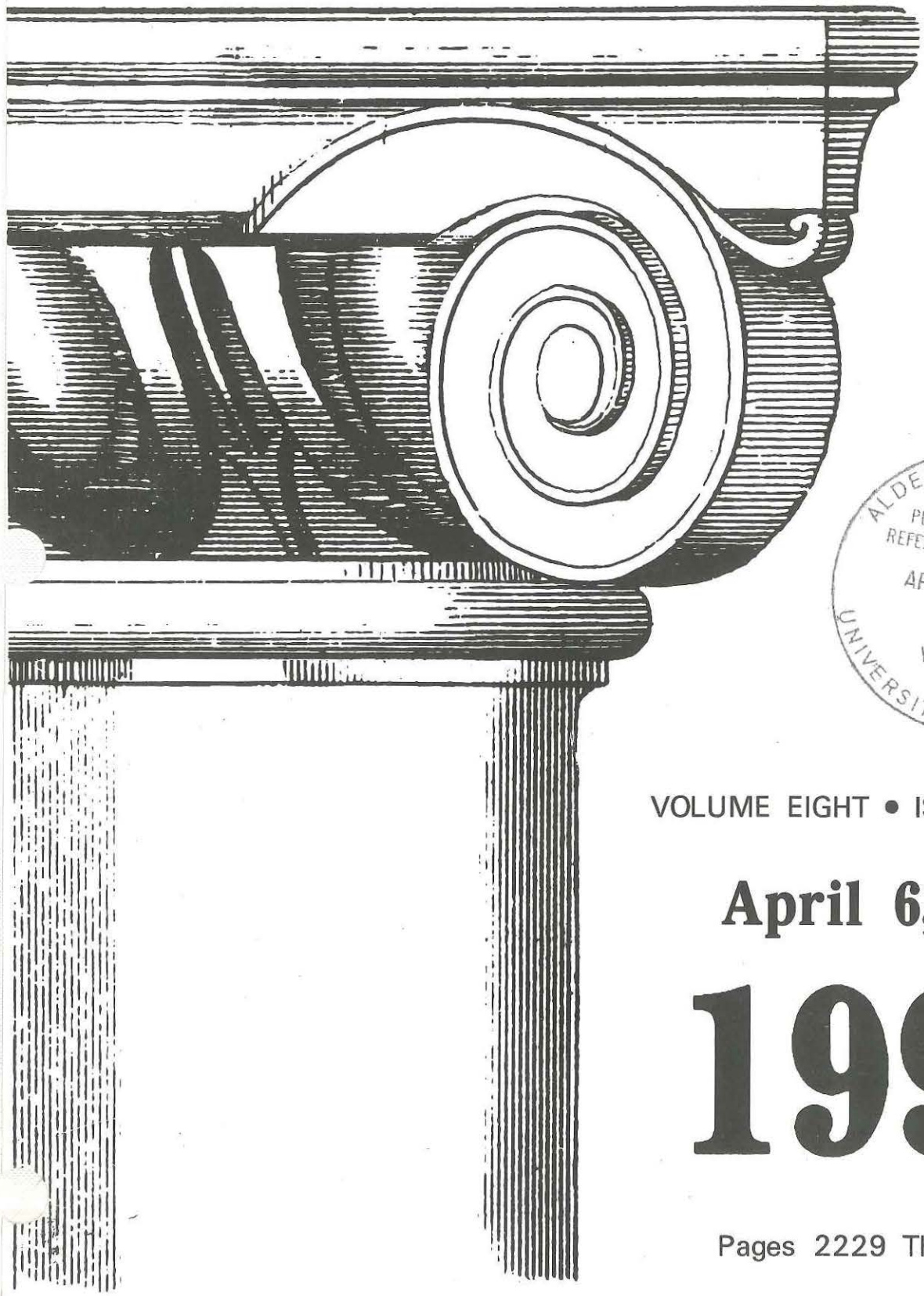
THE VIRGINIA REGISTER

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 the regulation becomes final.

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

March 1992 through June 1993

MATERIAL SUBMITTED BY Noon Wednesday	PUBLICATION DATE
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Apr. 15	May 4
Apr. 29	May 18
May 13	June 1
May 27	June 15
June 10	June 29
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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †
† Indicates entries since last publication of the Virginia Register

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed action is to provide the latest edition of referenced technical and scientific documents and to incorporate newly promulgated federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. A public meeting will be held on April 8, 1992, at 10 a.m. in House Committee Room 1, State Capitol, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until April 8, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-2378.

STATE BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider amending regulations entitled: **VR 230-30-001. Minimum Standards for Jails and Lockups.** The purpose of the proposed action is to incorporate VR 230-30-006, Work/Study Release Standards for Local Facilities into this regulation.

Statutory Authority: §§ 53.1-5, 53.1-68 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until April 15, 1992.

Contact: Mike Howerton, Chief of Operations, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3041.

DEPARTMENT OF HEALTH (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **Waterworks Technical Assistance Program/Operation Fee.** The purpose of the proposed action is to make appropriate state regulations to set fee schedules for operation permit fees and their applicability to waterworks.

Statutory Authority: §§ 32.1-170, 32.1-171.1 and 32.1-174 of the Code of Virginia pursuant to House Bill 236 effective July 1, 1992.

Written comments may be submitted until May 6, 1992.

Contact: Thomas B. Gray, P.E., Projects Manager, Virginia Department of Health, Division of Water Supply Engineering, P.O Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to allow health care institutions, which neither receive Medicare nor Medicaid reimbursement for patients, to develop their own methodology to ascertain nursing home costs and to eliminate the requirement that these facilities utilize the allocation methodology used for cost reports filed with the Virginia Department of Medical Assistance Services or for the Medicare Program.

Statutory Authority: §§ 9-158(A) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until April 24, 1992.

Contact: John A. Rupp, Executive Director, Virginia Health Services Cost Review Council, 805 E. Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR OPTICIANS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider amending regulations entitled: **VR 505-01-01:1. Board for Opticians Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's Public Participation Guidelines and Chapter 2 of Title 54.1 of the Code of Virginia.

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

Written comments may be submitted until April 23, 1992.

Contact: Mrs. Peggy S. McCrerey, Director of Regulatory Programs, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 674-2194.

BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **Calculation of Expected Cohabitant Contribution in the Aid to Dependent Children (ADC) Program.** The purpose of the proposed action is to make the calculation of the expected cohabitant contribution consistent with the calculation of the amount of income which is deemed available to an assistance unit from a stepparent. Section 63.1-90.1 of the Code of Virginia holds a cohabitant responsible for the support and maintenance of the children of the parent with which he cohabits as man and wife.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 22, 1992, to Ms. Constance O. Hall, ADC Program Manager, Department of Social Services, Division of Benefit Programs, 8007 Discovery Drive, Richmond, VA 23229.

Contact: Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The purpose of the proposed action is to amend the manual to address the use of natural gas as a motor fuel, and the transportation of low-pressure oxygen.

Statutory Authority: §§ 33.1-12 and 33.1-49 of the Code of Virginia.

Written comments may be submitted until May 6, 1992, to Mr. J. L. Butner, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Contact: Mr. C. A. Abernathy, Transportation Engineer, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Room 206 Highway Annex, Richmond, VA 23219, telephone (804) 786-2889.

For information concerning Proposed Regulations, see information page.

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

STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: **VR 275-01-1. Regulations Governing ~~the~~ Virginia** *Administration of the Federally* **Guaranteed Student Loan ~~Program and PLUS Loan Program~~** *Programs Under Title IV, Part B of the Higher Education Act* .

Statutory Authority: § 23-38.64 of the Code of Virginia.

Public Hearing Date: May 19, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments conform the SEAA's regulations to existing federal law and regulations. The proposed regulations also seek to finalize emergency regulations promulgated on August 8, 1991, that disqualify out-of-state students attending out-of-state proprietary schools from using the SEAA's loan guaranty. In addition, the proposed regulations clarify and supplement federal regulations pertaining to loan origination, disbursement, servicing, collection and default for SEAA guaranteed loans.

VR 275-01-1. Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs Under Title IV, Part B of the Higher Education Act.

PART I.
DEFINITIONS.

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

"Administrative hold" means the postponement of guarantee processing for applications from a given school or lender.

"Bankruptcy" means the judicial action to declare a person insolvent and take his assets, if any, under court administration.

"Borrower" means a student or parent to whom a Stafford, PLUS or SLS loan has been made.

"Capitalization of interest" means the addition of accrued interest to the principal balance of a loan to form a new principal balance.

"Comaker" means one of two independent signers on a PLUS promissory note or repayment agreement who are jointly and individually responsible for repayment.

"Consolidation" means the aggregation of multiple loans into a single *Title IV, Part B* loan.

"Default" means a condition of delinquency that persists for *at least* 180 days *, or for 240 days in the case of quarterly-billed loans* .

"Deferment" means postponement of conversion to repayment status or postponement of installment payments for reasons authorized by statute.

"Delinquency" means the failure to make an installment payment when due, failure to comply with other terms of the note, or failure to make an interest payment when due, when the borrower and the lender have previously agreed to a set interest repayment schedule.

"Disbursement" means the issuance of proceeds of a ~~GSL or PLUS~~ *student* loan.

"Due diligence" means *minimum* reasonable care and diligence in processing, making, servicing, and collecting loans *as specified by the U.S. Department of Education, federal and state statute and by the State Education Assistance Authority* .

"Edvantage" means the program established by the SEAA that guarantees long-term, variable interest loans to students, their families and other interested parties to help them meet the cost of higher education.

"Endorser" means a person who agrees to share the maker's liability on a note by signing the note or repayment agreement. ~~An endorser is liable only when the maker fails in his responsibility.~~

"Forbearance" means a delay of repayment of *interest and* principal ~~for a short period of time~~ on terms agreed upon in writing by the lender and the borrower.

"Grace period" means a single continuous period between the date that the borrower ceases at least half-time studies at an eligible school and the time when *the loan enters an active* repayment ~~of his loan must begin~~ *period* .

"Guarantee" means the SEAA's legal obligation to repay the holder the outstanding principal balance plus accrued interest in case of a duly filed claim for default, bankruptcy, total and permanent disability, or death of the borrower.

"Guarantee fee" means the fee paid to the SEAA in consideration ~~of~~ *for* its guarantee.

~~"Guaranteed Student Loan (GSL) Program means the program established in 1965 under Title IV, Part B, of the Higher Education Act to make low-interest loans available to students to pay for their costs of attending eligible post-secondary schools by providing loan insurance.~~

"Interest" means the charge made to the borrower for the use of a lender's money.

"Interest benefits" means the payment of interest on behalf of ~~the student GSL~~ *a Stafford loan* borrower by the U.S. Department of Education while the borrower is in school, in grace, or in a period of authorized deferment.

"Lender" means any lender meeting the eligibility requirements of the U.S. Department of Education and having a participation agreement with the SEAA.

"Limit" means the authority of the SEAA to limit school and lender loan volume or numbers of loans in accordance with 34 CFR 668 Subpart G and VR 275-01-2.

"Non-Virginia resident" means any loan applicant who does not indicate Virginia residency on an application for a loan or does not indicate a permanent home address in the Commonwealth of Virginia.

"Non-Virginia proprietary school" means any school that has an assigned OE number that is registered by the U.S. Department of Education in a state other than Virginia, and meets one of the following criteria:

1. Is not classified by the Internal Revenue Service as a tax exempt entity, or

2. Has been defined by the U.S. Department of Education as a proprietary school or as a vocational school.

"OE number" means the identification number assigned by the U.S. Department of Education upon its approval of eligibility for a participating school or lender.

"Participation agreement" means the contract setting forth the rights and responsibilities of the lender and the SEAA.

"Permanent and total disability" means the inability to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.

"PLUS" means the program established ~~in Virginia in July of 1982,~~ *under Title IV, Part B of the Higher Education Act* that ~~makes~~ *authorizes* long-term low interest loans available to ~~independent undergraduate students, graduate students, and~~ parents of dependent undergraduate *, graduate and professional* students, to help them meet the cost of education.

