Subject of Proposal: To remove the sale of beer and wine from the determination of the 45% food to 55% alcoholic beverage ratio.
- b. Entities Affected: Special mixed beverage licensees.
- c. Purpose of Proposal: To comply with § 4-98.7 of the Code of Virginia.
- d. Issue: Compliance with statutory law.
- e. Applicable Laws: §§ 4-98.2, 4-98.14 and 7.1-21.1 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.

40. VR 125-01-7 § 16. Alcoholic Beverage Control Board.

- a. Subject of Proposal: To repeal § 16.
- b. Entities Affected: A.B.C.
- c. Purpose of Proposal: To repeal a regulation

which is a restatement of § 4-6.1 of the Code of Virginia (i.e. Whenever the word "Commission" shall appear and the clear context of the meaning is intended to refer to the A.B.C. Commission, it shall be taken to mean the A.B.C. Board).

- d. Issue: The repeal of § 16.
- e. Applicable Laws: §§ 4-3 and 4-6.1 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.

41. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(1), 4-11(a), 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

42. The board requests that all persons interested in the above described subject please submit comments in writing by 10 a.m. June 20, 1991, to the undersigned, P. O. Box 27491, Richmond, Virginia 23261, or attend the public meeting scheduled below. Comments may also be faxed to (804) 367-8249 (if the original paperwork is also mailed).

43. The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia, at 10 a.m. on June 20, 1991.

44. Regarding the proposals as set forth above, all references to existing regulations that may be the subject of amendment or repeal, all references to proposed numbers for new regulations or to applicable laws or regulations are for purposes of information and guidance only, and are not to be considered as the only regulations or laws that may be involved or affected when developing draft language to carry out the purposes of any proposal. This notice is designed, primarily, to set forth the subject matter and objectives of each proposal. In developing draft language, it may be necessary to amend or repeal a number of existing regulations and/or adopt new regulations as may be deemed necessary by the board, and the references set forth above are not intended to be all inclusive.

45. Contact the undersigned, if you have questions, at the above address or by phone at (804) 367-0616.

Virginia Alcoholic Beverage Control Board

Robert N. Swinson
Secretary

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98-14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until 10 a.m. on June 20, 1991.

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider amending regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, adjustment of examination fees; establishment of a nail technician licensing program; and establishment of an esthetician licensing program.

Statutory Authority: §§ 54.1-201(5) and 54.1-113 the Code of Virginia.

Written comments may be submitted until July 7, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.



DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-01-01. Public Participation Guidelines.** The purpose of the proposed action is to provide consistent, written guidelines in order to ensure input from interested parties at all stages of the regulatory process.

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

Written comments may be submitted until June 3, 1991.

Contact: Susan R. Rowland, Assistant to the Commissioner, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3561.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR**

355-18-000. Waterworks Regulations. The purpose of the proposed action is to make appropriate amendments to make state regulations as stringent as federal for Total Coliform Rule and Surface Water Treatment Rule, Lead and Copper Rule, Standardized Monitoring Rule, and Phase II (SOC & IOC).

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until June 17, 1991.

Contact: Allen R. Hammer, P.E., Division Director, Virginia Department of Health - Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

DEPARTMENT OF LABOR AND INDUSTRY

† The Notice of Intended Regulatory Action relating to VR 425-01-80, "Virginia Hours of Work for Minors," originally published in the May 20, 1991, issue of the Virginia Register is being withdrawn.

The reason for this withdrawal is because the proposed regulatory action has been determined to be exempt from the public participation requirements of Article 2 of the Administrative Process Act under § 9-6.14:4.1(C)(4)(a) of the Code of Virginia, and will therefore have to be adopted as required by that Code section.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-81. Employment of Minors on Farms, in Gardens and in Orchards.** The purpose of the proposed regulation is to regulate certain child labor in the agricultural industry.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9), and 40.1-114 of the Code of Virginia.

Written comments may be submitted until June 24, 1991.

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241-0064, telephone (804) 786-2384.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1930. Medicaid Payment for Reserving Nursing Home Bed for Hospitalized**

General Notices/Errata

Patient: Elimination of Bed Hold Days. The purpose of the proposed action is to promulgate permanent regulations to supersede emergency regulations providing for this policy.

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

Written comments may be submitted until June 3, 1991.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases including Abnormal Conditions of Human Eye and its Adnexa with Certain Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to amend §§ 2.1 (3) and 6.1 to provide alternative pathways for graduates of optometric training to be eligible to sit for the certification examination to treat ocular diseases with therapeutic pharmaceutical agents.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 19, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-01. Mandatory Standards for Community Mental Health Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director,

Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-02. Mandatory Standards for Community Programs for the Mentally Retarded.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-05-01. Mandatory Standards for Community Substance Abuse Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider promulgating regulations entitled: **Certification of Case Management.** The purpose of the proposed action is to certify facilities for the provision of case management, therapeutic consultation and residential support services if these services are to be reimbursed by the Department of Medical Assistance Services.

Written comments may be submitted until July 5, 1991, to Ben Saunders, Jr., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider repealing existing regulations entitled **VR 485-10-8401. Public Participation Guidelines** and to promulgate new regulations entitled **Public Participation Guidelines for Regulation Development and Promulgation**. The purpose of the proposed action is to establish guidelines for receiving input and participation from interested citizens in the development of any regulations which the department proposes.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Written comments may be submitted until June 30, 1991, to Nancy G. LaGow, P.O. Box 27412, Richmond, Virginia 23269.

Contact: Bruce Gould, Planning Supervisor, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0453.

DEPARTMENT OF PERSONNEL AND TRAINING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Personnel and Training intends to consider promulgating regulations entitled: **VR 525-01-01. Public Participation Guidelines**. The purpose of the proposed action is to publish guidelines for public participation in the development of regulations.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Written comments may be submitted until June 14, 1991.

Contact: Audrey M. Harris, Legislative Liaison, Department of Personnel and Training, James Monroe Building, 12th Floor, Richmond, VA 23219, telephone (804) 225-2131.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR**

530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances. The purpose of the proposed action is to establish a permanent fee for initial licensure of practitioners of the healing arts to sell controlled substances. The present fee was established pursuant to an emergency regulation which will expire on September 18, 1991.

Statutory Authority: §§ 54.1-2400 and 54.1-3303 of the Code of Virginia.

Written comments may be submitted until June 11, 1991.

Contact: Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgate regulations entitled: **Administrative Disqualification Hearings for the Food Stamp Program**. The purpose of the proposed action is to implement § 63.1-124.23 of the Code of Virginia and federal regulations at 7 CFR 273.16, to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred.

Statutory Authority: § 63.1-25.2 of the Code of Virginia.

Written comments may be submitted until June 19, 1991, to Burt Richman, FSP Manager, VDSS, 8007 Discovery Drive, Richmond, Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards**. The purpose of the proposed action is to modify the standards to ensure that water quality is protected, beneficial water uses are updated and obsolete standards are cancelled. To accomplish this the board will consider amendments which include but are not limited to updating the Outstanding State Resource Waters (VR 680-21-07.2) and Nutrient Enriched Waters (VR 680-21-07.3) sections; updating the River Basin Section Tables (VR 680-21-08) to include trout stream reclassifications and new public water supplies; and

General Notices/Errata

other amendments deemed necessary by staff based on previous comments received during the 1990 triennial review of the water quality standards.

Depending on the specific amendments proposed, these amendments could impact those existing and potential permittees that discharge or may discharge into waterbodies proposed for reclassification. The proposed action is authorized by the statute cited below and is governed by the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), the Water Quality Standards (VR 680-21-00), the Permit Regulation (VR 680-14-01), and Section 303 of the Clean Water Act. For review or copies of applicable laws and regulations, contact Eleanore Daub at the address below.

Written comments may be submitted until 4 p.m. on Tuesday, June 18, 1991.

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

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418.

† 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 680-21-00. Water Quality Standards.** The purpose of the proposed action is to establish a site-specific modification to the numerical water quality standard for copper in the section of the Clinch River that receives the discharge from Appalachian Power Company's facility at Carbo.

A change in the numerical standard for copper in this section of the Clinch River would impact Appalachian Power company's facility at Carbo by requiring upgrades to the existing treatment facilities. Applicable laws and regulations include the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), Permit Regulation (VR 680-14-01), Water Quality Standards (VR 680-21-00), and the Clean Water Act. For review or copies of applicable laws and regulations contact Alex Barron at the address below.

Written comments may be submitted until 4 p.m. on Wednesday, June 19, 1991.

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

Contact: Alex Barron, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0387.

† 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 680-21-00. Water Quality Standards and VR 680-14-02. Nutrient Policy.** The purpose of the proposed action is to consider amending the Water Quality Standards and the Nutrient Policy. Several Northern Virginia jurisdictions and authorities have petitioned the board to revise the Potomac Embayment Standards. The revisions may include (i) amendments to the Water Quality Standards necessary to remove effluent limitations imposed on discharges to the Potomac Embayments in the water quality standards and (ii) amendments to the Nutrient Policy to impose controls on total phosphorus discharged to Potomac Embayments designated nutrient enriched in the Water Quality Standards. This proposed action will more appropriately allow for the development of necessary permit limitations through the Permit Regulation, with the exception of controls on the discharge of phosphorus through the Nutrient Policy. In addition, the proposal will include minor editorial amendments. No financial impact on the regulated community is expected from the proposed action. The proposed action is authorized by the statute cited below and is governed by the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia).

Written comments may be submitted until 4 p.m. on Wednesday, June 19, 1991.

Statutory Authority: §§ 62.1-44.15(3a) and 62.1-44.15(10) of the Code of Virginia.

Contact: James C. Adams, Regional Director, Northern Regional Office, State Water Control Board, 1519 Davis Ford Rd., Suite 14, Woodbridge, VA 22192, (703) 490-8922.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-05. 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, York and James City SD No. 1 and York Regional sewage treatment plants 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 wasteload allocations for industrial and municipal discharges in critical water quality segments. Since the facilities do not discharge to a critical (water quality limited) segment, inclusion of these facilities 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 these facilities will have

no adverse impact on the dischargers or water quality. The quality and quantity of the discharges 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 (§ 62.1-44.2 et seq. of the Code of Virginia); Permit Regulation (VR 680-14-01); Water Quality Standards (VR 680-21-00); the Clean Water Act, 33 USCA Section 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.