"Repayment period" means the period of time from the day following the end of the grace period *if any,* to the time a loan is paid in full or is cancelled due to *default* the borrower's death, total and permanent disability, or discharge in bankruptcy. ~~For PLUS loans, the repayment period normally begins within 60 days after the loan is made.~~

"School" means any school approved by the U.S. Department of Education for participation in the ~~GSL and PLUS~~ *Title IV, Part B* programs.

"SLS" means the program established under Title IV, Part B of the Higher Education Act that authorizes long-term low-interest loans available to independent undergraduate, graduate and professional students, and to certain dependent undergraduate students, to help them meet the cost of education.

"Stafford" loan means the program established under Title IV, Part B of the Higher Education Act that makes long-term low-interest subsidized loans available to undergraduate, graduate and professional students to help them meet the cost of education.

"State Education Assistance Authority (SEAA)" means the designated guarantor for ~~the GSL and PLUS programs~~ *Title IV, Part B loans* in the Commonwealth of Virginia.

"Suspend" means the authority of the SEAA to suspend school and lender program participation in accordance with 34 CFR 668 Subpart G and VR-275-01-2.

"Terminate" means the authority of the SEAA to terminate school and lender program participation in accordance with 34 CFR 668 Subpart G and VR 275-01-2.

"Title IV, Part B" means that portion of the federal Higher Education Act authorizing federally-guaranteed student loans, including Stafford, PLUS, SLS and Consolidation loans.

PART II.
PARTICIPATION.

§ 2.1. Borrower eligibility.

A. Requirements.

In order to be eligible for a Virginia GSL or PLUS loan, the student/parent borrower shall meet all of the federal eligibility requirements as well as the following criteria:

1. For a repeat borrower, unless he has borrowed less than the annual maximum, ~~eight~~ *seven* months shall have elapsed between the first day of the previous loan period and the first day of the loan period, for any subsequent application or the student for whom

the proceeds are being borrowed shall have advanced to a higher grade level.

2. Neither ~~student~~ *borrower* nor ~~parent borrower~~ *comaker* may be in default on any previous ~~GSL or PLUS~~ *Title IV, Part B or Edvantage* loans; however, a borrower who has defaulted and has since made full restitution to the SEAA ~~or other guarantor~~ including any costs incurred by the SEAA ~~or other guarantor~~ in its collection effort is considered eligible.

3. ~~For purposes of borrower eligibility determination, GSL and PLUS are treated as one program.~~ The status of a student applying for a ~~GSL~~ *Stafford* or PLUS loan will be reviewed for the ~~eight-month~~ *seven-month* time lapse since the first day of the previous loan period, or grade level progression, on the basis of all previous SEAA-guaranteed loans made for or by that student. *The status of a student applying for a SLS loan will be reviewed for the one academic year or seven-month time lapse since the first day of the previous loan period, on the basis of all previous SEAA-guaranteed loans made for or by that student.*

4. Non-Virginia resident borrowers attending non-Virginia proprietary schools are not eligible to receive SEAA-guaranteed loans.

B. Lender of last resort.

Eligible borrowers who are denied access to loans by two or more eligible lenders may submit loan applications to the Lender of Last Resort program. Borrower applications submitted to the Lender of Last Resort program must pass a credit check and borrowers must complete a debt-management counseling session with the SEAA or its designee.

~~B.~~ *C.* Rights.

Discrimination on the basis of race, creed, color, sex, age, national origin, marital status, or physically handicapped condition is prohibited in ~~the Virginia GSL Program and PLUS Program~~ *any loan program using the SEAA guarantee* .

§ 2.2. Lender participation.

A. Requirements.

A lender may participate in the ~~GSL Program and PLUS~~ *Title IV, Part B* program *in Virginia* by executing a participation agreement with the SEAA. Lenders ~~participating in the GSL Program are not required to participate in the PLUS Program, nor vice versa~~ *may participate in any or all programs* .

~~B. Out-of-state lenders.~~

~~In addition to executing a participation agreement, in order to be eligible to participate in the Virginia Loan GSL Program and PLUS Program, an out-of-state lender shall meet the following criteria:~~

~~1. Submit a list of all other guarantee agencies with which the lender has a participation agreement, and the most recently available default rate of the lender with each of those guarantee agencies.~~

~~2. Provide the name of the agency (federal reserve, state bank examiner, etc.) that is responsible for conducting examinations of the lender.~~

~~3. The SEAA reserves the right to request a satisfactory letter of reference from any other guarantee agency with which the lender has a participation agreement.~~

~~C.~~ *B.* Limitation/suspension/termination.

The SEAA reserves the right to limit, suspend, or terminate the participation of a lender in ~~the Virginia GSL and PLUS~~ *Title IV, Part B* programs *in Virginia* under terms consistent with the regulations of the SEAA and state and federal law.

§ 2.3. School participation.

A. Requirements.

Any school approved by the U.S. Department of Education for participation in ~~the GSL and PLUS~~ *Title IV, Part B* programs is eligible for the Virginia ~~GSL and PLUS~~ *Title IV, Part B* programs. Summer school courses are eligible, provided that the student is enrolled at least half-time in the session immediately preceding the summer school session or has been accepted for enrollment in a regular session immediately following summer school. Correspondence courses *for which there is not a residential component,* and home study courses are not eligible.

B. Foreign schools.

Applications and correspondence regarding ~~Virginia GSL~~ *loans for students* and PLUS borrowers attending foreign schools shall be completed in English and all sums shall be stated in U.S. dollars.

C. Limitation/suspension/termination.

The SEAA reserves the right to limit, suspend, or terminate the participation of a school in the Virginia ~~GSL and PLUS~~ *Title IV, Part B* programs under terms consistent with the regulations of the SEAA and state and federal law.

PART III.
LOAN PROCESS.

§ 3.1. Lender ~~/~~ responsibilities.

A. Due diligence.

In making , *processing, servicing* and collecting ~~GSL and PLUS~~ *Title IV, Part B* loans, the lender shall ~~treat the loan in the same way as if there were no guarantee. The lender shall attempt to collect delinquent loans using every effort short of litigation that it would use on a conventional loan in the ordinary course of business. If the lender so desires, it may take legal action, but this is not required.~~ *exercise due diligence as outlined in 34 CFR § 682. In addition, the lender shall:*

1. Mail delinquency letters to delinquent borrowers for each delinquency cycle regardless of whether telephone contact is established with the borrower.

2. Request preclaim assistance from the SEAA when the loan is between 80 and 100 days delinquent.

3. Exercise due diligence with respect to endorsers by performing the following activities:

a. 31 through 60 days delinquent: The lender shall notify the endorser, in writing, of the borrower's delinquency and the endorser's secondary responsibility for repayment.

b. 61 through 150 days delinquent: during each 30-day period comprising this period, the lender shall send at least two forceful collection letters and attempt to contact the endorser by telephone to cure the delinquency. The letters shall also warn the endorser that, if the delinquency is not cured, the lender will assign the loan to the SEAA, which in turn will report the default to a credit bureau, thereby damaging the endorser's credit rating, and may bring suit against both the borrower and endorser to compel repayment of the loan.

c. 151 through 180 days delinquent: during this period the lender shall send a final demand letter to the endorser requiring repayment of the loan in full and notifying the endorser that a default will be reported to all national credit bureaus. The lender shall allow the endorser at least 30 days to respond to the final demand letter and to make payments sufficient to bring the loan out of default before filing a default claim with the SEAA or reporting the default to a credit bureau.

4. Exceptions to telephone requirements. A lender need not attempt to contact by telephone any borrower:

a. Who is incarcerated;

b. Who is residing outside North America;

c. Who is 155 or more days delinquent following the lender's receipt of a payment on the loan, a dishonored check received from the drawee as a payment on the loan or the expiration of an authorized deferment or forbearance.

B. Skip tracing.

The lender shall initiate skip tracing efforts during the grace or repayment period within 10 days of receipt of information that the borrower's or endorser's address or telephone number is unknown. These efforts shall include but not be limited to (i) contacting endorser, (ii) relatives, (iii) references, (iv) the post office, (v) telephone directory assistance, (vi) credit bureau organizations, (vii) creditors, and (viii) the borrower's last educational institution of record.

1. 11 - 30 days after receiving returned mail or upon learning that a telephone number is invalid, the lender shall attempt to locate the borrower's address and phone number using at least the skip tracing methods described in this section.

2. 31 - 90 and 91 - 180 days the lender shall make at least one follow-up attempt during each of these periods to locate the borrower's current address. During each period the lender shall make at least one attempt to locate the borrower's telephone number through directory assistance.

3. If the lender obtains a current address or telephone number before the date of default, the lender shall resume collection activities designated for the appropriate delinquency period.

4. If the lender obtains a current address after the 150th day of delinquency (210th day for loans billed quarterly), but prior to filing the default claim, the lender shall send the borrower a final demand letter and allow the borrower 30 days to respond before filing a default claim.

C. Quarterly-billed loans.

Due diligence requirements for quarterly-billed loans are as follows:

1. 1 - 15 days delinquent: Except in the case where a loan is brought into this period by a payment on the loan, expiration of an authorized deferment or forbearance period, or the lender's receipt from the drawee of a dishonored check submitted as a payment on the loan, the lender during this period shall send at least one written notice or collection letter to the borrower informing the borrower of the delinquency and urging the borrower to make payments sufficient to eliminate the delinquency.

2. 16 - 120 days delinquent: Unless exempted under subdivision 7 of this subsection, the lender during this period shall engage in at least two diligent efforts to contact the borrower by telephone and send at least two collection letters urging the borrower to cure the

delinquency.

3. 121 - 240 days delinquent: Unless exempted under subdivision 7 of this subsection, the lender during this period shall engage in at least two deligent efforts to contact the borrower by telephone and send at least two collection letters urging the borrower to cure the delinquency and warning the borrower that if the delinquency is not cured, the lender will assign the loan to the SEAA who, in turn, will report the default to all national credit bureaus, and that the agency may bring suit against the borrower to compel repayment of the loan.

4. 110 - 130 days delinquent: The lender shall request preclaim assistance from the SEAA.

5. At no point during any period may the lender permit the occurrence of a gap in collection activity, as defined in federal regulations of more than 45 days (60 days in the case of a transfer).

6. Final demand. On or after the 210th day of delinquency, the lender shall send a final demand letter to the borrower requiring repayment of the loan in full and notifying the borrower that a default will be reported to a national credit bureau. The lender shall allow the borrower at least 30 days after the date the letter is mailed to respond to the final demand letter and make payments sufficient to bring the loan current before filing a default claim on the loan.

7. Exceptions to telephone requirements. A lender need not attempt to contact by telephone any borrower:

a. Who is incarcerated;

b. Who is residing outside North America;

c. Who is 155 or more days delinquent following the lender's receipt of a payment on the loan, a dishonored check received from the drawee as a payment on the loan or the expiration of an authorized deferment or forbearance.

B. Disbursement.

1. ~~GSL~~ *Stafford and SLS* loan proceeds shall be disbursed in a check, or checks made copayable to the borrower and the school, shall include the borrower's social security number, and shall be mailed to the financial aid office of the school named on the application.

2. PLUS loan proceeds ~~for a student borrower shall be disbursed in a check or checks made copayable to the borrower and the school, shall include the borrower's social security number, and shall be mailed to the financial aid office of the school named on the application. PLUS loan proceeds for a parent borrower~~ shall be disbursed in a check ~~payable~~ *copayable* to the parent *and the school identified on the loan application, shall include the borrower's social security number and the student's social security number,* and *shall be* mailed to the *parent's* permanent address *indicated* on the application.

3. Loan proceeds for a student attending a foreign school shall be made copayable to the borrower and the school and mailed to the borrower's permanent address indicated on the application.

~~3.~~ *4.* ~~GSL and PLUS~~ Loan proceeds may be disbursed by other funds transfer method approved by the SEAA and the U.S. Department of Education.

§ 3.2. School responsibilities.

A. General.

The school shall reply promptly to inquiries made by the SEAA or the lender concerning student borrowers. The school shall return the Student Status ~~Verification~~ *Confirmation* Report to the SEAA within 30 days of its receipt. *The SEAA reserves the right to place an administrative hold on institutions not complying with this requirement.*

B. Certification.

1. The school shall certify the ~~GSL or PLUS~~ *loan* application no later than the last day of the loan period indicated on the application.

2. The certification of the financial aid officer's own loan application, the application of a spouse or dependent of a financial aid officer or an application where conflict of interest exists, is not sufficient. In any of these cases, the application shall be accompanied by certification of the immediate supervisor of the financial aid officer.

C. ~~Disbursement~~ *Delivery of late disbursements* .

If the school receives a loan check for a student after the period of the loan has expired, ~~the school may~~ *or the student ceases to be enrolled at least half-time, the school may release Stafford, SLS and PLUS loan proceeds only as follows:*

1. The following certification requirements have been met by the school:

a. In the case of a paper application/promissory note, the school has certified the note on or before the last day of the loan period.

b. In the case of a loan processed electronically, the school has transmitted school certification data on or before the last day of the loan period.

2. The SEAA must have received a paper application/promissory note within 30 days of the last day of the enrollment period indicated on the application.

3. The school must secure the borrower's signature and apply proceeds from a Stafford, PLUS or SLS check to the account within 30 calendar days of the date the school receives the check.

4. The school may retain only the amount, if any, owed to the school by that student. ~~The remaining amount may be disbursed to the student only if the school is satisfied that the funds will be used for education expenses incurred during the loan period. The school shall maintain documentation to support any ease in which funds were released to the student in excess of the amount owed to the school.~~

5. Late disbursement of SLS loans is prohibited for first year students who have left school.

PART IV.
ACTIVE LOAN.

§ 4.1. Guarantee fee.

A. ~~The SEAA guarantee fee on GSLs is one-half of one percent, and is calculated on the principal amount from the date of disbursement to one year after studies are expected to be completed as shown on the loan application. The SEAA does not charge any additional fee for the repayment period or for periods of authorized deferment or extension.~~ *The SEAA schedule of guarantee fees on Stafford, SLS and PLUS loans shall be set from time to time by the SEAA Board of Directors, subject to any limits and conditions set forth in federal regulations.*

~~B. The SEAA guarantee fee on PLUS loans is 1.0% calculated on the declining principal balance for the life of the loan.~~

~~C.~~ *B.* A loan cannot be sold or transferred until the guarantee fee has been paid in full.

~~D.~~ *C.* Although the SEAA is not obliged to return any fee, it may refund a guarantee fee at the request of the lender when a loan is cancelled before disbursement, or when ~~the borrower does not use the proceeds of the loan and repays the loan to the lender shortly after disbursement~~ *the school returns the funds by the 120th day following disbursement* .

D. Lenders who wish to reinstate a cancelled guarantee six months or later after a cancellation may be required to pay a reinstatement fee to the SEAA in addition to the guarantee fee. The amount of the reinstatement fee shall be set from time to time by the SEAA Board of Directors.

§ 4.2. *Capitalization of* interest.

A. Capitalization.

1. Before resorting to capitalization *of interest in the case of a Stafford loan forbearance* , the lender shall first make every effort to get the borrower (or endorser, where applicable) to make full payment of ~~principal and~~ interest due, or if that is not possible, payment of interest as it accrues.

2. Except in the case of delinquent SLS loans, the borrower must agree in writing to any capitalization of interest ~~; and the following guidelines shall be followed:~~ .

~~1. Capitalization shall be a last resort, utilized only after exhausting other options (deferment, forbearance, full payment of accrued interest).~~

~~2. The preferred candidate for capitalization is a cooperative borrower with an extreme hardship, who takes the initiative to request assistance.~~

~~3. Capitalization should be intended not to delay a default, but to avoid it.~~

~~4.~~ *3.* During periods *of forbearance or deferment* for which interest is to be capitalized, the lender shall contact the borrower at least quarterly to remind him of the obligation to repay the loan.

B. Guarantee on interest.

The SEAA will guarantee capitalized interest, and the interest accruing therefrom, under the following conditions, and where the lender has exercised due diligence:

1. The SEAA will pay interest on those loans not eligible for interest benefits where interest has accrued and has been capitalized during the in-school and grace periods, ~~or~~ *and* during any *eligible* periods of deferment.

2. The SEAA will pay interest that has accrued during the period from the date the first repayment installment was required until it was made (as in the case of the borrower's unanticipated early departure from school).

3. The SEAA will pay interest that has not been paid during a period of forbearance, or where the SEAA has agreed to allow the lender to accrue and capitalize the interest.

§ 4.3. Repayment.

A. Minimum loan payment.

Any exception to federally established minimum *principal* loan payments must receive SEAA approval *in advance* .

B. Repayment forms.

The SEAA must approve the use of repayment instruments other than the SEAA repayment agreement furnished to lenders.

C. Consolidation.

The note(s) for any loans consolidated shall be marked "paid by renewal" and retained in the borrower's file.

§ 4.4. Forbearance.

A. Eligibility.

~~Forbearance may be considered for circumstances such as family illness, financial hardship, or a period of school enrollment during which the borrower is ineligible for deferment.~~ The SEAA reserves the right to *require lenders to receive advance approval of forbearances and to* disallow ~~any~~ *such* forbearance.

B. Duration.

~~A lender may grant a borrower a single continuous forbearance period of up to three months simply by notifying the SEAA to extend the anticipated date to begin repayment of the promissory note or the anticipated paid-in-full date of the repayment agreement. A~~ *Total* forbearance *is limited to a maximum* of ~~longer than three~~ *24* months ~~is subject to approval by the SEAA~~ , except that, in the case of a period of school enrollment the lender may grant a forbearance until the time the borrower has completed his studies at the school. *In addition, lenders may grant a maximum of nine months forbearances in order to allow loans ineligible for interest benefits to mature at the same time as loans qualifying for interest benefits.*

C. Renewal.

Lenders shall not renew a forbearance in which the borrower owes past due interest. In such cases, the borrower must request, in writing, where required, that outstanding interest be capitalized or must pay the interest charges before any subsequent forbearance is granted by the lender.

~~§ 4.5. Delinquent loans.~~

~~A. Lender responsibilities.~~

~~In dealing with GSL and PLUS delinquencies, the lender shall use all means short of litigation that would be used in collecting an uninsured loan of a comparable amount. The lender shall also make every effort to determine if the borrower is entitled to a deferment or eligible for forbearance.~~

~~B. Due diligence.~~

~~The lender shall notify the SEAA when a loan is 60 days past due. At 90 days past due, the lender shall send a demand letter to the borrower and to the endorsers, where applicable. The lender shall submit a claim for the default at 180 days. The lender shall notify the SEAA if it wishes to continue to work the claim past 180 days of delinquency. In the event of such notification, the lender may continue its collection efforts and the SEAA guarantee will remain in force, up to 270 days.~~

PART V.
CLAIMS.

§ 5.1. Death claims.

~~To receive payment in the event of~~ *To file a claim arising from* the death of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), a certified copy of the death certificate *or similar verifiable proof* , the promissory note(s) and any repayment agreement(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, *the loan application(s) in the cases of loans made without a combined application/note,* and any support documents the lender may be able to furnish. *The lender must submit the claim within 60 days of determining that the borrower has died.*

§ 5.2. Total and permanent disability.

To file a claim arising from the total and permanent disability of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), the ~~appropriate,~~ completed federal form(s), signed by a qualified physician (either an M.D. or D.O.), the promissory note(s) and any repayment agreement(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, *the loan application(s) in the case of loans made without a combined application/note,* and any support documents the lender may be able to furnish. *The lender must submit the claim within 60 days of determining that the borrower has been certified totally and permanently disabled.*

§ 5.3. Default claims.

~~The SEAA guarantee is contingent on the lender's due diligence.~~

To file a claim in the event of default, the lender shall complete and send to the SEAA the appropriate SEAA form(s). The default claim shall include the lenders proof that due diligence requirements have been met, the promissory note(s) and any repayment agreement(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, the loan application in cases of loans made

without a combined application/note, and any support documents the lender may be able to furnish.

~~Due diligence for default claims requires the following actions:~~

~~1. Sending written notice to the borrower when the loan is 5-10 days delinquent.~~

~~2. Sending a second written notice when the loan becomes 25-30 days delinquent. Making phone calls to the borrower, endorser/co-maker, parents, references, employers. All information available to the lender shall be pursued.~~

~~3. Requesting preclaims assistance from the SEAA when the loan becomes 60 days delinquent.~~

~~4. Continuing all written correspondence and phone calls to appropriate persons when the loan is 60-90 days delinquent.~~

~~5. Sending final demand letter to borrower and endorser/co-maker when the loan is 90 days delinquent.~~

~~6. Preparing and submitting a claim to SEAA when loan is 180 days delinquent.~~

§ 5.4. Bankruptcy claims.

A. Lender responsibilities.

~~When a lender receives notice of the filing of a petition in bankruptcy, the lender shall notify the SEAA claims staff by telephone of the impending bankruptcy, contact the endorser by letter, where there is an endorser, and attempt collection on the loan from the endorser. The lender shall also send a bankruptcy claim to the SEAA within 15 days after the lender receives the Notice of First Meeting of Creditors. Except in the case of Chapter 13 Bankruptcy, the lender shall send the SEAA a copy of the letter in which it attempted to collect the loan.~~

The lender shall determine that a bankruptcy petition has been filed when the lender receives the Notice of First Meeting of Creditors in which the student loan debt is listed. The lender shall not attempt to collect the loan and shall file a proof of claim with the bankruptcy court within 30 days of the receipt of the Notice of First Meeting of Creditors. The lender shall determine if the loan has been in repayment for more than seven years, exclusive of any deferment or forbearance period(s), on the date the lender receives the Notice of First Meeting of Creditors and the lender shall determine if the borrower has filed a Petition for Undue Hardship.

1. The lender shall file a Chapter 7 bankruptcy claim within 30 days of receipt of the Notice of First Meeting of Creditors if the loan has been in repayment for more than seven years.

2. The lender shall file a Chapter 7 bankruptcy claim within 10 days of receiving notification that the borrower filed a Petition for Undue Hardship if the loan has been in repayment for less than seven years.

3. The lender shall hold the loan in an administrative forbearance status until the Chapter 7 bankruptcy is concluded if the loan has been in repayment for less than seven years and no Petition for Undue Hardship was filed. When the bankruptcy action is concluded, the loan shall resume the same status it was in prior to the time the bankruptcy action was filed.

4. The lender shall file a bankruptcy claim within 30 days of receipt of a notice that a Chapter 13 bankruptcy petition has been filed by the borrower.

5. If a loan was obtained with an endorser or comaker, and only one party has the loan discharged in bankruptcy, the other remains obligated to repay the loan. In such cases, the lender shall not submit a bankruptcy claim to the SEAA and shall attempt to collect the loan from the other borrower.

6. In the event that the lender receives notice of an adversary proceeding after filing the claim, the lender shall forward notice of the hearing to the SEAA Default Collections department by telephone or facsimile within five business days.

B. Documentation.

~~The bankruptcy claim shall include~~ *To file a claim for a qualifying bankruptcy the lender shall complete and send to the SEAA* the appropriate completed SEAA form, the notice of bankruptcy, *written evidence of the lender's efforts to determine if the borrower filed a hardship petition, an assignment to the guarantee agency of the lenders proof of claim,* the promissory note(s) and any repayment agreement(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, *the loan application in cases of loans made without a combined application/note,* and any support documents the lender may be able to furnish, as well as any other information that may help the SEAA form the basis for an objection or an exception to the bankruptcy discharge.

§ ~~5.5.~~ ~~Interest.~~

~~The SEAA will pay interest for no more than 15 days from the date that the lender is officially notified of the grounds of the claim, or no more than 15 days from the 180th day of delinquency in the event of default, to the date the claim is received by the SEAA. The SEAA pays interest on the claim for the number of days required for review by the SEAA claims staff plus 10 days for check processing. No interest is paid for the period of time during which an incomplete claim has been returned to the lender.~~

§ 5.5. Payment of interest on claims.

A. Default claims (monthly/quarterly).

1. In the case of default claims submitted on or before the 205th/265th day of delinquency, the SEAA will pay a maximum of 295/355 days interest.