Written comments may be submitted until 4 p.m. on Wednesday, June 19, 1991.

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

Contact: Robert F. Jackson, Jr., Tidewater Regional Office, State Water Control Board, 287 Pembroke Office Park, Suite 310, Virginia Beach, VA 23462, telephone (804) 552-1840.

GENERAL NOTICES

SECRETARY OF THE COMMONWEALTH

**† Notice to Counties, Cities, Towns, Authorities,
Commissions, Districts and Political Subdivisions of the
Commonwealth.**

Notice is hereby given that pursuant to § 2.1-71 of the Code of Virginia, each county, city and town and each authority, commission, district or other political subdivision of the Commonwealth to which any money is appropriated by the Commonwealth or any of the above which levies any taxes or collects any fees or charges for the performance of public services or issues bonds, notes or other obligations, shall annually file with the Secretary of the Commonwealth a list of all bond obligations, the date and amount of the obligation and the outstanding balance therein, on or before June 30 of each year.

Enclosed is a copy of the form which may be photocopied for use herein described.

Statutory Authority: § 2.1-71 of the Code of Virginia.

Contact: Sheila A. Evans, Conflict of Interest and Appointments Specialist, P.O. Box 1-D, Richmond, VA 23219, telephone (804) 786-2441.

General Notices/Errata

OFFICIAL TITLE: _____

FILING FORM PER SECTION 2.1-71 OF THE CODE OF VIRGINIA - 1991
OFFICE OF THE SECRETARY OF THE COMMONWEALTH

<u>Type of Obligation</u>	<u>Date Issued</u>	<u>Amount of Issue</u>	<u>Balance Outstanding</u>	<u>Type of Project Financed</u>
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GEORGE MASON UNIVERSITY

† Notice to the Public

The Parking Regulation for George Mason University was filed with the office of the Registrar of Regulations on May 13, 1991. The Parking Service Office advises that they will become effective on July 1, 1991.

Contact: Ronald E. Shayka, Senior Manager of Parking Services, 4400 University Drive, Fairfax, VA, telephone (703) 323-2610.

DIVISION OF LEGISLATIVE SERVICES

Public Notice

The next issue of The Legislative Record, summarizing May meetings of legislative study commissions and joint subcommittees, will be published in early June. Because of a dearth of such meetings in April, the May issue will not be published.

REAL ESTATE APPRAISER BOARD

† Notice of Extension of Effective Date for the Licensure of Real Estate Appraisers

In the April 8, 1991, issue of the Virginia Register of Regulations a public notice announced that the Real Estate Appraiser Board, subject to federal approval, extended the effective date of the real estate appraiser licensing requirements of Chapter 20.1, §§ 54.1-2009 through 54.1-2019, of Title 54.1 of the Code of Virginia to December 31, 1991. The Real Estate Appraiser Board received notice on April 29, 1991, that the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council approved an extension, until December 31, 1991, of the effective date for the use of certified or licensed appraisers for all appraisals performed in connection with federally related transactions.

Therefore, the effective date of the real estate appraiser licensing requirements of Chapter 20.1, §§ 54.1-2009 through 54.1-2019, of Title 54.1 of the Code of Virginia is hereby extended to December 31, 1991.

Copies of the Appraisal Subcommittee notice are available upon request to the Appraisal Subcommittee, Federal Financial Institutions Examinations Council, 1776 G Street N.W., Suite 850B, Washington, D.C. 20006.

For further information regarding Virginia's Real Estate Appraiser Board, please contact Mrs. Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 West Broad St., Richmond, VA 23230, (804) 367-2175.

DEPARTMENT OF WASTE MANAGEMENT

† Public Notice

DESIGNATION OF REGIONAL SOLID WASTE MANAGEMENT PLANNING AREA

In accordance with the provision of § 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 Counties of Fauquier, Madison, Orange, Rappahannock and the Towns of Warrenton, Remington, Plains, Madison, Orange, Gordonsville and Washington. The Rappahannock Rapidan Planning District Commission will be designated contact 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.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on July 3, 1991, to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th St., Richmond, VA 23219, FAX 804-225-3753 or TDD 804-871-8737.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, (804) 225-2667 or toll-free 1-800-552-2075.

NOTICE 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.

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:

General Notices/Errata

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.

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

† July 16, 1991 - 11 a.m. - Public Hearing
3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider amending regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The proposed regulations establish continuing professional education requirements for original licensure and license renewal.

STATEMENT

Basis, purpose, issues, and impact: Pursuant to § 54.1-201(5) of the Code of Virginia and in accordance with § 9-6.14:7.1, the Board for Accountancy proposes to amend its current regulations and to propose regulations which establish continuing professional education requirements for original licensure and license renewal.

The proposed regulations apply to approximately 4,614 certified public accountants, 5,434 licensed certified public accountants, and 272 registered professional corporations.

The amendments to the current regulations of the Board for Accountancy are a result of the board's decision, pursuant to § 54.1-2002(C) of the Code of Virginia, to propose regulations establishing continuing education

requirements for licensed certified public accountants.

This document will outline the general basis, purpose, issues and impact of the CPE requirements as a whole as well as the specific proposed amendments to the regulations.

The need for continuing professional education (CPE) has become increasingly evident since the U.S. General Accounting Office found that Certified Public Accountants were performing substandard government audits in high percentages. These audits are relied upon by third parties and must be properly prepared. Consequently, effective January 1, 1989, federal law required that auditors responsible for planning, directing, conducting or reporting on government audits must meet CPE requirements. In addition, effective January 1, 1990, the American Institute of Certified Public Accountants established a requirement for all members in public practice to complete 40 credit hours of CPE each year.

The federal government requirement established a direction for the CPA profession, further, 48 states currently have in place CPE requirements for licensed CPAs. New York conducted a three-year study on the effectiveness of their CPE requirement. The study concluded that there was a positive relationship between participation in continuing education and accountancy knowledge. Study findings also clearly indicated that the state requirement for CPE increased the level of participation among all groups of accountants, and, absent the state requirement, fully one-third of the responding accountants indicated that they would participate less than they had in past years.

Certified Public Accountants pose a potential threat to public welfare in their role in the financial and tax reporting process so vital to the financial industry, large and small businesses, and the general public. The new technical pronouncements in accounting and auditing in the past 20 years, and the ever changing tax laws make it incumbent upon practitioners to maintain their skills through continuing education. The Board for Accountancy believes the public needs and will benefit by this assurance of continuing professional ability by licensed CPAs.

The Virginia Board for Accountancy does not envision this program as a quick fix for an ever changing profession, but as a mandatory requirement resulting in a commitment to continued professionalism. As a result, the board sees 40 hours of CPE as a reasonable requirement which will assist the profession in remaining current with changes in tax laws and accounting procedures. Another

Calendar of Events

mark of an effective CPE program is quality courses. To that end, the Board for Accountancy proposes to adopt high standards for approving course sponsors.

The proposed CPE requirements will apply to approximately 7,000 licensees who would bear responsibility for completing and reporting CPE courses taken. The Board for Accountancy clearly sees that CPE requirements will cost the licensees in terms of fees for courses, transportation, and time away from the office. Studies reveal that more than 70% of CPAs are reimbursed by their employers for CPE and between 75% and 80% get paid time-off to attend CPE courses. The impact of the CPE requirement on the sole practitioner or small firm is greater.

It is estimated that an eight credit CPE course currently costs on the average from \$75 to \$175; however, other options are available at a much reduced cost per credit hour. The availability of such courses is also rising as one CPE provider plans to offer more than 200 self-study courses for the 1991-92 year. The Board for Accountancy strongly encourages that every effort be made to make CPE cost efficient as well as readily available to all licensees, and believes the marketplace will respond to this need as colleges and universities, community colleges and private vendors offer courses.

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

Written comments may be submitted until August 2, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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† July 16, 1991 - 11 a.m. - Public Hearing
3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider adopting regulations entitled: **VR 105-01-03. Continuing Professional Education Sponsor Registration Rules and Regulations.** The proposed regulations establish entry requirements, renewal/reinstatement requirements and establish the standards of practice for continuing professional education sponsors.

STATEMENT

Basis, purpose, issues, and impact: Pursuant to § 54.1-201(5) of the Code of Virginia and in accordance with § 9-6.14:7.1, the Board for Accountancy proposes to adopt Continuing Professional Education Sponsor Registration Rules and Regulations as authorized by § 54.1-2002(C) of the Code of Virginia.

The need for continuing professional education (CPE) has

become increasingly evident since the U.S. General Accounting Office found that Certified Public Accountants were performing substandard government audits in high percentages. These audits are relied upon by third parties and must be properly prepared. Consequently, effective January 1, 1989, federal law required that auditors responsible for planning, directing, conducting or reporting on government audits must meet CPE requirements. In addition, effective January 1, 1990, the American Institute of Certified Public Accountants established a requirement for all members in public practice to complete 40 credit hours of CPE each year.

The federal government requirement established a direction for the CPA profession, further, 48 states currently have in place CPE requirements for licensed CPAs. New York conducted a three-year study on the effectiveness of their CPE requirement. The study concluded that there was a positive relationship between participation in continuing education and accountancy knowledge. Study findings also clearly indicated that the state requirement for CPE increased the level of participation among all groups of accountants, and, absent the state requirement, fully one-third of the responding accountants indicated that they would participate less than they had in past years.

Certified public accountants pose a potential threat to public welfare in their role in the financial and tax reporting process so vital to the financial industry, large and small businesses, and the general public. The new technical pronouncements in accounting and auditing in the past 20 years, and the ever changing tax laws make it incumbent upon practitioners to maintain their skills through continuing education. The Board for Accountancy believes the public needs and will benefit by this assurance of continuing professional ability by licensed CPAs.

The Board for Accountancy does not envision this program as a quick fix for an ever changing profession, but as a mandatory requirement resulting in a commitment to continued professionalism. As a result, the board sees 40 hours of CPE as a reasonable requirement which will assist the profession in remaining current with changes in tax laws and accounting procedures. Another mark of an effective CPE program is quality courses. To that end, the Board for Accountancy proposes to adopt high standards for approving course sponsors.