2. In the case of default claims submitted between days 206/266 and 270/330, the SEAA will pay a maximum of 270/330 days interest. However, for every day the SEAA's internal process exceeds 65 days, the SEAA will pay interest for additional processing time, not to exceed 25 days.

B. Death and disability claims.

The SEAA will pay interest for no more than 150 days after the date on which the lender determines that the borrower has been certified totally and permanently disabled or that the borrower has died.

C. Bankruptcy claims.

The SEAA will pay interest for no more than 150 days after the date on which a lender receives notice of the first meeting of creditors for a qualifying Chapter 7 bankruptcy or a Chapter 13 bankruptcy. The SEAA will pay interest for no more than 130 days after the date on which the lender determines that the borrower has filed a Petition for Undue Hardship in the case of a Chapter 7 bankruptcy.

D. Claims returned to lender.

No interest is paid for the period of time during which an incomplete claim has been returned to the lender. In the event that the lender believes a claim has been returned in error, the lender can appeal to the SEAA for the payment of interest during the return period, not to exceed 30 days of interest.

§ 5.6. Return of claims for inadequate documentation.

A. Lenders must resubmit returned claims within 60 days of the date the claim was returned by the SEAA.

B. Lenders may not resubmit more than twice a claim that has been returned to the lender for inadequate documentation unless the claim was returned as a result of SEAA error.

§ 5.7. Repurchase and reclaim.

A. If the SEAA determines that a claim has been paid in error or, in the case of a bankruptcy claim in which a hardship petition has been filed, the court determines the loan to be nondischargeable, the SEAA may require the lender to repurchase the loan.

B. If a lender determines that a claim has been submitted in error, the lender may reclaim the loan or may repurchase the loan if the claim has been paid.

PART VI.
ASSIGNMENT TO SERVICER OR SECONDARY MARKET.

§ 6.1. Servicing.

The lender may negotiate the servicing of loans under this program with a servicing agency. The servicer will be regarded as the lender's agent, and the lender will continue to be bound by the terms of these regulations.

§ 6.2. Secondary market.

The lender may negotiate the sale of loans under this program to a secondary market. No loan may be sold to any entity that is not party to a participation agreement with the SEAA except with the written permission of the SEAA. The lender or the secondary market shall notify the SEAA promptly of the assignment of any loans to a secondary market.

* * * * * * * *

Title of Regulation: **VR 275-02-1. Regulations Governing the Edvantage Loan Program.**

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Public Hearing Date: May 19, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

These proposed amendments delete some lender and school requirements for certifying loan applications, alter time frames for loan collection activities, allow the capitalization of interest in certain cases, delete certain school options that have been unused, alter some disbursement requirements, require timely claim submission and update the operational guidelines to reflect changes in the federal student loan program.

VR 275-02-1. Regulations Governing the Edvantage Loan Program.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Bankruptcy" means the judicial action to declare a person insolvent and take his assets, if any, under court

administration.

"Borrower" means all comakers on a ~~loan~~ *note* , collectively.

"Cost of attendance" means the cost of tuition and fees related to the loan period reported on the loan application. Costs may also include reasonable education-related expenses for books, supplies, room and board, transportation and personal expenses. Costs may not include the purchase of a motor vehicle . ~~Costs may not include expenses~~ *or costs* associated with correspondence study.

"Default" means, for the purposes of these regulations, a condition of delinquency that persists for 90 days ; ~~or the death, total and permanent disability, or bankruptcy of the borrower~~ .

"Delinquency" means the failure to make an installment payment when due, failure to comply with other terms of the note, or failure to make an interest payment when due.

"Disbursement" means the issuance of proceeds of a loan under the Edvantage program.

"Due diligence" means reasonable care and diligence in processing, making, servicing, and collecting loans.

"Enrollment" means ~~the period during which the student is attending or plans to attend school, as defined by Title IV regulations~~ *the status of a student who has completed the registration requirements (except for the payment of tuition and fees) at the institution he or she is attending* .

"Forbearance" means a delay of repayment of principal for a short period of time on terms agreed upon in writing by the lender and the borrower.

"Guarantee" means the legal obligation of the SEAA to repay the holder the outstanding principal balance plus accrued interest in case of a duly filed claim for default, bankruptcy, total and permanent disability, or death of the borrower.

"Guarantee fee" means the fee paid to the SEAA in consideration ~~of~~ *for* its guarantee.

~~*"Guaranteed Student Loan (GSL) Program"* means the program established under Title IV, Part B, of the Higher Education Act, as amended, to make low-interest loans available to students to pay for their costs of attending eligible post-secondary schools by providing loan insurance. For purposes of these regulations, references applicable to GSL shall incorporate the PLUS and Supplemental Loans for Students (SLS) programs administered by the SEAA.~~

"Interest" means the charge made to the borrower for the use of a lender's money.

"Lender" means *the Virginia Education Loan Authority or* any bank, savings and loan association or credit union having a participation agreement with the SEAA ; ~~or the Virginia Education Loan Authority~~ .

"Limit" means the authority of the SEAA to limit school and lender loan volume or numbers of loans in accordance with the provisions of these regulations.

"Loan" means any loan made under the Edvantage program.

"Loan period" means the period of time during which the student expects to be enrolled, not to exceed 12 months.

"Participation agreement" means the contract setting forth the rights and responsibilities of the lender and the SEAA for the Edvantage program.

"Pell Grant" means the program established under Title IV, Part A of the Higher Education Act, as amended, to provide grants to students attending eligible post-secondary schools.

"Permanent and total disability" means the inability to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.

"Primary borrower" means the borrower on whose income or net worth the lender is making its determination of credit-worthiness.

"Program" means the Edvantage program.

"Promissory note" or *"note"* means the legally binding contract between the lender and the borrower which contains the terms and conditions of the loan.

"Repayment period" means the period of time ~~from the day the first payment of principal is due to the time~~ *which begins within 60 days of disbursement and ends when* a loan is paid in full or a claim is filed due to default or the borrower's death, total and permanent disability, or discharge in bankruptcy. ~~For the Edvantage program, the repayment period normally begins within 60 days of disbursement, or within 60 days of departure from school for those borrowers electing the in-school interest-only option.~~

"School" means any post-secondary institution which is eligible to participate in the Edvantage program as specified in these regulations.

"Stafford Student Loan Program" means the program established under Title IV, Part B of the Higher Education Act that authorizes long-term low-interest loans available to independent undergraduate, graduate and professional students to help them meet the cost of education.

"State Education Assistance Authority (SEAA)" means the designated guarantor for the ~~GSL~~ *Title IV, Part V loan* program in the Commonwealth of Virginia, and the administrator and guarantor of the Edvantage program.

"Suspend" means the authority of the SEAA temporarily to terminate school and lender program participation in accordance with the provisions of these regulations.

"Terminate" means the authority of the SEAA to terminate school and lender program participation in accordance with the provisions of these regulations.

"Title IV" means Title IV of the Higher Education Act of 1965, as amended. *Part B of Title IV refers to the federally guaranteed student loan programs including Stafford, PLUS, SLS and Consolidation loans.*

PART II.
PARTICIPATION.

§ 2.1. Borrower eligibility.

A. Requirements.

1. Eligible borrowers are students, parents, legal guardians or other responsible individuals who elect to borrow on behalf of ~~the~~ student. In ~~the event that a parent, legal guardian or other responsible individual is the borrower~~ *all cases* , the student is required to sign the note as a ~~co-maker~~ *borrower* .

2. Every borrower must be

a. A U.S. citizen or national, or

b. An eligible noncitizen as defined by Title IV regulations.

~~3. The primary borrower on the loan must be a U.S. citizen, national or permanent resident.~~

~~4.~~ *3.* At least one borrower must be a Virginia resident if the student is attending a non-Virginia school or the loan must be obtained through a lender ~~headquartered in Virginia~~ *having a participation agreement with the SEAA* .

~~5.~~ *4.* The student must be pursuing an undergraduate, graduate or professional program toward a degree or certificate, or a program designed to lead to teacher certification.

~~6.~~ *5.* At least one borrower or a combination of borrowers on the loan must pass a credit test administered by the lender *as defined in these regulations* .

~~7.~~ *6.* All borrowers must be free from default on any previous ~~Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation~~ *Title IV* or Edvantage loan.

~~8.~~ *7.* Incarcerated students are not eligible for the Edvantage program.

B. Rights.

Discrimination on the basis of race, creed, color, sex, age, national origin, marital status, or physically handicapped condition is prohibited in the Edvantage program.

§ 2.2. Lender participation.

A. Eligibility.

An eligible lender is any lender participating in the Virginia ~~Guaranteed Student Loan~~ *Title IV, Part B* Program administered by the SEAA. An eligible lender may participate in the Edvantage program by executing an Edvantage participation agreement with the SEAA.

B. Program review.

The SEAA reserves the right to conduct periodic program reviews of the lender to determine the lender's adherence to these regulations.

C. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any lender in the Edvantage program under terms consistent with regulations of the SEAA , *VR 275-01-2, which became effective on February 1, 1984* .

2. Any ~~lender~~ *school* under limitation, suspension or termination in the Virginia ~~GSL~~ *Title IV, Part B* program will be placed automatically under the same status in the Edvantage program.

D. *Edvantage* default rate.

Should the lender's default rate exceed 3.0%, the SEAA reserves the right to limit, suspend or terminate the lender's participation in the program under terms consistent with regulations of the SEAA. The default rate shall be calculated based on the following formula:

Total cumulative amount of default claims paid by the SEAA on loans disbursed by the lender, divided by total outstanding principal of all loans disbursed by the lender.

§ 2.3. School participation.

A. Eligible Virginia schools.

An eligible school is any post-secondary institution located within Virginia which is eligible to participate in

the ~~federal Guaranteed Student Loan and Pell Grant~~ *Title IV* Programs and which is participating in the SEAA ~~GSL~~ *Stafford* program.

B. Eligible non-Virginia schools.

An eligible non-Virginia school must be an accredited degree-granting post-secondary institution located within the United States and eligible to participate in the ~~federal Guaranteed Student Loan and Pell Grant~~ *Title IV* Programs. Non-Virginia school participation is limited to non-profit two- and four-year public and private institutions, graduate and professional schools, and non-graduate health schools.

C. Program review.

The SEAA reserves the right to conduct periodic program reviews of the school to determine the school's adherence to these regulations.

D. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any school in the Edvantage program under terms consistent with *SEAA's Limitation, Suspension and Termination* Regulations ~~of the SEAA~~ *, VR 275-01-2, which became effective on February 1, 1984* .

2. Any school under limitation, suspension or termination in the Virginia ~~GSL~~ *Title IV Part B* program will be placed automatically under the same status in the Edvantage program.

PART III.
LOAN TERMS.

§ 3.1. Loan terms.

A. Loan amounts.

1. The minimum loan amount is $1,000. The maximum amount for any one student is $15,000 per ~~eight~~ *seven* month (~~240~~ *210* day) period. The aggregate maximum for any one student is $60,000.

2. Subject to the credit test administered by the lender and defined in ~~these regulations~~ *§ 4.2 B* , the borrower may obtain a loan under the program in an amount up to the student's cost of attendance, less other financial aid received by the student.

3. The borrower may apply for a loan in an amount up to the aggregate maximum, within his maximum credit-worthiness, if the school certifies a prepaid tuition amount consistent with the school's prepaid tuition policy. Such prepaid tuition shall represent a discount from payment of tuition annually, and the SEAA shall approve such loan application in advance.

4. All approved loan amounts must be in whole dollars.

B. Interest rate.

1. The interest rate may be fixed, or variable no more than once monthly and tied to the stated Prime Rate of the lender. The Prime Rate of the Virginia Education Loan Authority shall be that quoted in The Wall Street Journal.

2. The maximum interest rate charged shall be the Prime Rate of the lender plus two percentage points.

C. Fees.

1. The borrower shall be charged a guarantee fee in an amount ~~specified by the SEAA~~ *which shall be set from time to time by the SEAA Board of Directors and* which shall be deducted from the loan proceeds and remitted to the SEAA.

2. The borrower may, at his option, elect to purchase credit life insurance on the loan.

D. Repayment terms.

1. The borrower shall repay the loan in monthly installments of principal and interest of at least $50 over a maximum repayment period of 15 years from the date the first payment of principal and interest is due, under the terms described in § 4.3 A 1.

2. While the student is enrolled, the borrower has the option to make monthly payments of interest-only, under the terms described in § 4.3 A 2.

3. ~~New~~ *Serial* loans ~~will automatically~~ *may* be consolidated with prior loans of the same borrowers. In such cases, the repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due on the consolidated loan.

4. Repayment may not be deferred *once the student is no longer enrolled* . In the event of hardship, the borrower may request and the lender may grant a forbearance of principal, and interest-only payments may be accepted for a reasonable and limited period of time.

5. Interest may not be capitalized *except as necessary to accommodate up to 45 days accrued but unpaid interest when an existing loan is consolidated with a new loan. In addition, to accommodate the sale of loans, interest may be capitalized for up to 45 days from the date of the last payment to the date of sale* .

6. There is no penalty for prepayment under this program.

PART IV.
LOAN PROCESS.

§ 4.1. School procedures.

A. School requirements.

1. The school shall complete the school section of the Edvantage program application after the borrower sections are completed.

~~2. The school shall document that it has made maximum effort to utilize all other sources of Title IV aid available to the student that would be less costly to the student (e.g., grant aid, lower cost loans) before certifying the loan application. Documentation indicating the student's ineligibility for other sources of aid, based either on need or other criteria for making the award, shall suffice as demonstration of this effort. Actual application for a specific program is not required; however, such application and a resultant award or denial would also serve as documentation of the school's effort. The school shall report any Pell Grant amount the student is eligible to receive as financial aid, whether or not the student applies for a Pell award.~~

~~3.~~ *2.* The school shall not collect from applicants any additional fees or charges to cover the cost of originating loans under the program.

~~4.~~ *3.* The school shall report to the lender within 30 days of the date the school becomes aware of the student's withdrawal from school.

a. Any refund amount shall be determined by the school's stated policy. The refund shall be forwarded, along with notification, to the lender, within 30 days from the date the school became aware of the change in status warranting a refund.

b. Such early termination or withdrawal shall signify the beginning of principal repayment for those borrowers having an in-school deferment of principal.

~~B. School options.~~

~~1. The school has the option, subject to the approval of the SEAA, to serve as co-borrower on any or all loans made for attendance at that school. If the school elects to exercise this option, the school shall file in advance with the SEAA, and receive approval upon, its most recent audited financial statement; and thereafter file its annual audited financial statements with the SEAA showing such loans as a contingent liability.~~

~~2. The school has the option to pay all or part of any borrower's payments on the loan.~~

~~3. The school has the option to pay the guarantee fee on behalf of any borrower.~~

~~C.~~ *B.* Certification.

1. The school shall certify the application no later than the last day of the loan period.

2. The signature of the financial aid officer in the school section of the Edvantage program application certifies that the Virginia regulations governing the school's procedures have been met.

3. The certification of the financial aid officer's own loan application, the application of a spouse or dependent of a financial aid officer, or an application where conflict of interest exists, is not sufficient. In any of these cases, the application shall be accompanied by certification of the immediate supervisor of the financial aid officer.

~~D. Disbursement.~~ *C. Delivery of loan proceeds.*

1. Any loan proceeds remaining after the school has subtracted the amount owed to it for the loan period may be ~~disbursed~~ *delivered* to the *student* borrower or retained on account at the written request of the *student* borrower.

2. The school shall return ~~undisbursed~~ *undelivered* loan proceeds to the lender within 30 days of receipt of such proceeds.

§ 4.2. Lender procedures - origination.

A. Lender responsibilities.

~~In making and collecting loans under the program, the lender shall treat the loan as if there were no guarantee.~~ *In making and collecting loans under the program, lenders shall exercise due diligence described in § 5.2 and shall make no less effort than it would use on an unsecured debt in the ordinary course of business.*

B. Credit criteria.

The lender shall obtain credit information from each applicant on the lender's credit application(s) and evaluate the credit of ~~the primary borrower and any co-borrowers~~ *borrowers* on whose income or net worth the lender is making the credit-worthiness determination, by performing *at a minimum* :

1. ~~Employment and income verification.~~ *Credit analysis for unsecured debt.*

~~2. Verification of a minimum of two years' credit history.~~

~~3. Assessment of satisfactory credit bureau reports or lender documentation to report exception to~~

~~derogatory items.~~

~~4. Verification of monthly debt obligation of home mortgage(s) and, in cases where credit worthiness is determined on net worth criteria, verification of home mortgage debt.~~

~~5. Assessment of the most recent federal income tax return or most recent financial statement of self-employed applicants.~~

~~6. a.~~ *2.* Assessment of monthly debt obligation as a percentage of monthly gross income no greater than ~~45%~~ *40%* , including the obligation on the loan applied for under this program ; ~~or~~ .

~~b. Assessment of net worth no less than 10 times the amount of the loan applied for under this program.~~

~~Documented exceptions to the debt or net worth test may be made only with the prior written approval of the SEAA.~~

3. In addition, for all applicants, the lender shall ~~satisfy~~ *verify* the absence of default on any ~~Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation or Edvantage loan~~ *Title IV or Edvantage loan* .

C. Disbursement.

1. ~~a.~~ Loan proceeds ~~for a student borrower~~ shall be disbursed in a check or checks made copayable to the borrower *on whom the credit analysis was based* and the school and mailed to the ~~financial aid office of the school named on the application~~ *borrower's permanent address indicated on the application* .

~~b. Loan proceeds for a parent or other non-student borrower shall be disbursed in a check or checks payable to the non-student borrower and mailed to the borrower's address as listed on the application.~~

2. Disbursement may be made in single or multiple installments at the option of the lender.

3. Loan proceeds may be disbursed by other funds transfer method approved by the SEAA.

4. Loan proceeds shall not be disbursed more than 30 days before the start of the loan period.

D. Guarantee fee.

1. The guarantee insures the lender against loss due to death, bankruptcy, total and permanent disability, or default of the borrower. ~~At present the guarantee fee is 4.0% of the loan amount, but may be raised or lowered~~ *The schedule of guarantee fees for Edvantage loans shall be set* from time to time *by the SEAA Board of Directors* with ~~90~~ *60* days written notice by the SEAA ~~to the lender~~ .

2. The lender shall deduct the guarantee fee from the loan proceeds at disbursement.

3. The lender shall remit to the SEAA, at minimum monthly, the amount of guarantee fees charged on all disbursements.

4. The guarantee fee will be rebated if the loan check is returned uncashed to the lender, or if the loan is repaid in full *by the institution* within 120 days of disbursement ~~by a check or funds transfer drawn on the institution in cases where the loan check was originally made co-payable~~ .

E. Death and disability insurance.

~~E.~~ The lender may offer and charge a reasonable fee, if the borrower agrees, for death ~~or~~ *and* disability insurance on the loan.

F. Credit bureau reporting.

The lender shall report loan repayment information on ~~,~~ ~~at minimum, the primary borrower~~ *all borrowers* to one or more credit bureau organizations.

§ 4.3. Lender procedures - active loan.

A. Repayment.

1. Immediate repayment option.

Repayment of the loan shall begin within 60 days of disbursement. Repayment shall be over a maximum period of 15 years, in monthly installments of at least $50. The repayment period shall be extended to a maximum of 20 years only if necessary to amortize total interest, as determined by upward adjustments in the interest rate. If 20 years becomes insufficient to amortize the loan fully at the original monthly payment amount, the monthly payment shall increase. There will be no penalty for prepayment.

2. In-school principal deferment option.

While the student is enrolled, the borrower has the option to make monthly payments of interest-only for a mazimum of 48 months. When this option is selected, the lender shall collect interest monthly from the borrower from the date of disbursement, beginning within 60 days of disbursement. Interest shall not be capitalized *except as provided in § 3.1 B 5* . Repayment of principal and interest shall begin within 60 days of the lender's receipt of notice of the student's withdrawal or graduation from school, or at the expiration of the maximum 48 months' interest-only option. The repayment period shall be a

maximum of 15 years from the date the first payment of principal and interest is due, and shall be consistent with the minimum payment and maximum term described in § 4.3 A.1 above. If, after conversion to repayment of principal because of the student's withdrawal or graduation from school, the student re-enrolls at an eligible school, repayment of principal may again be deferred, provided that the cumulative deferment does not exceed 48 months.

3. The lender shall notify the borrower of any interest rate changes *in accordance with Federal Banking Regulations* .

B. Forbearance.

1. Forbearance may be considered, at the lender's option, for circumstances such as family illness, financial hardship, unemployment or temporary disability. If during such a period the borrower is unable to make regular principal and interest payments, the lender may forbear principal payments; interest payments may be neither forborne nor capitalized.

2. Payment of the regular monthly installment must be sought from all borrowers on the loan before forbearance is granted.

3. All borrowers on the loan must be eligible for forbearance before a forbearance may be granted.

4. Forbearance may be granted for a maximum of six months at a time, but only when necessary to prevent default. If the borrower requests it, forbearance may be extended, but *all periods of forbearance* may not exceed a total of 12 months during the repayment period.

5. The SEAA reserves the right to require approval in advance of all forbearances.

6. The SEAA reserves the right to disallow any forbearance.

C. Reporting and forms.

1. The lender shall provide the SEAA on at least a monthly basis, in a format mutually agreeable to both parties, loan application data and the guarantee fees relating to its disbursements.

2. The lender shall provide the SEAA, on at least a monthly basis, reports of the outstanding balances on all loans.

3. The lender shall provide the SEAA, on at least a monthly basis, a report of any forbearances granted during the period, unless the SEAA has given approval in advance for such forbearances.

4. The lender shall use the standard promissory note, applications and brochures for the program unless otherwise agreed in writing by the SEAA.

5. The SEAA shall provide the lender, on at least a monthly basis, a report of all loans guaranteed during the period.

6. The SEAA ~~shall~~ *reserves the right to* perform student status ~~verification~~ *confirmation* .

7. The SEAA shall provide the lender with periodic listings of schools approved for the program. The SEAA shall advise the lender, in writing, of any school for which approval has been revoked. Such revocation shall not affect the guarantee fee on loans previously committed.

PART V.
CLAIMS.

§ 5.1. General.

A. Filing deadline.

Claims must be submitted to the SEAA within 30 days of the qualifying death, disability, bankruptcy or default.

B. Eligibility of multiple borrowers.

Claims may be filed only after the lender has determined that all borrowers meet the conditions for a claim.

C. Due diligence.

The SEAA guarantee is contingent of the lender's due diligence for all claims.

§ 5.2. Default claims.

A. Due diligence.

~~The SEAA guarantee is contingent on the lender's due diligence.~~ The lender shall attempt to collect delinquent loans using every effort short of litigation that it would use on a conventional loan in the ordinary course of business. If the lender so desires, it may take legal action, but this is not required. Due diligence for default claims requires the following actions:

1. *1 - 15 Days.* Sending *one* written notice to the primary borrower *receiving monthly billing notices* when the loan is ~~5 to~~ 10 *to 15* days delinquent.

2. *16 - 30 Days.* Sending written notice to ~~the borrower and any co-makers~~ *all borrowers* when the loan becomes 20 to 30 days delinquent. Such letters should warn the borrower that, if the delinquency is not cured, the lender will assign the loan to the SEAA, which in turn will report the default to a credit

bureau, thereby damaging the borrower's credit rating, and may bring suit against the borrower to compel repayment of the loan. In addition, *one* telephone ~~calls~~ *contact or two attempts at telephone contact* shall be made to the ~~borrower,~~ *borrowers. The lender shall contact* parents, references, ~~or~~ *and* employers, as necessary , to collect on the loan or locate the borrower. All information available to the lender shall be pursued.

3. *31 - 50 Days.* Requesting preclaims assistance from the SEAA when the loan becomes ~~30 to 40~~ *31 to 50* to days delinquent.

4. Continuing all written correspondence and telephone calls to appropriate persons when the loan is ~~30 to 60~~ *31 to 50* days delinquent.