The proposed CPE requirements will apply to approximately 7,000 licensees who would bear responsibility for completing and reporting CPE courses taken. The Board for Accountancy clearly sees that CPE requirements will cost the licensees in terms of fees for courses, transportation, and time away from the office. Studies reveal that more than 70% of CPAs are reimbursed by their employers for CPE and between 70% and 80% get paid time-off to attend CPE courses. The impact of the CPE requirement on the sole practitioner or small firm is greater.

It is estimated that an eight credit CPE course currently costs on the average from \$75 to \$175; however, other options are available at a much reduced cost per credit hour. The availability of such courses is also rising as one CPE provider plans to offer more than 200 self-study courses for the 1991-92 year. The Board for Accountancy strongly encourages that every effort be made to make CPE cost efficient as well as readily available to all licensees, and believes the marketplace will respond to this need as colleges and universities, community colleges and private vendors offer courses.

The board is proposing these regulations to ensure standards for CPE sponsors and the courses they will offer Virginia licensees. After considerable study, the board determined it impossible to approve individual courses, but rather opted to approve sponsors in an effort to control the quality of courses. Research of other state programs support sponsor approval.

Statutory Authority: §§ 54.1-201(5) and 54.1-2002(C) of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.



DEPARTMENT FOR THE AGING

June 4, 1991 - 10 a.m. – Public Hearing
Southwest Virginia Community College, Russell Hall Auditorium, Richlands, Virginia

June 5, 1991 - 10 a.m. – Public Hearing
Melrose Towers, 3038 Melrose Avenue NW, Roanoke, Virginia

June 12, 1991 - 10 a.m. – Public Hearing
Richard Bland College, 11301 Johnson Road, Petersburg, Virginia

June 13, 1991 - 10 a.m. – Public Hearing
Norfolk State University, 2401 Corprew Avenue, Norfolk, Virginia

June 26, 1991 - 10 a.m. – Public Hearing
The Massey Building, 4100 Chain Bridge Road, Fairfax, Virginia

A meeting to accept comments on the proposed State Plan for Aging Services developed pursuant to Title III

of the Older Americans Act, as amended. Interested persons may submit data, views, and arguments, either orally or in writing, to the Department.

To receive a copy of the proposed State Plan and to obtain further information, write to or call the Department for the Aging.

See the General Notices section for additional information.

Contact: William H. McElveen, Deputy Commissioner, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327, (804) 225-2271 or toll-free in Virginia 1-800-552-0446.

† **June 7, 1991 - 9 a.m. – Open Meeting**
Ninth Street Office Building, 6th Floor, Conference Room (HHR), Richmond, Virginia.

A general business of the Long-Term Council.

Contact: Janet Lynch, Director, Long-Term Care, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 321-0552 or (804) 225-2271/TDD ☎

Long-Term Care Ombudsman Program Advisory Council

† **June 25, 1991 - 9 a.m. – Open Meeting**
Virginia Health Care Association, 2112 West Laburnum Avenue, No. 206, Richmond, Virginia. ☒

Business will include discussion on legislative initiatives related to long-term care and the Long-Term Care Ombudsman Program.

Contact: Ms. Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ or toll-free 1-800-552-3402.

STATE AIR POLLUTION CONTROL BOARD

June 7, 1991 - 9 a.m. – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

A meeting to consider proposed air toxics regulations and will participate in a work session on best available control technologies. Agendas will be available two weeks before the meeting.

Contact: Kathleen Sands, Staff-Board Liaison, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

Calendar of Events

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

June 6, 1991 - 9 a.m. – Open Meeting
Sheraton Inn Virginia Beach, Oceanfront at 36th Street,
Virginia Beach, Virginia. ☒

A meeting to (i) approve minutes from the March 14,
1991, meeting; (ii) review correspondence; and (iii)
review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department
of Commerce, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8514.

ASAP POLICY BOARD - MOUNT ROGERS

Board of Directors

June 5, 1991 - 1 p.m. – Open Meeting
Oby's Restaurant, Marion, Virginia. ☒ (Interpreter for deaf
provided upon request)

A bi-monthly business meeting to conduct business as
follows: (i) call to order; (ii) roll call; (iii) approval of
minutes; (iv) unfinished business; (v) new business;
and (vi) adjournment.

Contact: J. L. Reedy, Jr., Director, Mount Rogers Alcohol
Safety Action Program, 1102 N. Main St., Marion, VA
23454, telephone (703) 783-7771.

ATHLETIC BOARD

June 28, 1991 - 10 a.m. – Open Meeting
3600 West Broad Street, Richmond, Virginia.

Annual meeting of the Virginia Athletic Board.
Discussion of regulations pertaining to conduct of bout
and license fees. BBContact: Doug Beavers, Assistant
Director, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8507.

VIRGINIA AUCTIONEERS BOARD

† **June 18, 1991 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

An open meeting to conduct regulatory review and
other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator,
Department of Commerce, 3600 W. Broad St., Richmond,
VA 23230-4917, telephone (804) 367-8534.

BOARD FOR BARBERS

† **June 10, 1991 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review
correspondence; (iii) review enforcement cases; and
(iv) consider routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W.
Broad St., Richmond, VA 23230-4917, telephone (804)
367-8590.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **June 14, 1991 - 10 a.m. – Open Meeting**
Fourth Street Office Building, 205 North Fourth Street, 2nd
Floor Conference Room, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A meeting to (i) consider requests for interpretation of
the Virginia Uniform Statewide Building Code; (ii)
consider appeals from the rulings of local appeal
boards regarding application of the Virginia Uniform
Statewide Building Code; and (iii) to approve minutes
of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, VA
23219, telephone (804) 786-4752.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **June 20, 1991 - 10 a.m. – Open Meeting**
General Assembly Building, Senate Room B, 910 Capitol
Street, Richmond, Virginia. ☒ (Interpreter for deaf
provided upon request)

The early part of the meeting will be a public hearing
on proposed amended regulations: VR 173-02-01.
Chesapeake Bay Preservation Area Designation and
Management Regulations. Following the public hearing,
other public comment will be heard, and the board
will conduct general business, including awarding local
assistance grants for fiscal year 1992. A tentative
agenda will be available from the Chesapeake Bay
Local Assistance Department by June 12.

Contact: Receptionist, 805 E. Broad St., Suite 701,
Richmond, VA 23219, telephone (804) 225-3440 or toll-free
1-800-243-7229/TDD ☎

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June 20, 1991 - 10 a.m. – Public Hearing
General Assembly Building, Senate Room B, 910 Capitol
Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to amend regulations entitled: **VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.** This proposed regulation provides criteria for the identification, designation, and management of Chesapeake Bay Preservation Areas, clarifying the definition of public roads, changing the time limit for completion of some components of local programs, and substituting the date October 1, 1989, for the term "Effective Date."

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

Written comments may be submitted until July 5, 1991.

Contact: Scott Crafton, Chesapeake Bay Local Assistance Department, Room 701, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-7503 or toll-free 1-800-243-7229.

CHILD DAY-CARE COUNCIL

† **June 13, 1991 - 9 a.m.** – Open Meeting
Koger Executive Center (West End), Blair Building, Conference Rooms A & B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns, and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. If necessary, the meeting will be continued on June 27, 1991 from 9 a.m. to 4:30 p.m. in the Wythe Building, Conference Rooms A & B, No. 145 at 8007 Discovery Dr., Richmond, VA.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699.

DEPARTMENT FOR CHILDREN

Advisory Board

† **June 11, 1991 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 Belevudere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The final meeting of the advisory board before the abolishment of the Department for Children.

Contact: B. Norris Vassar, Acting Director, 805 E. Broad St., Eighth Street Office Bldg., 11th Floor, Richmond, VA 23219, telephone (804) 786-5507.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

June 21, 1991 - 8:30 a.m. – Open Meeting
July 19, 1991 - 8:30 a.m. – Open Meeting
Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

June 12, 1991 - 10:30 a.m. – Open Meeting
Virginia Institute of Marine Science, Director's Conference Room. ☒

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Jack E. Frye, Shoreline Programs Bureau Manager, Shoreline Programs Bureau, P.O. Box 1024, Gloucester Point, VA 23062, telephone (804) 642-7121 or SCATS 842-7121.

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Cave Board

† **June 8, 1991 - 1 p.m.** – Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

A regularly scheduled meeting to discuss matters relating to cave and karst protection, cave inventory, cave management, and cave ecology.

Contact: Larry Smith, Natural Area Program Manager, Department of Conservation and Recreation, Division of Natural Heritage, 203 Governor St., Richmond, VA 23219, telephone (804) 371-6205.

Recreation in the Juvenile Justice System

June 7, 1991 - 10 a.m. – Open Meeting
Peaks of Otter Lodge, Bedford, Virginia.

A meeting to review progress on project.

Calendar of Events

Contact: Patricia H. Helms, Recreation Specialist, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 371-0348 or 786-2121/TDD ☎

BOARD FOR CONTRACTORS

Recovery Fund Committee

June 18, 1991 - 9 a.m. - Open Meeting
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims filed against Virginia Contractor Transaction Recovery Fund. Open to the public, however, a portion of the discussion may be conducted in Executive Session.

Contact: Vickie Brock, Recovery Fund Administrator, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2394.

BOARD OF CORRECTIONS

June 19, 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

† **June 3, 1991 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☎

The board will continue to develop the nail and cosmetology examinations.

† **June 17, 1991 - 9 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; (v) discuss routine board business; and (vi) meet with cosmetology schools to explain new cosmetology practical examination.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

CRIMINAL JUSTICE SERVICES BOARD

† **June 17, 1991 - 11 a.m. - Open Meeting**
General Assembly, House Room D, 910 Capitol 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.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

DEPARTMENTS OF EDUCATION, MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

June 7, 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 Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intends to amend regulations entitled: **VR 270-01-003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** This regulation is designed to assure adequate care, treatment, and education are provided by residential facilities for children. The proposed revisions amend and clarify requirements governing management of resident behavior.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10, and 66-24 of the Code of Virginia.

Written comments may be submitted until June 7, 1991, to Rhonda G. Merhout-Harrell, Office of Interdepartmental Regulation, 8007 Discovery Drive, Richmond, Virginia.

Contact: John J. Allen, Coordinator, Office of Coordinator, Interdepartmental Regulation, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-7124.

VIRGINIA EGG BOARD

June 28, 1991 - 4 p.m. - Open Meeting
Royal Princess Hotel, 91st Street, Ocean City, Maryland.