5. *51 - 60 Days.* Sending final demand letter to borrower when the loan is ~~60~~ *51 to 60* days delinquent.

6. Preparing and submitting a claim to SEAA when the loan is 90 days delinquent; however, the lender may attempt collection on the loan for up to 120 days if the lender can document in writing its reasonable expectation that an additional 30 days of collection will prevent a default.

Minimum due diligence shall be ~~five~~ *four* letters. In addition to these requirements, ~~within 10 days of its~~ *once the lender is in* receipt of information indicating it does not know the borrower's current address, the lender must diligently attempt to locate the borrower through the use of standard skip-tracing techniques. These efforts shall include, but not be limited to, contacting the co-maker(s), relatives, references, and any other individuals and entities identified in the borrower's loan file. In order to file a default claim at the conclusion of the 90 to 120 day period, the lender must complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments, where applicable, and proof of due diligence by the lender.

B. Credit bureau notification.

In the event of default, the SEAA shall report the default of all borrowers on the loan to one or more credit bureau organizations.

§ 5.3. Death or disability insurance.

If the borrower has purchased death or disability insurance, the lender may not file a death or disability claim with the SEAA without first exhausting the opportunity for reimbursement from the insurer. If the borrower has not purchased such insurance, in the event of death or disability, the SEAA, after reimbursing the lender, may file a claim against the borrower or the borrower's estate.

§ 5.4. Death claims.

~~To receive payment in the event of~~ *To file a claim arising from* the death of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), a certified copy of the death certificate, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish.

§ 5.5. Total and permanent disability claims.

To file a claim arising from the total and permanent disability of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish. In addition, the lender shall submit an affidavit from a qualified physician (either an M.D. or D.O.) certifying that the borrower is unable to engage in any gainful activity or employment due to a medical impairment that is expected to continue indefinitely or result in death; the date the borrower became unable to be employed or otherwise qualified for a total and permanent disability claim; and providing a description of the diagnosis.

§ 5.6. Bankruptcy claims.

A. Chapter 7 bankruptcy.

The lender determines that a borrower has filed bankruptcy petition on the basis of a notice received from the bankruptcy court of the first meeting of creditors. Upon receiving such notice, the lender shall:

~~1. Notify the SEAA by telephone of the impending bankruptcy.~~

~~2.~~ *1.* Immediately cease collection efforts on the loan.

~~3.~~ *2.* If the loan has not been in repayment for a least ~~five~~ *seven* years (exclusive of any applicable suspension of the repayment period) on the date the lender receives notice of the first meeting of creditors, and the lender has no knowledge that the borrower has filed a hardship petition, the lender must hold the loan and not attempt collection until the bankruptcy action has concluded. The lender shall treat the loan as if it is in forbearance from the date of the borrower's filing of the bankruptcy petition until the date the lender is notified that the bandruptcy action is concluded.

3. For Chapter 7 bankruptcies in which the loan has been in repayment for more than ~~five~~ *seven* years, or when the borrower has filed a hardship petition, the lender shall follow the procedures listed in § 5.6 B, below.

4. Once the bankruptcy action has concluded, if the loan has not been discharged, the lender must resume collection efforts. The borrower is responsible for the interest that has accrued during the automatic stay period. The lender should proceed through a standard 90-day due diligence period as with any other loan. The automatic stay period is not included in the 90-day due diligence period.

B. All other bankruptcies.

When the lender receives notice from bankruptcy court of any other bankruptcy, the lender shall immediately file a *proof of claim with the court along with notice assigning the debt to the SEAA and shall file a* bankruptcy claim with the SEAA if:

1. The borrower has filed a petition for relief under Chapter 13 of the Bankruptcy Code;

2. The borrower has filed a petition for relief under Chapter 7 of the Bankruptcy Code and the loan has been in repayment for more than ~~five~~ *seven* years (exclusive of any applicable suspension of the repayment period); or

3. The borrower has filed ~~a hardship petition~~ *an adversary proceeding seeking to have a loan balance discharged for undue hardship* .

C. Documentation

The bankruptcy claim shall include the appropriate completed SEAA form, the notice of bankruptcy, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, *a copy of assignment of the proof of claim* and any support documents the lender may be able to furnish, as well as any other information that may help the SEAA form the basis for an objection or an exception to the bankruptcy discharge.

§ 5.7. *Claim* interest *payment* .

The SEAA will pay interest for no more than ~~15~~ *30* days from the date that the lender is officially notified of the death, total and permanent disability or bankruptcy, or no more than ~~15~~ *30* days from the 90th day of delinquency in the event of default, or from the 120th day in the event that the lender has elected to pursue an additional 30 days of collection as outlined in § 5.2 A 6 above. No interest is paid for the period of time during which an incomplete claim has been returned to the lender *except as described in § 5.8* . In addition, the SEAA pays interest on the claim for the number of days required for review ~~by the SEAA claims staff plus 10 days~~ *of the claim and* for check processing.

§ 5.8. Return of claims for inadequate documentation.

Lenders must resubmit returned claims within 30 days of the date the incomplete claim was denied by the SEAA. If the lender shows that the claim was denied incorrectly, he may appeal and will be granted up to an additional 30 days interest. Lenders may not resubmit a claim that has been denied for inadequate documentation more than once.

PART VI.
ASSIGNMENT TO SERVICER OR SECONDARY MARKET.

§ 6.1. Servicing.

The lender may negotiate the servicing of loans under this program with a servicing agency. ~~The SEAA must approve the use of any servicer.~~ The servicer will be regarded as the lender's agent, and the lender will continue to be bound by the terms of these regulations.

§ 6.2. Secondary market.

The lender may negotiate the sale of these loans to a secondary market. ~~The lender must obtain SEAA approval of the use of any secondary market, and~~ No loan may be sold to any entity that is not party to ~~a guarantee~~ *an Edvantage participation* agreement with the SEAA except with the written permission of the SEAA. The lender shall notify the SEAA promptly of the assignment of any loans to a secondary market.

§ 6.3. Notification to borrower in the event of sale.

If the sale or servicing of an Edvantage loan is to result in a change in the identity of the party to whom the borrower must send subsequent payments, the purchaser or servicer of the loan must notify the borrower within 30 days of the sale or transfer. The notice shall include:

1. An announcement of the sale or transfer;

2. The identify of the owner of the loan;

3. The name and address of the party to whom subsequent payments must be sent; and

4. The telephone number of the purchaser or servicer.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

NOTE: The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by §

9-6.14:22 to publish all proposed and final regulations.

Title of Regulation:
VR 325-01. Definitions and Miscellaneous.
VR 325-01-1. In General.
VR 325-01-2. Importation, Possession, Sale, Etc., of Animals.
VR 325-02. Game.
VR 325-02-2. Bear.
VR 325-02-6. Deer.
VR 325-02-19. Raccoon.
VR 325-02-27. Permits.
VR 325-03. Fish.
VR 325-03-1. Fishing Generally.

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

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.

§ 4. "Wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal" and "domestic animal."

In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

"Wild animal" means any member of the animal kingdom, except domestic animals, including without limitation any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any hybrid thereof, except as otherwise specified in regulations of the board, or part, product, egg, or offspring thereof, or the dead body or parts thereof.

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia which have established wild, self-sustaining populations, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Nonnative (exotic) animal" means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals.

Domestic dog (Canis familiaris) including hybrids with wolves (Canis lupus).

Domestic cat (Felis catus), including hybrids with wild felines.

Domestic horse (Equus caballus), including hybrids with Equus asinus).

Domestic ass, burro, and donkey (Equus asinus).

Domestic cattle (Bos taurus and Bos indicus).

Domestic sheep (Ovis aries) including hybrids with wild sheep.

Domestic goat (Capra hircus).

Domestic swine (Sus scrofa domestica), including pot-bellied pig.

Llama (Lama glama).

Alpaca (Lama pacos).

Camels (Camelus bactrianus and Camelus dromedarius).

Domesticated races of hamsters (Mesocricetus spp.).

Domesticated races of mink (Mustela vison) where adults are heavier than 1.15 kg or their coat color can be distinguished from wild mink.

Domesticated races of red fox (Vulpes) where their coat color can be distinguished from wild red fox.

Domesticated races of guinea pigs (Cavia porcellus).

Domesticated races of gerbils (Meriones unguiculatus).

Domesticated races of chinchillas (Chinchilla laniger).

Domesticated races of rats (Rattus norvegicus and Rattus rattus).

Domesticated races of mice (Mus musculus).

Domesticated races of European rabbit (Oryctolagus cuniculus).

Domesticated races of chickens (Gallus).

Domesticated races of turkeys (Meleagris gallopavo).

Domesticated races of ducks and geese distinguishable morphologically from wild birds.

Feral pigeons (Columba domestica and Columba livia)

and domesticated races of pigeons.

Domesticated races of guinea fowl (Numida meleagris).

Domesticated races of peafowl (Pavo cristatus).

§ 18. Taking of invertebrates.

A. Earthworms.

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

B. Other invertebrates.

Except as otherwise provided for in §§ 3.1-1020 through 3.1-1030 and 29.1-418 of the Code of Virginia and in VR 325-01-1, § 13, VR 325-01-2 and VR 325-03-5, § 1 invertebrates, other than those listed in endangered or threatened, may be taken for private use.

VR 325-01-2. Importation, Possession, Sale, Etc., of Animals.

§ 1. Possession, importation, sale, etc., of wild animals.

Under the authority of §§ 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.

§ 2. Permit required to import, liberate or possess predatory or undesirable animals or birds.

Under the authority of § 29.1-542 of the Code of Virginia, live wolves or coyotes, or birds or animals otherwise classed as predatory or undesirable, may not be imported into the Commonwealth or liberated therein, or possessed therein, except under a special permit of the board. Before such permit is issued, the importer shall make application to the department, giving the place of origin, the name and address of the exporter and a certificate from a licensed and accredited practicing veterinarian, or certified fish pathologist, certifying that the animal to be imported is not manifesting any signs of infectious, contagious, or communicable disease.

§ 3. Exclusions.

This regulation does not cover albino reptiles and albino amphibians or those domestic animals as defined in VR 325-01-1, § 4.

§ 4. Importation requirements, possession and sale of nonnative (exotic) animals.

A. Permit required.

A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell those nonnative (exotic) animals listed below that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

AMPHIBIANS:

Order	Family	Genus/Species	Common Name
Anura	Buforidae	Bufo marinus	Giant or marine toad*
	Pipidae	Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	Ambystoma tigrium mavortium	Barred tiger salamander
		A. t. diaboli	Gray tiger salamander
		A. t. melanostictum	Blotched tiger salamander

BIRDS:

Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*

FISH:

Order	Family	Genus/Species	Common Name
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth* buffalo
		I. cyprinellus	Bigmouth* buffalo
		I. niger	Black buffalo*
	Characidae	Pygopristis spp.	Piranhas
		Pygocentrus spp.	
		Rooseveltiella spp.	
		Serrasalmo spp.	
		Serrasalmus spp.	
		Taddyella spp.	
	Cyprinidae	Aristichyhys nobilis	Bighead carp*
		Ctenopharyngodon idella	Grass carp or white amur
		Hypophthalmichthys molitrix	Silver Carp*
		Mylopharyngodom piceus	Black carp
		Scardinius erythrophthalmus	Rudd
		Tinca tinca	Tench*
Perciformes	Cichlidae	Tilapia spp.	Tilapia
		Gymnocephalus cernuum	Ruffe*
Siluriformes	Clariidae	All species	Air-breathing catfish

MAMMALS:

Order	Family	Genus/Species	Common Name
Artiodactyla	Suidae	All Species	Pigs or Hogs*
	Cervidae	All Species	Deer*
Carnivora	Canidae	All Species	Wild Dogs*, Wolves,

			Coyotes or hybrids thereof, Jackals and Foxes
	Ursidae	All Species	Bears*
	Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters
		EXCEPT:	
		Mustela Putorius furo	Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas
	Herpestidae	All Species	Mongooses*
	Hyaenidae	All Species	Hyenas*
	Protelidae	Proteles cristatus	Aardwolf*
	Felidae	All Species	Cats*
Chiroptera		All Species	Bats*
Lagomorpha	Lepridae	Lepus europeaeous	European hare
		Oryctolagus cuniculus	European rabbit
		MOLLUSKS:	
Order	Family	Genus/Species	Common Name
Veneroida	Dreissenidae	Dreissena polymorpha	Zebra mussel
		REPTILES:	
Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, caimans*
	Colubridae	Boiga illegularis	Brown tree snake*
	Crocodylidae	All Species	Crocodiles*
	Gavialidae	All Species	Gavials*

B. Temporary possession permit for certain animals.

Not withstanding the permitting requirements of subsection A, a person, company or corporation possessing any nonnative (exotic) animal, designated with an asterisk (*) in subsection A, prior to July 1, 1992, must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date(s) acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tatoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets.