A meeting to discuss general business and financial matters pertaining to the egg board.

Contact: Cecilia Glembocki, Program Director, 911

Saddleback Court, McLean, VA 22102, telephone (703) 433-2451.

STATE BOARD OF ELECTIONS

† June 10, 1991 - 10 a.m. - Open Meeting
Ninth Street Office Building, 200 North 9th Street, Room 625, Richmond, Virginia. ☒

A meeting to ascertain and certify the results of the June 4, 1991, special election for the 40th Senatorial District.

Contact: Lisa M. Strickler, Executive Secretary Senior, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551 or toll-free 1-800-552-9745/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

† June 12, 1991 - 6 p.m. - Open Meeting
Alexandria Police Department, 2003 Mill Road, Alexandria, Virginia. ☒

An open meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

Contact: Charles W. McRorie, Emergency Preparedness Coordinator, 900 Second St., Alexandria, VA 23214, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

June 6, 1991 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, Room 502, 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.

LOCAL EMERGENCY PLANNING COMMITTEE - HANOVER COUNTY

† June 4, 1991 - 9 a.m. - Open Meeting
Hanover Volunteer Fire Company No. 5, Route 1004 at Route 301 North, Hanover, Virginia.

A meeting to discuss (i) old business; (ii) new business; and (iii) task assignments/discussion for exercise.

Contact: John F. Trivellin, Hazardous Materials Coordinator, P.O. Box 470, Hanover, VA 23069, telephone (804) 798-8554.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† June 11, 1991 - 3 p.m. - Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

Development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or SCATS 676-4012.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

June 17, 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.

† COUNCIL ON THE ENVIRONMENT

† June 25, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

This is a quarterly meeting of the council. The council will consider issuing two regulations for public review and comment.

The first regulation to be considered will be entitled: VR 305-01-01. Public Participation Guidelines. The regulation will establish procedures for soliciting public participation when formulating and developing regulations.

The second regulation to be considered will be entitled: VR 305-02-10. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater, Virginia. The regulation will establish criteria and procedures for preparing and reviewing environmental impact assessments for oil or gas well drilling operations proposed in Tidewater, Virginia. The council will also vote to release these guidelines for public review and

Calendar of Events

comment.

Other business items may be scheduled for council consideration. The public will have an opportunity to comment on any matter related to environmental management during the Citizen Forum portion of the agenda. A preliminary meeting agenda will be available on June 3, 1991.

Contact: Hannah Crew, Assistant Administrator, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500 or (804) 786-6152/TDD ☎

VIRGINIA FARMERS' MARKET BOARD

† **June 6, 1991 - 1 p.m.** – Open Meeting
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

Budget up-date and future operations concerning the Farmers' Market will be discussed.

Contact: Nancy Israel, Program Director, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3824.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **June 13, 1991 - 9 a.m.** – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A regularly scheduled board meeting. Public comment will be received during the last 30 minutes of the meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907.

DEPARTMENT OF GENERAL SERVICES

Division of Forensic Science

† **June 14, 1991 - 10 a.m.** – Open Meeting
Monroe Tower Building, Conference Room D, 101 North 14th Street, Richmond, Virginia.

The Advisory Board will discuss issues, concerns, programs that impact the Division of Forensic Science and its user agencies.

Contact: Dr. Paul B. Ferrara, Director, 1 N. 14th St., Richmond, VA 23219, telephone (804) 786-2281.

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **June 19, 1991 - 2 p.m.** – Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

A meeting to discuss the board's direction through the identification of priority issues for the board's action.

Contact: Sue Jowdy, Executive Assistant, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or toll-free 1-800-343-0634/TDD ☎



STATE BOARD OF HEALTH

June 20, 1991 - 10 a.m. – Open Meeting
Virginia Commonwealth University, University Center, 101 North Harrison Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session will be held. At 7:30 p.m. there will be an informal dinner at Raddison Hotel.

June 21, 1991 - 9 a.m. – Open Meeting
Stuart Circle Hospital, 413 Stuart Circle, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Susan R. Rowland, Policy Analyst Senior, Virginia Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 786-3561.

BOARD OF HEALTH PROFESSIONS

Administration and Budget Committee

June 19, 1991 - 10 a.m. – Open Meeting
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review the department's budget for 92-94 biennium.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918.

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Compliance and Discipline Committee

† **June 21, 1991 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 3, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

The committee will meet to continue its review of enforcement activities including implementation of Board of Health Professions' recommendations and resulting from the 1990 Review of Enforcement and Discipline in the Department of Health Professions.

Contact: Richard Morrison, Executive Directive, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904.

Regulatory Research Committee

† **June 20, 1991 - 9 a.m.** – Open Meeting
General Assembly Building, Conference Room 4 West, 910
Capitol Street, Richmond, Virginia. ☒

The committee will meet to (i) continue its review of the need to regulate therapeutic recreation specialists and activity professionals, (ii) review and comment on regulations proposed or adopted for promulgation by boards within the Department of Health Professions, and (iii) assess the need for Board of Health Professions' review of the regulation and supervision of dental hygienists and the regulation of marriage and family specialists.

Contact: Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904.

DEPARTMENT OF HEALTH PROFESSIONS

Task Force on the Need for Medication Technicians

June 20, 1991 - 2 p.m. – Public Hearing
State Capitol, House Room 1, Richmond, Virginia. ☒

An informational public hearing on the study of the need for and qualifications of medication technicians in long-term and other health care facilities.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **June 24, 1991 - 8:30 a.m.** – Open Meeting
Blue Cross/Blue Shield of Virginia, The Virginia Room,
2015 Staples Mill Road, Richmond, Virginia. ☒

A meeting to review history, mission statement, and

goals and objectives of the council.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☒

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July 23, 1991 - noon – Public Hearing
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed amendments deal with the Annual Charge Survey conducted by the council. The anticipated charges will reflect more accurately what information will be collected from nursing homes and hospitals. The amendments also clarify that health care institutions which are part of continuing care retirement centers, have licensed home for adult beds, or have licensed nursing home beds as part of a hospital, must segregate the patient care activities provided in its nursing home components from its nonpatient care activities when completing the report forms required by council.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Written comments may be submitted until July 20, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION

June 5, 1991 - 9 a.m. – Open Meeting
State Council of Higher Education, Conference Room, 9th Floor, Monroe Building, Richmond, Virginia. ☒

A general business meeting. For more information contact council.

Contact: Barry Dorsey, Deputy Director, 101 N. 14th St., 9th Fl., Monroe Building, Richmond, VA 23219, telephone (804) 225-2632.

BOARD OF HISTORIC RESOURCES

† **June 19, 1991 - 10:30 a.m.** – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

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A general business meeting.

Contact: Margaret Peters, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

State Review Board

† **June 18, 1991 - 10 a.m. – Open Meeting**
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places.

CEDAR GROVE CEMETERY, City of Portsmouth (DHR 124-58)
FOLLY CASTLE HISTORIC DISTRICT (EXTENSION), Petersburg (DHR 123-96)
FOREST OAKS, Rockbridge County (DHR 81-207)
HANOVER MEETING HOUSE, Hanover County (44HN82)
LOCUST GROVE, Bedford County (DHR 09-153)
MOUNT ZION BAPTIST CHURCH, City of Charlottesville (DHR 104-181)
PORT MICOU, Essex County (DHR 28-274)
SAINT JOHN'S EPISCOPAL CHURCH, City of Roanoke (DHR 128-236)
SHILOH SCHOOL, Northumberland County (DHR 66-34)
SOUTH MARKET STREET HISTORIC DISTRICT, City of Petersburg (DHR 123-108)

Contact: Margaret T. Peters, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

June 4, 1991 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

† **June 13, 1991 - 9 a.m. – Open Meeting**
205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director of Building Regulation, Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-4752 or (804) 786-5405/TDD ☎

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

† **July 15, 1991 - 10 a.m. – Public Hearing**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-06. Virginia Statwide Fire Prevention Code/1990.** The proposed amendments are necessary to incorporate fees for explosive permits and blaster certification authorized by emergency regulations effective January 1, 1991.

STATEMENT

Substance: Proposed amendments to the 1990 edition of the Fire Prevention Code which are necessary to incorporate fees to store, handle and use explosive materials and for the certification of persons conducting blasting operations. The new provisions are substantially the same as emergency amendments to the Code which became effective January 1, 1991.

Issues:

1. Estimated impact with respect to number of persons affected. All citizens of Virginia involved in the handling or use of explosives will be affected.

2. Projected costs for implementation and compliance. The State Fire Marshal issues permits for explosives in localities where there is no local enforcement of the Fire Prevention Code and the Professional Services Office within the Division of Building Regulation administers the statewide certification program for blasters. The agency has established a permit fee of \$50 per year to possess, store or dispose of explosives or blasting agents and a \$75 annual

permit fee to use explosives or blasting agents. A \$20 fee has been established for certification as a blaster. These funds are to offset the costs of administering and monitoring the fee programs. The permit and certification programs were previously established; however, no fees were charged.

Basis: Section 27-97 of the Code of Virginia.

Purpose: To develop final regulations authorizing the Department of Housing and Community Development to institute fees for permits for the storage, handling and use of explosives and blasting agents and for the certification of blasters. These fees are necessary to offset the cost of administration and enforcement of the certification and explosive permit programs.

Estimated impact: Explosive permits will be issued by the State Fire Marshal's Office only in those areas where there is no local enforcement of the Fire Prevention Code. The permits will be issued annually. Localities that have adopted the Code have previously been authorized to establish fees for permits; and, prior to the statewide adoption of the Fire Prevention Code, fees were charged by the Department of Labor and Industry; therefore, users of explosives will not be impacted greatly.

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

Written comments may be submitted until August 5, 1991.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772.

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† **July 15, 1991 - 10 a.m.** – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.** The proposed amendments are necessary to incorporate provisions consistent with the National Flood Insurance Program relating to alterations and repairs of existing buildings located in a floodplain.

STATEMENT

Substance: Proposed amendments to the 1990 edition of the Uniform Statewide Building Code, Volume I - New Construction Code which are necessary to conform to the National Flood Insurance Program administered by the Federal Emergency Management Agency.

Issues:

1. Estimated impact with respect to number of persons affected. Owners of existing buildings located in flood hazard areas will be affected if flooding occurs or if improvements are instituted.