A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded.

D. Exception for parts or products.

A permit is not required for parts or products of those nonnative (exotic) animals that may be used in the manufacture of products or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long, as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

E. Exception for certain mammals.

A permit is not required for nonnative (exotic) mammals that are imported or possessed by dealers, exhibitors, transporters and researchers that are licensed or registered by the United States Department of Agriculture under the Animal Welfare Act, provided, that such animals shall not be liberated within the Commonwealth.

F. All other nonnative (exotic) animals.

All other nonnative (exotic) animals, not listed in subsection A may be possessed and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened/endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

VR 325-02. GAME.

VR 325-02-2. Bear.

§ 12. Bear hound training season.

Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to chase black bear with dogs, without capturing or taking, in all counties in which bear hunting is permitted (except in the counties of Bland, Pulaski, Russell, Smyth, Tazewell, Washington and Wythe) from the first Saturday in September through the first Saturday in October, both dates inclusive. It shall be unlawful to have in immediate possession a firearm, bow or any weapon or device capable of taking a black bear.

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 *except in the City of Lynchburg*), 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 areas.

§ 10. Bag limit; same; either sex, full season.

The general firearms bag limit for deer shall be two a day, three a license year, one of which must be an antlerless deer, either sex full season, in the counties of Bedford, Fairfax, Loudoun, Pittsylvania (west of Norfolk Southern Railroad), *and in the City of Lynchburg*, 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.

§ 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, *and in the City of Lynchburg*), 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 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.

VR 325-02-19. Raccoon.

Part I.
Chasing.

§ 1.2 Same; Counties west of Blue Ridge Mountains; possession of certain devices unlawful.

It shall be lawful to chase raccoon with dogs, without capturing or taking, on private lands in all counties west of the Blue Ridge Mountains from August 1 through ~~the last day of January~~ *May 31,* both dates inclusive. It shall be unlawful to have in immediate possession a firearm, bow, axe, saw, or any tree climbing device while hunting during this chase season.

VR 325-02-27. Permits.

~~§ 12. Importation of certain animals.~~

~~It shall be unlawful to import or cause to be imported or to liberate within the Commonwealth of Virginia any gray fox (Urocyon cinereoargenteus), red fox (Vulpes fulva), raccoon (Procyon lotor) or any other wild animal or wild bird unless a permit therefor is first obtained from the department. Before such permit is issued, the importer shall make application to said department giving the place of origin, the name and address of the exporter and a certificate from a licensed practicing veterinarian setting forth that the animal, or animals, to be imported is free of rabies or any other infection or contagious disease.~~

~~§ 13. Importation of European hare and European or San Juan rabbit.~~

~~In accordance with authority conferred by § 29.1-103 of the Code of Virginia, the department finds and declares the following species to be predatory or undesirable within the meaning and intent of those terms as used in § 29.1-542 of the Code, in that their introduction into the commonwealth will be detrimental to the native wildlife resources of Virginia: European hare (Lepus europeaeus) and European or San Juan rabbit (Oryctolagus cuniculus).~~

~~It shall be unlawful, pursuant to § 29.1-542 of the code, to import, cause to be imported, buy, sell or offer for sale or liberate within the commonwealth any of the above-named species unless a permit therefor is first obtained from the department.~~

~~Before such permit is issued, the importer shall make application to said department giving the place of origin, the name and address of the exporter and a certificate from a licensed practicing veterinarian setting forth that the animal, or animals, to be imported is free of rabies or any other infection or contagious disease.~~

VR 325-03. FISH.

VR 325-03-1. Fishing Generally.

~~§ 5. Permit required for importation, etc., of certain species.~~

~~In accordance with authority conferred by § 29.1-103 of the Code of Virginia, the board finds and declares the following species to be predatory or undesirable within the meaning and intent of those terms as used in § 29.1-542 of the Code, in that their introduction into the commonwealth~~

~~will be detrimental to the native fish resources of Virginia: Rudd (genus Scardinius), tilapia (any of the genera Tilapia, Sarotherodon or Oreochromis), piranha (any of the genera Serrasalmus, Rooseveltiella, or Pygocentrus), walking catfish (any of the genus Clarias),cichlid (Texas) perch (Chichlasoma cyanoguttattum), grass carp (any genus Ctenopharynogodon), African clawed frog (Xanopus laevis) or zebra mussel (Dreissena polymorpha).~~

~~It shall be unlawful, pursuant to § 29.1-542 of the Code, to import, cause to be imported, possess, buy, sell or offer for sale or liberate within the commonwealth any live specimens, live hybrids or viable eggs of the above-named species unless a permit therefor is first obtained from the department, except that the African clawed frog may be imported and/or sold but not liberated, without such permit, when such action can be shown to be an essential part of a specific research or educational project designed to advance scientific knowledge by achieving precisely formulated objectives.~~

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: Due to its length, the following proposed regulation filed by the Department of Health is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Health.

Title of Regulation: **VR 355-34-400. Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings.**

Statutory Authority: §§ 32.1-12, 32.1-163 and 32.1-164 of the Code of Virginia.

Public Hearing Dates:
May 18, 1992 - 7 p.m.
May 19, 1992 - 7 p.m.
May 20, 1992 - 7 p.m.
May 21, 1992 - 7 p.m.
May 27, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

These regulations establish criteria for permitting, constructing and operating sewage treatment systems serving single family homes that discharge into state waters and are permitted under the State Water Control Board's general permit. Prior to the effective date of these regulations, systems of this type were permitted under emergency regulations promulgated by the Department of Health. Prior to the emergency regulation the State Water Control Board regulated these discharges in their entirety under the VPDES program.

The proposed regulations create three classes of discharging system approvals: experimental, preliminary and general. Experimental systems have little or no formal data or testing to support their capability to operate satisfactorily. Systems with preliminary approval have limited formal data available on their in-situ performance to treat residential wastewater. Such data may include NSF/ANSI International Standard 40 test results. Systems that have general system approval have demonstrated their capability to treat effluent reliably under actual residential conditions.

Land owners wishing to install an alternative discharging system must register their point of discharge with the SWCB under the General Permit program and apply for a permit from the Department of Health. These regulations establish setback distances, slope requirements, dilution criteria and other standards necessary for the department to issue a construction permit.

Once installed, the regulations create operating, monitoring and maintenance criteria. The regulation establishes how systems are to be monitored for compliance with the SWCB's general permit and mandate that maintenance contracts be in place for all systems. The responsibility for monitoring and maintaining systems lies with the homeowner and is accomplished by the private sector through a maintenance contract.

Owners of individual systems failing to meet the discharge standards of the General Permit are required to make appropriate repairs and demonstrate through testing that the repairs have been effective. Systems of one type or design, that routinely fail to meet the discharge limits, can have their approval suspended or approved.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.**

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

Public Hearing Date: N/A – Written comments may be submitted until April 15, 1992.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the authority's rules and regulations applicable to its single family mortgage loan program will (i) redefine "originating guide" to include both Parts I and II of the rules and regulations; (ii) delete provisions relating to the Farmers Home Administration Interest Assistance Program in which the authority will not be participating; (iii) delete the reference to the specific amount of the reservation fee and continue to allow the authority to set the amount from time to time; (iv) continue to allow $100 of the reservation fee to be applied by the originating agent to its fee and require balance to be remitted to the authority; and (v) make minor clarifications and typographical corrections.

VR 400-02-003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

PART I.
GENERAL.

§ 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have a "gross family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

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

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

§ 1.2. Origination and servicing of mortgage loans.

A. Approval/definitions.

The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this § 1.2, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment an housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this § 1.2, be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have a net worth equal to or in excess of $250,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;

3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant);

and

4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted *or the context indicates otherwise* . Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted *or the context indicates otherwise* . The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;

2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;

3. The cost and difficulty of administration of the allocation of funds;

4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;

2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other

matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Originating guide and servicing guide.

~~The originating guide attached hereto as Part H is incorporated into and made a part of these rules and regulations.~~ *These rules and regulations constitute the originating guide of the authority.* All exhibits and other documents referenced ~~in the originating guide~~ *herein* are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide and the servicing guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more originating agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents

shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the ~~processing~~ *originating* guide, the applicable originating agreement, t he Act or these rules and regulations, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. Field originators.

The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;

3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and

4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under these rules and regulations as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of these rules and regulations requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. Servicing by the authority.

The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

PART II.
~~VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING GUIDE.~~

~~Article I.~~
~~Eligibility Requirements.~~
PROCESSING GUIDELINES.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible.

B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the " Originating Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A(1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority

set forth in other parts of this *originating* guide.

§ 2.2.1. Eligible borrowers.

A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1 B Three-year requirement);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1 C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1 D New mortgage requirement);

4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements);

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions); and

8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative,

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of

such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by originating agent. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic liveability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres: (i) if the land is owned free and clear and is not being financed by the loan, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed, and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by originating agent. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the originating agent shall review the appraiser report (Exhibit H) of an authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the originating agent shall certify to the authority its findings and certain opinions in the checklist for certain requirements of the tax code (Exhibit A(1)) at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may

establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by originating agent. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the originating agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

§ 2.2.2. Eligible dwellings.

A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;

2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and

3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority (see § 2.10 below).

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level

residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The originating agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct completion of the worksheet. The originating agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by originating agent. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see section 2.10 below). Also, as part of its review, the originating agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1 B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the

Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury informed by the authority as to the location of areas so designated.

§ 2.3. Sales price limits.

A. The authority's maximum allowable sales price for loans which are closed on or after December 1, 1991, shall be as follows:

Area	New Construction	Existing and Substantial Rehab.
1. Washington DC-MD-VA MSA[1] ''inner areas''	$131,790	$131,790
2. ''outer areas''	$124,875	$124,875
3. Norfolk-Va. Beach-Newport News MSA[2]	$ 81,500	$ 81,500
4. Richmond-Petersburg MSA[3]	$ 79,500	$ 79,500
5 Charlottesville MSA[4]	$ 95,450	$ 79,530
6. Clarke County	$ 90,250	$ 79,530
7. Culpeper County	$ 84,050	$ 79,530
8. Fauquier County	$101,670	$ 79,530
9. Frederick County and Winchester City	$ 92,150	$ 79,530
10. Isle of Wight County	$ 81,500	$ 79,530
11. King George County	$ 89,300	$ 79,530
12. Madison County	$ 76,000	$ 76,000
13. Orange County	$ 77,900	$ 77,900
14. Spotsylvania County and Fredericksburg City	$102,700	$ 79,530
15. Warren County	$ 83,600	$ 79,530
16. Balance of State[5]	$ 75,500	$ 75,500

[1] Washington DC-Maryland-Virginia MSA . Virginia Portion: ''Inner Areas'' - Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City; ''Outer Areas'' - Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

[2] Norfolk-Virginia Beach-Newport News MSA . Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

[3] Richmond-Petersburg MSA . Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

[4] Charlottesvillle MSA . Albemarle County, Charlottesville City, Fluvanna County, Greene County.

[5] Balance of State . All areas not listed above.

The executive director may from time to time waive the foregoing maximum allowable sales prices with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the sales price of the residences to be financed by any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

B. Effect of solar grant.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding $20,000 plus an additional $1,000 of net worth for every $5,000 of income over $20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.5. Income requirements.

A. Maximum gross income.

As provided in § 2.2.1 A 6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1 A 6 are automatically met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.