2. Projected costs for implementation and compliance. Increase in costs associated with renovation or repair is expected for affected buildings due to more stringent requirements than are currently effective. Compliance costs for the local building departments will not be substantially increased.

Basis: Sections 36-98 and 36-99 of the Code of Virginia.

Purpose: To amend the provisions of the Uniform Statewide Building Code relating to alterations, renovations or repair of existing buildings located in areas designated by the National Flood Insurance Program as flood hazard areas. The Code currently permits replacement of existing materials or building components with similar components without requiring full compliance with provisions of the Code applicable to new buildings. The proposed regulation will require full compliance with new provisions whenever the cost of repairs or alterations equals or exceeds 50% of the market value of the building.

Estimated impact: Compliance with these provisions is necessary to assure the Commonwealth's continued participation in the Federal Flood Insurance Program. Only buildings located in designated floodplains which are being repaired or are undergoing renovations or alterations will be affected. The new provisions will substantially increase the cost of improving or repairing affected buildings.

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

Written comments may be submitted until July 15, 1991.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **June 18, 1991 - 11 a.m.** – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the board 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

Calendar of Events

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 St., Richmond, VA 23220, telephone (804) 782-1986.

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.** The amendments update requirements that microfilm of public archival records meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.** The amendments update requirements that microfilms produced in a procedural microfilm process meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition.** The amendments update requirements that microfilm of ended cases in circuit court meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.** The amendments update requirements that COM of public records meets various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 440-01-137.6. Standards for Plats.** The amendments update criteria for plats which are to be recorded in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. - Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 440-01-137.7. Standards for Recorded Instruments.** The amendemts update criteria for instruments to be recorded in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. - Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, 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 consider adopting regulations entitled: **VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.** The purpose of the proposed action is to establish criteria for the paper to be used for the permanent records stored in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

LIBRARY BOARD

† June 21, 1991 - 1 p.m. - Open Meeting
† June 22, 1991 - 9 a.m. - Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia. ☒

Annual meeting to elect officers and to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

July 22, 1991 - 7:30 p.m. - Public Hearing
Town of Orange, Orange County area - Site to be determined.

Public hearing regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by July 15, 1991.

July 22, 1991 - 11 a.m. - Open Meeting
July 23, 1991 - 9 a.m. - Open Meeting
July 24, 1991 - (if needed) - Time to Be Announced - Open Meeting
Town of Orange, Orange County area - Site to be determined.

Oral presentations regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by July 15, 1991.

August 19, 1991 - 11 a.m. - Open Meeting
August 20, 1991 - (if needed) - Time to be announced - Open Meeting
City of South Boston, Halifax County - Site to be determined.

Open meeting. Oral presentations regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD by May 23, 1991.

August 20, 1991 - 7 p.m. - Public Hearing
City of South Boston, Halifax County area - Site to be determined.

Public hearing regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD by May 23, 1991.

Contact: Barbara W. Bingham, Administrative Assistant, 702

Calendar of Events

Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY BOARD

† **June 24, 1991 - 11 a.m.** – Open Meeting
State Lottery Department Regional Office, Conference Room, 3305 West Mercury Boulevard, Hampton, Virginia. ☎

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Dept., 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

† **June 25, 1991 - 9:30 a.m.** – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☎ (Interpreter for deaf provided if requested)

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit application for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits, licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing.

The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23007, telephone (804) 247-8088.

BOARD OF MEDICAL ASSISTANCE SERVICES

† **June 10, 1991 - 10 a.m.** – Open Meeting
600 East Broad Street, Board Room, Suite 1300, Richmond, Virginia. ☎

An open meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Patricia A. Sykes, Policy Analyst, Suite 1300, 600 E. Broad St., Richmond, VA 23219, telephone (804) 786-7958, toll-free 1-800-552-8627, or 1-800-343-0634/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

June 7, 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: **State Plan for Medical Assistance Relating to Occupational/Speech-Language Services and Cost Management Initiatives for PIRS. VR 460-03-3.1100. Amount, Duration, and Scope of Services; VR 460-03-4.1940:1. Nursing Home Payment System; and VR 460-03-4.1943. Cost Reimbursement Limitations.** The proposed amendments would make permanent these three provisions currently existing under emergency regulations: the elimination of cost reimbursement to nursing facilities' licensed in-house pharmacies, limitations of the cost of management services, and reimbursement for occupational and speech/language therapies through nursing facility cost reports.

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

Written comments may be submitted until June 7, 1991, to Wm. R. Blakely, Jr., Director, Division of Cost Settlement and Audit, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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July 5, 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 consider adopting regulations entitled: **VR 460-05-3000. Drug Utilization Review in Nursing Facilities.** This program proposes to control the use of drugs by nursing facility residents to reduce inappropriate and perhaps hazardous drug use.

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

Written comments may be submitted until July 5, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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July 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1102. Case Management for Mental Retardation Waiver Clients.** This action proposes to regulate the provision of case management services to mentally retarded persons who are receiving community based services.

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

Written comments may be submitted until July 19, 1991, to Ann Cook, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† **August 2, 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: **State Plan for Medical Assistance Relating to Estimated Acquisition Costs Pharmacy Reimbursement Methodology. VR 460-02-4.1920. Methods and Standards for Establishing Payments Rates—Other Types of Care** This regulation will supersede the existing emergency regulation relating to estimated acquisition cost pharmacy reimbursement methodology.

STATEMENT

Basis and authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code provides for agency promulgation of

permanent regulations through the public notice and comment process contained in Article 2 of the APA.

Purpose: The purpose of this proposal is to promulgate permanent regulations to supersede existing emergency regulations for this issue.

Summary and analysis: The State Plan for Medical Assistance section affected by this action is "Methods and Standards For Establishing Payment Rates - Other Types of Care" (Attachment 4.19 B). The U.S. Department of Health and Human Services (HHS) Health Care Financing Administration (HCFA) has directed that state Medicaid agencies reimburse pharmacies for drug products based on the agency's best estimate of providers' actual drug acquisition costs.

HHS has determined, through its Office of the Inspector General's nationwide study of pharmacy costs, that pharmacies often obtain 13% to 17% savings over the Average Wholesale Price (AWP) in their pharmaceutical purchases. Therefore, HCFA has determined that a state's strict reliance upon the AWP as a pricing reference fails to recognize these potential savings.

Effective October 1, 1990, an emergency regulation and a State Plan amendment were implemented, pursuant to Chapter 972 of the Acts of Assembly, 1990, item 466 (L), changing the reimbursement formula to better reflect pharmacy provider's drug product acquisition costs and the cost to dispense such products. The Health Care Financing Administration approved this State Plan amendment on December 20, 1990.

This change provided that DMAS reimburse pharmacies based on the lower of either their usual and customary charge or the AWP -9% plus \$4.40 dispensing fee. This variant of the AWP base cost ensures that Medicaid recipients have the same access to services as that of the general population in conformance to federal requirements (42 CFR 447.204).

In addition, a technical language change is being made in section f(7) to remove references to skilled and intermediate care facilities. OBRA 87 changed the Social Security Act to remove these two nursing home levels of care and replace them with the term "nursing facility."

Impact: Most pharmaceuticals that are billable to Medicaid are reimbursed at the Average Wholesale Price (AWP). This published price is utilized in some form by most third party payers. To comply with HCFA's recent requirement that state agencies reimburse pharmacies based on the agency's best estimate of the price generally and currently paid by providers for drugs purchased from wholesalers or suppliers, the Department has recommended the adoption of AWP -9% plus a professional fee of \$4.40.

Adoption of this revised pharmacy reimbursement plan is expected to result in cost savings to the Department.

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DMAS already caps the reimbursed costs of some sole source and multi-source drugs. The existing price caps are known as the HCFA Upper Limit drugs (federally mandated) and the state-mandated Virginia Allowable Costs (MACs). The remaining sole source and multi-source drugs not otherwise capped will be affected by this new policy.

The department projects the following savings from this pharmacy reimbursement methodology amendment:

	FY '91	FY '92	Total
GF	\$578,000	\$631,000	\$1,209,000
NGF	578,000	631,000	1,209,000
TOTAL	\$1,156,000	\$12,252,000	\$2,418,000.

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

Written comments may be submitted until August 2, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† **August 2, 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: **State Plan for Medical Assistance Relating to Enrollment of Psychologists Clinical. VR 460-03-3.1100. Amount, Duration, and Scope of Services.** This amendment proposes granting psychologists licensed by the Board of Psychology as psychologists clinical and eligible to enroll in the Virginia Medicaid Program as providers of Medicaid covered services.

STATEMENT

Basis and authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews.

The Code of Federal Regulations § 440.50 provides for the coverage of physician services within the scope of practice of medicine or osteopathy as defined by state law.

Purpose: The purpose of this proposal is to allow the enrollment of psychologists, licensed by the Board of Psychology as psychologists clinical, as providers of Medicaid covered services.

Summary and analysis: The section of the State Plan for Medical Assistance affected by this regulatory action is the narrative for the Amount, Duration, and Scope of Services (VR 460-03-3.1100).

The Commonwealth licenses various health professionals through their respective boards, i.e., the Boards of Medicine, Nursing, Psychologists, to specify a few. Historically, the State Plan for Medical Assistance has recognized clinical psychologists who are licensed by the Board of Medicine for enrollment as providers. This has not been the case for psychologists clinical who are licensed by the Board of Psychology.

Professionally, since there is no difference between psychologists licensed by the Board of Medicine as clinical psychologists and the Board of Psychology as psychologists clinical, the State Plan is being amended to provide for both types of licensing.

Impact: No fiscal impact is expected as a result of this amendment to the Plan because no expansion of services is taking place. This change would only increase the number of providers who could render the existing covered services.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† **August 2, 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 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Payments.** This proposed regulation promulgates specific obstetric and pediatric maximum payment rates to become effective October 1, 1991.

STATEMENT

Basis and authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to

administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews.

Section 6402 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 89) mandated that states include the amounts of payments for certain obstetric and pediatric procedures in their state plans. Each state establishes its own payment levels for Medicaid services; however, payments must be sufficient to enlist enough providers so that covered services will be available to Medicaid beneficiaries to at least the extent that such services are available to the general population.

Purpose: The purpose of this proposal is to promulgate permanent regulations regarding specific obstetric and pediatric maximum payment amounts to become effective October 1, 1991.

Summary and analysis: Attachment 4.19 B of the Plan contains reimbursement methodologies for all covered services except for inpatient hospital and long term care, which are covered in other Plan attachments. This amendment would amend Supplement 1 to Attachment 4.19 B, providing obstetric and pediatric payment rates, in conformance with the OBRA 89 requirement.

The payment rates listed in this amendment are those resulting from additional appropriations to the agency by the 1991 General Assembly specifically for the purpose of increasing these maximum fees. These new fees must be submitted for approval to the Health Care Financing Administration.

Impact: DMAS was appropriated \$4,600,000 (\$2,300,000 NGF; #2,300,000 GF) for FY 92. These higher rates will only be paid for claims for services to pediatric and obstetric patients.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

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

- June 6, 1991 - 8 a.m. - Open Meeting
 - June 7, 1991 - 8 a.m. - Open Meeting
 - June 8, 1991 - 8 a.m. - Open Meeting
 - June 9, 1991 - 8 a.m. - Open Meeting
- Department of Health Professions, Board Room 1, 1601

Rolling Hills Drive, Richmond, Virginia. ☒

June 6 - An open session to conduct general board business and discuss any other items which may come before the board.

June 7, 8 and 9 - The board will meet to review reports, interview licensees and make decisions on discipline matters.

Public comments will be received at the conclusion of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

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June 24, 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 consider adopting regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** These amendments pertain to Licensure by examination; examination, general; Licensure by endorsement; and Fees required by the board.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 24, 1991, to Hilary H. Connor, M.D., Executive Director, 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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June 24, 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 consider adopting regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The purpose of the proposed amendments is to establish education and training requirements for foreign-trained physical therapist assistants, redefine passing grade on licensure exam, traineeships, and reinstatement examination.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 24, 1991, to Hilary H. Connor, M.D., Executive Director, 1601 Rolling

Calendar of Events

Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

Advisory Committee On Acupuncture

July 12, 1991 - 4 p.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review and act upon the draft report in response to HJR No. 478. The committee will not entertain public comments.

July 12, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The board will conduct an informational fact-gathering hearing in response to HJR 478, to gather information regarding utilizing acupuncture as a possible treatment for substance abuse. Public comment will be received.

Informal Conference Committee

June 5, 1991 - 10 a.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, 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 comments will not be received.

Contact: Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Advisory Board on Physical Therapy

† **August 23, 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, and to receive reports and other items which may come before the advisory board. The advisory board will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **June 19, 1991 - 10 a.m. - Open Meeting**
James Madison Building, 13th Floor Conference Room, Richmond, Virginia. ☒

A regular monthly meeting. The agenda will be published on June 12, and may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.
Wednesday: Committee Meetings - 8:45 a.m.
Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3912.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† **June 6, 1991 - 7 p.m. - Open Meeting**
502 South Main Street, Number 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the Community Corrections Resources Board will meet to review cases before them for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Gas and Oil Board

June 18, 1991 - 9 a.m. - Open Meeting
July 16, 1991 - 9 a.m. - Open Meeting
Southwest Virginia 4-H Center, Dickenson Conference Center, Route 609, Hillman Highway, Abingdon, Virginia. ☒

A regularly scheduled meeting.

Contact: B. Thomas Fulmer, Virginia Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Drive, Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or 1-800-552-3831/TDD ☎

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July 16, 1991 - 9 a.m. – Public Hearing
Southwest Virginia 4-H Center, Dickenson, Conference
Center, Route 609, Hillman Highway, Abingdon, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Virginia Gas and Oil
Board intends to consider adopting regulations entitled:
**VR 480-05-22.2. Virginia Gas and Oil Board
Regulations.** The proposed regulations will govern
conservation of gas and oil resources and protection of
correlative rights of gas and oil owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: B. Thomas Fulmer, Virginia Gas and Oil
Inspector, Department of Mines, Minerals and Energy,
Division of Gas and Oil, P.O. Box 1416, 230 Charwood Dr.,
Abingdon, VA 24210, telephone (703) 628-8115, SCATS
676-5501 or 1-800-552-3831/TDD ☎

VIRGINIA MUSEUM OF NATURAL HISTORY

Education and Exhibits Committee

† **June 8, 1991 - 8 a.m.** – Open Meeting
Virginia Museum of Natural History, 1001 Douglas Avenue,
Martinsville, Virginia. ☎

A meeting to discuss education and exhibits plans.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia
Museum of Natural History, 1001 Douglas Ave.,
Martinsville, VA 24112, telephone (703) 666-8616 or SCATS
857-6950/857-6951 or (703) 666-8638/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

June 6, 1991 - 8:30 a.m. – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond,
Virginia. ☎

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Dr., Richmond, VA 23229-5005, telephone
(804) 662-9907.

BOARD OF OPTOMETRY

June 5, 1991 - 8:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 4, Richmond, Virginia. ☎

Informal conferences.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling

Hills Dr., Richmond, VA 23229, telephone (804) 662-9942.

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July 18, 1991 - 10 a.m. – Public Hearing
1601 Rolling Hills Dr., 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 Optometry
intends to amend regulations entitled: **VR 510-01-1.
Regulations of the Virginia Board of Optometry.** The
purpose of this action is to amend the regulations for
purpose of fee changes, clarification of licensing,
examinations, renewal, reinstatement procedures,
clarification of unprofessional conduct, and continuing
education requirements.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200
et seq.) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until July 18, 1991.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling
Hills Dr., Richmond, VA 23229, telephone (804) 662-9915 or
SCATS (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

June 24, 1991 - 10:30 a.m. – Open Meeting
Little River Inn, Aldie, Virginia. ☎

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221
Governor St., Richmond, VA 23229, telephone (804)
786-5539.

BOARD OF PHARMACY

† **June 12, 1991 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 1, Richmond, Virginia.

A routine board meeting to consider promulgation of
regulations to establish a permanent fee for initial
licensure of practitioners of the healing arts to sell
controlled substances, and possible consideration of
proceeding with regulatory changes. Public comments
will be accepted at the beginning of the meeting or at
any appropriate occasion during the meeting.

Contact: Jack B. Carson, Executive Director, Virginia
Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA
23229, telephone (804) 662-9911.

Calendar of Events

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

August 7, 1991 - 10 a.m. – Open Meeting
August 8, 1991 - 10 a.m. – Open Meeting
Fredericksburg-Sheraton, Fredericksburg, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Executive Committee

July 8, 1991 - afternoon – Open Meeting
General Assembly Building, 5 West Conference Room, Richmond, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Finance Committee

June 19, 1991 - 10 a.m. – Open Meeting
CHANGE OF LOCATION: General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ☒

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Governance Committee

June 27, 1991 - 10 a.m. – Open Meeting
CHANGE OF LOCATION: General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ☒

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Resources Committee

June 12, 1991 - 9:30 a.m. – Open Meeting
CHANGE OF LOCATION: General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ☒

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

BOARD OF PROFESSIONAL COUNSELORS

† **June 20, 1991 - 8:30 a.m.** – Open Meeting
Kogerama Building, 1501 Santa Rosa Road, Richmond, Virginia. ☒

Informal conferences. Public comments will not be heard.

† **June 21, 1991 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A board meeting to (i) conduct general business, (ii) receive committee reports, and (iii) conduct regulatory review. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

Examination Committee

June 28, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A regular meeting of the committee. Public comment will not be received.

Contact: Evelyn Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913 or (804) 662-7197/TDD ☒

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† June 20, 1991 - 10 a.m. - Open Meeting
RICHMOND LOCATION TO BE ANNOUNCED

A quarterly board meeting to consider approval of grants/allocations, budget requests for 1992-94, and staff updates of various projects in progress.

Contact: Mamie White, Administrative Assistant, 110 S. Seventh St., 1st Floor, Richmond, VA 23219, telephone (804) 344-5522.

REAL ESTATE BOARD

† June 4, 1991 - 9:30 a.m. - Open Meeting
Marine Resources Commission, Sovran Bank Building, 2600 Washington Avenue, 4th Floor, Library, Newport News, Virginia.

The board will meet to conduct a formal hearing: File Number 90-01190, Real Estate Board v. Carrithers, Paul N.

† June 4, 1991 - 11 a.m. - Open Meeting
Marine Resources Commission, Sovran Bank Building, 2600 Washington Avenue, 4th Floor, Library, Newport News, Virginia.

The board will meet to conduct a formal hearing: File Number 90-00154, Real Estate Board v. McCadden, George, Jr.

June 6, 1991 - 9:30 a.m. - Open Meeting
County Board Room, Number 202, Courthouse, 1400 North Courthouse Road, Arlington, Virginia.

The board will meet to conduct a formal hearing: File Number 89-00994, Real Estate Board v. Virginia S. Smith.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† June 5, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☐

The board shall hear all administrative appeals of denials on on-site sewage disposal system permits and render its decision on any such appeal, which decision shall be the final administrative decision.

Contact: Mrs. Deborah G. Pegram, Department of Health, Division of Sanitarian Services, Main Street Station, Suite

109-32, Richmond, VA, telephone (804) 786-3559.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† June 17, 1991 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

June 8, 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 consider adopting regulations entitled: **VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.** These regulations establish guidelines for sharing information which would be in the best interest of the children and families involved.

Statutory Authority: §§ 2.1-386 and 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until June 8, 1991, to Janine Tondrowski, 8007 Discovery Drive, Richmond, Virginia.

Contact: Margaret Friedenber, Regulatory Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

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July 18, 1991 - 10 a.m. - Public Hearing
Wythe Building, Conference Room A, 1604 Santa Rosa Road, 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 615-08-01. Virginia Energy Assistance Program.** The proposed amendments to the Fuel Assistance Component will (i) ensure that all eligible individuals who apply for Fuel Assistance during the application period will receive a benefit; (ii) ensure compliance with Public Law 97-35 relative to providing the highest benefit to those with the lowest income and the highest energy costs.

The proposed amendments to the Crisis Assistance component will assist in meeting the needs of needy

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households, who, due to unforeseen changes in circumstances, find themselves in a heating emergency situation during January, February or March.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until July 19, 1991, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

GOVERNOR'S TASK FORCE ON SUBSTANCE ABUSE AND SEXUAL ASSAULT ON COLLEGE CAMPUSES

† **June 7, 1991 - 9:30 a.m.** – Public Hearing
University of Virginia, Newcomb Hall Ballroom, Charlottesville, Virginia.

Agenda:

9:30 a.m. to 11 a.m.: Guest speakers
10 a.m. to 10:30 a.m.: Sign-up for public hearing
11 a.m. until all testimony is heard

Contact: Kris Ragan, Staff Assistant, P.O. Box 1422, Room 320, Richmond, VA 23211, telephone (804) 786-6316.

VIRGINIA'S TRANSITION TASK FORCE

† **June 13, 1991 - 10 a.m.** – Open Meeting
The Virginia Museum of Fine Arts, Boulevard and Grove, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The task force, comprised of representatives from 12 state agencies and the community, will meet to discuss and develop strategies to coordinate and implement transition services for youth with disabilities across the Commonwealth. The general business meeting begins at 10 a.m. A period for public comment, oral or written, is provided from 11:30 a.m. until 12:30 p.m.

Contact: Dr. Sharon deFur, Associate Specialist/Transition, P.O. Box 6-Q, Monroe Bldg., 23rd Floor, Richmond, VA 23216, telephone (804) 225-2071 or toll-free 1-800-422-1098/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

† **June 19, 1991 - 2 p.m.** – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒

A work session of the board and the Department of Transportation staff.

† **June 20, 1991 - 10 a.m.** – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting, on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

TREASURY BOARD

† **June 5, 1991 - 10 a.m.** – Open Meeting
James Monroe Building, 3rd Floor, Treasury Board Conference Room, 101 North 14th Street, Richmond, Virginia. ☒

A special meeting of the board.

† **June 19, 1991 - 9 a.m.** – Open Meeting
James Monroe Building, 3rd Floor, Treasury Board Conference Room, 101 North 14th Street, Richmond, Virginia. ☒

A regular meeting of the board.

Contact: Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23219, telephone (804) 225-4931.

DEPARTMENT OF THE TREASURY (TREASURY BOARD)

July 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 Treasury Board intends to amend regulations entitled: **VR 640-02. Security for Public Deposits Act Regulations.** The purpose of the proposed amendments is to provide adequate protection for public funds on deposit in financial institutions in light of recent changes within financial institutions and in types of securities pledged.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Susan F. Dewey, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

BOARD OF VETERINARY MEDICINE

† June 12, 1991 - 8:30 a.m. - Open Meeting
1601 Rolling Hills Drive, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A board meeting and formal hearing.

† June 13, 1991 - 9 a.m. - Open Meeting
Holiday Inn, 3200 West Broad Street, Richmond Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

State board examination and informal conference.

Contact: Terri H. Behr, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915.

VIRGINIA RACING COMMISSION

June 19, 1991 - 9:30 a.m. - Open Meeting
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular meeting including a review of proposed regulations pertaining to participants, claiming races and standardbred racing.

June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A public hearing will be conducted on the application by the Wetmoreland-Davis Foundation for a limited license to conduct one day of jump racing with pari-mutuel wagering in Leesburg, Virginia, on October 12, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-03-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards.** The purpose of the proposed amendments is to establish the duties, responsibilities and powers of stewards.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.** The regulation establishes the duties and responsibilities of the Commission Veterinarian.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.** The regulation establishes the procedure for appealing decisions of the stewards.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.**

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The regulation establishes conditions under which horses may be identified, determined eligible for racing and may be barred from racing.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-04-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Entries.** The purpose of the proposed amendments is to establish procedures and conditions under which entries will be taken for horse races with pari-mutuel wagering.

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

Written comments may be submitted until June 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.** The regulation establishes the conditions under which flat racing will be conducted.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.** The regulation establishes the conditions under which jump racing will be conducted.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider adopting regulations entitled: **VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.** This regulation establishes the conditions under which quarter horse racing will be conducted.

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

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

June 11, 1991 - 9 a.m. – Open Meeting
Virginia Beach Ramada Inn, Virginia Beach, Virginia.

The board will meet to (i) approve minutes of the meeting of May 14, 1991; (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.

† **July 9, 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 June 11, 1991; (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., Mutual Building, 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† **June 13, 1991 - 2 p.m.** – Public Hearing
† **June 13, 1991 - 6:30 p.m.** – Public Hearing
Virginia Rehabilitation Center for the Blind, Assembly Room, 401 Azalea Avenue, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

A public hearing to seek public input in the development of the Three Year Vocational Rehabilitation Title I State Plan and the development of the amendments to the Independent Living Title VII State Plan.

Contact: James G. Taylor, Program and Policy Specialist/Vocational Rehabilitation, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111 or SCATS 371-3140.

Advisory Committee on Services

† **July 20, 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 services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3350, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☒

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **June 20, 1991 - 10 a.m.** – Open Meeting
Hyatt Richmond, West Broad Street and I-64, Richmond, Virginia.

10 a.m. until 12 noon: General session
1:30 p.m. until 3:30 p.m.: Council will participate with the Department of Education in an awards program recognizing outstanding business partnerships and advisory councils/committees.

Contact: George S. Orr, Jr., Executive Director, Virginia

Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

DEPARTMENT OF WASTE MANAGEMENT

† **June 17, 1991 - 10 a.m.** – Public Hearing
Hampton City Library, Meeting Room A, 4207 Victoria Boulevard, Hampton, Virginia. ☒

† **June 19, 1991 - 1 p.m.** – Public Hearing
Manassas City Hall, City Council Chambers, 1st Floor, 9027 Center Street, Manassas, Virginia. ☒

† **July 22, 1991 - 10 a.m.** – Public Hearing
The Wagner Building, Multipurpose Room, 9502 Lucy Corr Drive, Chesterfield, Virginia. ☒

† **July 24, 1991 - 2 p.m.** – Public Hearing
Virginia Tech., Litton-Reaves Hall, Room 1870, West Campus Drive at Washington Street, Blacksburg, Virginia. ☒

A public hearing will be held to receive comments on proposed regulation VR 672-50-11. The proposed regulation establishes criteria for the certification of recycling machinery and equipment, as well as the procedure for applying for certification.

This certification would allow the owners of the equipment to apply for personal property tax exemptions as authorized by local ordinances.

Contact: G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☒

June 20, 1991 - 7 p.m. – Public Hearing
City Council Chambers, Second Floor, City Hall, 497 Cumberland Street, Bristol, Virginia.

A public hearing on the draft permit amendment proposed by the City of Bristol to combine the city's debris (permit 500) and the sanitary (permit 498) landfills into a single sanitary site. The public comment period will extend until July 1, 1991 at 5 p.m. A copy of the proposed draft permit amendment may be obtained from Russel McAvoy, Jr., Department of Waste Management, Sixth Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia.

Contact: Hassan Vakili, Technical Services Administrator, Department of Waste Management, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3063 or toll-free 1-800-552-2075.

June 21, 1991 - 2 p.m. – Open Meeting
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia. ☒

Calendar of Events

An informational meeting on the initial draft of the proposed "Yard Waste Composting Facility Regulation." The purpose of this regulation is to replace VR 672-20-31, "Yard Waste Composting Regulation" which is an emergency regulation.

Contact: Michael P. Murphy, Environmental Program Manager, 11th Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 371-8737/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

† **June 17, 1991 - 10 a.m.** – Public Hearing
Hampton Public Library, Meeting Room A, 4207 Victoria Boulevard, Hampton, Virginia.

† **June 19, 1991 - 1 p.m.** – Public Hearing
Manassas City Hall, City Council Chambers, 1st Floor, 9027 Center Street, Manassas, Virginia.

† **July 22, 1991 - 10 a.m.** – Public Hearing
The Wagner Building, 9502 Lucy Corr Drive, Chesterfield, Virginia.

† **July 24, 1991 - 2 p.m.** – Public Hearing
Virginia Tech, Room 1870, Litton-Reaves Hall, West Campus Drive at Washington Street, Blacksburg, 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 consider adopting regulations entitled: **VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.** This regulation establishes criteria for recycling machinery and equipment. The regulation would allow owners of machinery and equipment used primarily to process recyclable material for markets or to incorporate recycled material into a production process to seek a recycling certification for such equipment from the Virginia Department of Waste Management. Once certified, the owner could apply for a local personal property tax exemption offered for such recycling machinery or equipment.

STATEMENT

Substance, issues, basis, purpose and estimated impact: This regulation is promulgated as authorized by §§ 10.1-1411 and 58.1-3661 of the Code of Virginia, as amended.

The regulation allows the owner of machinery and equipment, newly purchased or existing, used primarily for the processing of recyclable material or to incorporate recycled material into the production process to apply to the Department of Waste Management for certification of this equipment as integral to the recycling process. Such

certification would allow the owner to seek any proffered tax exemption from the host locality.

This tax exemption potential is viewed as a business incentive and as an economic development tool for localities which are seeking both a market for their collected recyclables and additional employment opportunities for their area. The development of any system for recyclable material processing is dependent on the business environment and the volume of material available to such a system. A special local tax incentive/exemption might induce a business to site in that area, rather than in another locality.

The estimated impact of the regulation is undetermined. The scope of any such tax exemption would be a local determination, from partial to full value exemption. Dependent on the number of businesses actually applying for and receiving certification of their recycling equipment, and the actual tax exemptions adopted by ordinance by localities, the overall economic impact could be substantial or minimal.

Statutory Authority: §§ 10.1-1411 and 58.1-3661 of the Code of Virginia.

Written comments may be submitted until August 7, 1991, to Equipment Certification Officer, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219.

Contact: G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

STATE WATER CONTROL BOARD

June 4, 1991 - 4 p.m. – Public Hearing
Town Hall, 2nd Street, Cleveland, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to consider for the Town of Cleveland a variance to the halogen ban section of VR 680-21-01.11 by amending VR 680-01.11, VR 680-21-07.1 and VR 680-21-08.15.

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

Written comments may be submitted until June 21, 1991, to Doneva Dalton, at the address below.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6985.

† **June 10, 1991 - 7 p.m.** – Public Hearing
Northampton High School, Eastville, Virginia. ☒

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0028797 for American Original Corporation. The purpose of the hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge's proposed effluent limitations on water quality or beneficial uses of state waters.

† **June 17, 1991 - 7 p.m.** – Public Hearing
Gordon Barber Elementary School, Baker Street, Gordonsville, Virginia. ☒

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0021105 for Rapidan Service Authority, Town of Gordonsville, P.O. Box 148, Ruckersville, Virginia 22968. The purpose of the hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori A. Freeman, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815.

† **June 24, 1991 - 10 a.m.** – Public Hearing
Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) permit issuance for Simonson Seafood, Ltd., P.O. Box 248, Warsaw, Virginia 22575. Simonson Seafood, Ltd., will discharge into Morattico Creek in Richmond County. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

† **June 24, 1991 - 10 a.m.** – Public Hearing
Innsbrook Corporate Center, Room 1000, 4900 Cox Road, Glen Allen, Virginia. ☒

A formal evidentiary hearing to consider revocation of Ballast Point Seafood's Virginia Pollutant Discharge Elimination System Permit (VPDES) No. VA0005037 because the permittee allegedly no longer owns or conducts business from the permitted facility. This hearing is being held pursuant to §§ 9-6.14:12 and 62.1-44.25 of the Code of Virginia, as well as the board's Procedural Rule No. 1 and VR 680-14-01 (Permit Regulation).

Contact: Doneva A. Dalton, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton

St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6829.

June 24, 1991 10 a.m. – Open Meeting

June 25, 1991 9 a.m. – Open Meeting
State Water Control Board Offices, Room 1000 (Board Room), Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829.

THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA

Board of Visitors

† **June 28, 1991 - 10 a.m.** – Open Meeting
Richard Bland College, Petersburg, Virginia.

A regularly scheduled meeting to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, Williamsburg, VA 23185, telephone (804) 221-1004.

VIRGINIA WINEGROWERS ADVISORY BOARD

† **July 8, 1991 - 10 a.m.** – Open Meeting
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

The board will vote on the new chairman and vice chairman. The board will also hear committee and project monitor reports, review old and new business and discuss any new proposals.

Contact: Annette C. Ringwood, Secretary, 1100 Bank Street, Suite 1010, Richmond, VA 23219, telephone (804) 371-7685.

Calendar of Events



BOARD OF YOUTH AND FAMILY SERVICES

† **June 13, 1991 - 10 a.m.** – Open Meeting
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia. ☒

A general business meeting.

† **July 11, 1991 - 10 a.m.** – Open Meeting
700 Centre Building, 4th Floor, 7th & Franklin Sts.,
Richmond, Virginia. ☒

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin St., Richmond, VA 23219, telephone (804) 371-0692.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

† **July 10, 1991 - 4 p.m.** – Public Hearing
Department of Youth and Family Services, 7th & Franklin Sts., Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to consider adopting regulations entitled: **VR 690-20-001. Pre and Post Dispositional Group Home Standards.** The proposed regulation establishes board standards for the operation of pre and post dispositional group homes.

STATEMENT

Basis: Sections 66-10 and 16.1-311 of the Code of Virginia authorize the board to prescribe operating standards for residential care facilities for youth.

Purpose: This is a new regulation issued by the board. Standards for the operation of pre and post dispositional group homes were previously under the authority of the Board of Corrections.

Substance: This regulation is an update and revision of VR 230-40-009, issued by the Board of Corrections in 1983.

Issues: These standards were promulgated by the Board of Youth and Family Services to carry out the provisions of §§ 66-10 and 16.1-311 of the Code of Virginia. These standards are issued as a new regulation by the board which commenced operations on July 1, 1990. The

standards will regulate the operation of pre and post dispositional group homes for youth.

Impact: All facilities meeting the definition of pre and post dispositional group homes will be affected by this regulation.

Statutory Authority: §§ 66-10 and 16.1-311 of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin St., Richmond, VA 23219, telephone (804) 371-0692.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE ENVIRONMENTAL IMPACT OF OIL AND GAS DRILLING UNDER THE CHESAPEAKE BAY

† **June 7, 1991 - 10 a.m.** – Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond,
Virginia. ☒

First meeting of the interim for this two-year study committee.

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

STATE WATER COMMISSION

June 26, 1991 - 1 p.m. – Open Meeting
Christopher Newport College, Room cc150, Campus Center,
50 Shoe Lane, Newport News, Virginia.

The commission will review proposal for elimination of the grand fathering of wells in ground water management areas and HJR 460 and SJR 264 from '91 session.

Contact: Marty Farber, Division of Legislative Services, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 3
† Cosmetology, Board for

June 4

Calendar of Events

† Emergency Planning Committee, Local - Hanover County
Hopewell Industrial Safety Council
† Real Estate Board

June 5

ASAP Policy Board - Mount Rogers
- Board of Directors
Higher Education, State Council of
Medicine, Board of
Optometry, Board of
† Sewage Handling and Disposal Appeals Review Board
† Treasury Board

June 6

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
Emergency Planning Committee, Local - Chesterfield County
† Farmers' Market Board, Virginia
Medicine, Board of
† Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board
Nursing Home Administrators, Board of
Real Estate Board

June 7

† Aging, Department for the
Air Pollution Control Board, State
Conservation and Recreation, Department of
- Recreation in the Juvenile Justice System
† Environmental Impact of Oil and Gas Drilling Under
the Chesapeake Bay, Joint Subcommittee
Medicine, Board of

June 8

† Department of Conservation and Recreation
† - Virginia Cave Board
Medicine, Board of
† Museum of Natural History, Virginia
† - Education and Exhibits Committee

June 9

Medicine, Board of

June 10

† Barbers, Board for
† Elections, State Board of
† Medical Assistance Services, Board of

June 11

† Children, Department for
† - Advisory Board
† Emergency Planning Committee, Local - County of
Montgomery/Town of Blacksburg
Resources Authority, Virginia

June 12

Conservation and Development of Public Beaches
† Emergency Planning Committee, Local - City of

Alexandria

† Pharmacy, Board of
Population Growth and Development, Commission on
- Resources Committee
† Veterinary Medicine, Board of

June 13

† Child Day-Care Council
† Funeral Directors and Embalmers, Board of
† Housing and Community Development, Board of
† - Amusement Device Technical Advisory
Committee
† Transition Task Force, Virginia's
† Veterinary Medicine, Board of
† Youth and Family Services, Board of

June 14

† Building Code Technical Review Board, State
† General Services, Department of
† - Division of Forensic Science

June 17

† Cosmetology, Board for
† Criminal Justice Services Board
Emergency Planning Committee, Local - County of
Prince William, City of Manassas, and City of
Manassas Park
† Soil Scientists, Board for Professional

June 18

† Auctioneers Board, Virginia
Contractors, Board for
Gas and Oil Board, Virginia
† Historic Resources, Department of
† - State Review Board
† Housing Development Authority, Virginia

June 19

Corrections, Board of
† Governor's Advisory Board on Medicare and
Medicaid
† Historic Resources, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Population Growth and Development, Commission on
- Finance Committee
Racing Commission, Virginia
† Transportation Board, Commonwealth
† Treasury Board

June 20

† Chesapeake Bay Local Assistance Board
Health, State Board of
† Health Professions, Board of
† - Regulatory Research Committee
† Professional Counselors, Board of
† Public Telecommunications Board, Virginia
† Transportation Board, Commonwealth
† Vocational Education, Virginia Council on

June 21

Calendar of Events

- Children, Interdepartmental Regulation of Residential Facilities for
- Coordinating Committee
Health, State Board of
† Health Professions, Board of
† - Compliance and Discipline Committee
† Library Board
† Professional Counselors, Board of
Waste Management, Department of
- June 22**
† Library Board
- June 23**
Health Professions, Board of
- Task Force on Managed Health Care
- June 24**
† Health Services Cost Review Council, Virginia
† Lottery Board, State
Outdoors Foundation, Virginia
Water Control Board, State
- June 25**
† Aging, Department for the
† - Long-Term Care Ombudsman Program Advisory Council
† Environment, Council on the
† Marine Resources Commission
Water Control Board, State
- June 26**
Water Commission, State
- June 27**
Population Growth and Development, Commission on
- Governance Committee
- June 28**
Athletic Board
Egg Board, Virginia
Psychology, Board of
- Examination Committee
† William and Mary in Virginia, The College of
† - Board of Visitors
- July 8**
Population Growth and Development, Commission on
- Executive Committee
† Winegrowers Advisory Board, Virginia
- July 9**
† Virginia Resources Authority
- July 11**
† Youth and Family Services, Board of
- July 12**
Medicine, Board of
- Advisory Committee on Acupuncture
- July 16**
Gas and Oil Board, Virginia
- July 19**
Children, Interdepartmental Regulation of Residential Facilities for
- Coordinating Committee
- July 20**
† Visually Handicapped, Department for the
† - Advisory Committee on Services
- July 22**
Local Government, Commission on
- July 23**
Local Government, Commission on
Medicine, Board of
- Advisory Committee on Acupuncture
- July 24**
Local Government, Commission on
- August 7**
Population Growth and Development, Commission on
- August 8**
Population Growth and Development, Commission on
- August 19**
Local Government, Commission on
- August 20**
Local Government, Commission on
- August 23**
† Medicine, Board of
† - Advisory Board on Physical Therapy

PUBLIC HEARINGS

- June 4**
Aging, Department for the
Water Control Board, State
- June 5**
Aging, Department for the
- June 7**
† Substance Abuse and Sexual Assault on College Campuses, Governor's Task Force on
- June 10**
† Water Control Board, State
- June 12**
Aging, Department for the

Calendar of Events

June 13

Aging, Department for the
† Visually Handicapped, Department for the

June 17

† Waste Management, Department of
† Water Control Board, State

June 18

Library and Archives, Virginia State

June 19

Health Professions, Department of
- Task Force on the Need for Medication
Technicians
† Waste Management, Department of
Racing Commission, Virginia

June 20

Chesapeake Bay Local Assistance Board
Waste Management, Department of

June 24

† Water Control Board, State

June 26

Aging, Department for the

July 10

† Youth and Family Services, Department of

July 15

† Housing and Community Development, Department
of

July 16

† Accountancy, Board for
Gas and Oil Board, Virginia

July 18

Optometry, Board of
Social Services, Department of

July 19

Racing Commission, Virginia

July 22

Local Government, Commission on
† Waste Management, Department of

July 23

Health Services Cost Review Council, Virginia

July 24

† Waste Management, Department of

August 20

Local Government, Commission on

Calendar of Events