For the purposes hereof, the term "gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of

monthly gross pay plus any additional dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

For reservations made on or after March 1, 1989, the maximum gross family incomes for eligible borrowers shall be determined or set forth as follows:

(1) MAXIMUM GROSS FAMILY INCOME

Applicable only to loans for which reservations are taken by the authority on or after March 1, 1989, except loans to be guaranteed by the Farmers Home Administration ("FmHA").

The maximum gross family income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended (the "Median Family Income"), with respect to the residence of such borrower, which percentages shall be as follows:

Family Size	Percentage of applicable Median Family Income (regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 persons	85%
3 or more persons	100%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross family income limits expressed in dollar amounts for each area of the state, as established by the executive director, and each family size. Any adjustments to such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such adjustments on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

The executive director may from time to time waive the foregoing income limits with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the income of the borrowers to receive any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

(2) FmHA MAXIMUM GROSS FAMILY INCOME

Applicable only to loans to be guaranteed by FmHA.

The maximum gross family income for each borrower shall be the lesser of the amount determined in accordance with § 2.5 A (1) or FmHA income limits in effect at the time of the application.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration, the Veterans Administration or FmHA (hereinafter referred to as "FHA, VA or FmHA loans").

An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest, tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements.

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of ~~a~~ *an* FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of ~~a~~ *an* FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of ~~a~~ *an* FHA, VA or FmHA loan, the FHA, VA or FmHA insurance fees or guarantee fees charged in connection with such loan (and, if ~~a~~ *an* FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA, VA or FmHA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such

fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA, VA or FmHA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA, VA or FmHA insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or FmHA Guarantee has been obtained. In the event that the authority purchases an FHA or, VA or FmHA loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or FmHA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1 C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered

for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

D. FmHA loans only.

1. In general. The authority will normally accept FmHA underwriting requirements and property standards for FmHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Guarantee fee. 1.0% FmHA guarantee fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

~~E. FmHA Interest Assistance Program.~~

~~Borrowers with low income, as determined by FmHA, are eligible for interest assistance payments. FmHA will make monthly payments to the authority to reduce the effective interest rate, depending on the borrower's income. However, no borrower will pay less than 20% of adjusted income, as determined by FmHA, for principal, interest, taxes, and insurance. Interest assistance payments will be recalculated by the authority at such times as are required by FmHA. All interest assistance by FmHA is subject to recapture by FmHA at the time the property is sold. In the event the authority intends to sell the FmHA Interest Assistance Program loans to the Federal National Mortgage Association ("FNMA"), each such loan must satisfy all of the applicable guidelines, requirements, terms and conditions imposed by FNMA.~~

~~F.~~ *E.* FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

~~G.~~ *F.* Interest rate buydown program.

Unlike the program described in subsection ~~F~~ *E* above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

§ 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA, VA or FmHA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds from their employer with the approval of the private mortgage insurer and the applicant pays in cash from their own funds an amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross family income for those assuming a loan shall be 100% of the applicable Median Family Income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross family income shall be 115% of the applicable Median Family Income (140% for a residence in a targeted area) and if assumed by a household of less than three persons, the maximum gross family income shall be 100% of the applicable Median Family Income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross family income for those assuming loans shall be as set forth in § 2.5 A of these regulations. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross family income requirement in this § 2.10 A

(2) § 2.2.1 C (Principal residence requirement)

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.2.1 B (Three-year requirement)

(5) § 2.2.2 B (Acquisition cost requirements)

(6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross family income requirement in this § 2.10 A

(2) § 2.2.1 C (Principal residence requirements)

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.7 (Mortgage insurance requirements).

2. Assumptions of FHA, VA or FmHA loans.

a. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

(1) Maximum gross family income requirement in this § 2.10 A

§ 2.2.1 C (Principal residence requirement)

(3) § 2.2.1 B (Three-year requirement)

(4) § 2.2.2 B (Acquisition cost requirements).

In addition, all applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

b. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

B. Authorization to process assumptions/requirement that the authority to contacted.

Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive reponsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.

The originating agent or servicing agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the originating agent or servicing agent may not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

C. Application package for assumptions.

Once the originating agent or servicing agent has contacted the authority and it has been determined which of the categories described in subsection A above applies to the loan, the originating agent or servicing agent must submit to the authority the information and documents listed below for the applicable category:

1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's report (Exhibit H).

(5) Three year's tax returns.

(6) Originating agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) Originating agent's loan submission cover letter (Exhibit 0(1).

(9) ~~Authority's completed application (Exhibit D).~~ *Uniform Residential Loan Application - must include the Authority's Addendum (Exhibit D(1)).*

(10) Verification of employment (VOE's) (and other income related information).

(11) Verification of deposit (VOD's).

(12) Credit report.

(13) Sales contract.

(14) Truth-in-Lending (Exhibit K) and estimate of charges.

(15) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).

(16) Authority underwriting qualification sheet (Exhibit B(1)).

(17) All other requirements of state and federal law must be met.

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

(1) ~~Authority's completed application (Exhibit D).~~ *Uniform Residential Loan Application - must include the Authority's Addendum (Exhibit D(1)).*

(2) Verification of employment (VOE's) (and other income related information).

(3) Verification of deposit (VOD's).

(4) Credit report.

(5) Sales contract.

(6) Truth-in-Lending (Exhibit K) and estimate of charges.

(7) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).

(8) Authority underwriting qualification sheet (Exhibit B(~~2~~ *1*)).

(9) All other requirements of state and federal law must be met.

2. Assumption package for FHA, VA or FmHA loans.

a. FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's Report (Exhibit H).

(5) Three years' tax returns.

(6) Originating agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) Originating agent's loan submission cover letter (Exhibit O(2) or (3)).

(9) ~~Authority's completed application (Exhibit D).~~ *Uniform Residential Loan Application - must include the Authority's Addendum (Exhibit D(1)).*

(10) Sales contract.

(11) Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.

(12) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).

(13) Truth-in-Lending (Exhibit K) and estimate of charges if original borrowers are to be released from liability.

(14) A copy of the FHA Notice to Homeowner, if the original borrowers will not be released from liability.

(15) In addition, all applicable requirements, if any, of FHA, VA or FmHA and those under state and federal law must be met.

b. FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981: The applicable requirements, if any, of FHA, VA or FmHA and those under state and federal law must be met.

D. Review by the authority/additional requirements.

Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

§ 2.11. Leasing, loan term, and owner occupancy.

A. Leasing.

The owner may not lease the property without first contacting the authority.

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Reservations/fees.

A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable. In order to make a reservation of funds for a loan, the originating agent or field originator shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.

2. Collect a ~~$100~~ nonrefundable reservation fee ~~(or~~ *in* such ~~other~~ amount as the authority may require ~~)~~ *from time to time* .

3. Determine what type of mortgage insurance or guarantee will be required; specifically, whether the loan will be a conventional loan, an FHA loan, a VA loan or an FmHA loan.

4. Complete a reservation sheet (Exhibit C(1)).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the originating agent or field originator gives to the authority the following information:

a. Name of primary applicant

b. Social security number of applicant

c. Estimated loan amount

d. Originating agent's or field originator's servicer number

e. Gross family income of applicant and family, if any

f. Location of property (city or county)

g. Verification of receipt of the reservation fee

h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C"; if FHA, the suffix will be "F"; if VA, it will be "V"; and if FmHA, it will be "FM").

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the originating agent or field originator may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation), provided that in the case of an application received by a field originator, the field originator will submit to the authority the reservation fee and such portion of the application package as the authority may require. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline.

B. More than one reservation.

An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

C. The reservation fee.

Under no circumstances is this fee refundable. Reservation fees paid to field originators shall be submitted to and retained by the authority. ~~Reservation fee~~ *One hundered dollars of each reservation fee* paid to *any* originating ~~agents~~ *agent* will, if the loan closes, be retained by the originating agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, any such reservation fee paid to an originating agent must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the originating agent shall be charged a penalty fee of $50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

D. Other fees.

1. Commitment fee. The originating agent must collect at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount , less ~~the amount~~ *$100* of the reservation fee already collected (~~such that the total amount received by the originating agent at that point equals 1.0% of the loan amount~~ - please ~~also~~ note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the originating agent retains such 1.0% *commitment* fee as its original fee *and forwards the balance of the reservation fee to the authority* . If the loan does not close , the ~~origination~~ *commitment* fee ~~(which includes the reservation fee)~~ *, plus the balance of the reservation fee,* must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then the collected commitment fee less the *entire* reservation fee may at the option of the authority be refunded to the applicant. (The *total* reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The originating agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the originating agent.

§ 2.13. Preparation of application package for new loans.

A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following original documents:

1. Reservation sheet . (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)) ;

2. *Uniform Residential Loan* Application - the application must ~~be made on~~ *include* the authority's ~~approved application form~~ *Addendum* . (Exhibit D *(1)*)

3. Preliminary Underwriting Form. (Exhibit B)

4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).

5. Verification of employment (and any additional documentation).

6. Verification of other income.

7. Verification of deposits (and any additional documentation).

8. Gift letters (and verification).

9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.

10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).

11. Loan submission cover letter. (Exhibit O(1))

12. Appraiser's report. (Exhibit H)

13. Acquisition cost worksheet. (Exhibit G)

14. Affidavit of seller. (Exhibit F)

15. Affidavit of borrower. (Exhibit E)

16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B 3 hereof, such letter must be enclosed instead).

17. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

18. Signed request for copy of tax returns. (Exhibit Q)

19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

21. Truth-in-Lending Disclosure. (Exhibit K)

22. RESPA Disclosure Statement (Exhibit AA).

23. Quality Control Disclosure and Authorization (Exhibit Y).

B. FHA loans.

The application package submitted to the authority for approval of an FHA loan must contain the following items (please note that items ~~13~~ *14* through 18 , ~~and~~ 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. *Uniform Residential Loan* Application - must ~~be on~~ *include* the authority's ~~form~~ *Addendum (Exhibit D(1))* and can be handwritten if legible ~~(Exhibit D)~~ .

3. Copy the HUD application (FHA form 92900).

4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).

5. Copy of the credit report.

6. Copy of verification of employment and current pay stubs.

7. Copy of verification of other income.

8. Copy of verification of deposits.

9. Copy of gift letters (and verification).

10. Copy of sales contract.

11. Assignment letter - this must reference the case number, name of applicant.

12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.

13. FHA Notice to Buyers . (Document F-9)

14. Loan submission cover letter. (Exhibit O(2))

15. Appraiser's report. (Exhibit H)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B 3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items (please note that items ~~15~~ *14* through ~~18~~ ~~and~~ *17,* 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1) and lock-in disclosure (Exhibit C(2)).

2. *Uniform Residential Loan* Application - must ~~be on~~ *include* the authority's ~~form~~ *Addendum (Exhibit D(1))* and can be handwritten if legible ~~(Exhibit D)~~ .

3. Copy the VA application (VA form 26-1802A).

4. Copy of the Loan Analysis Worksheet (VA form 6393).

5. Copy of VA certificate of eligibility.

6. Copy of VA benefits and related indebtedness letter.

7. Copy of the credit report.

8. Copy of verification of employment (if active duty, include current LES form).

9. Copy of verification of other income.

10. Copy of verification of deposits.

11. Copy of gift letters (and verification).

12. Copy of sales contract.

13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.

14. Loan submission cover letter. (Exhibit O(3))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B 3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization.

(Exhibit Y)

D. FmHA loans.

The application package submitted to the authority for approval of an FmHA loan must contain *the original credit package and one photocopy thereof, as well as* the following items (please note that items 13 through ~~18 and 20 and 21~~ *17, 19 and 20* are authority forms and must be sumitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. *Uniform Residential Loan* Application - must ~~be on~~ *include* the authority's ~~form~~ *Addendum (Exhibit D(1))* and can be handwritten if legible. ~~(Exhibit D)~~

3. Copy of the HUD application (FHA form 92900).

4. Preliminary Underwriting Form. (Exhibit B(2))

~~4.~~ *5.* Copy of the credit report.

~~5.~~ *6.* Copy of verification of employment and current pay stubs.

~~6.~~ *7.* Copy of verification of other income.

~~7.~~ *8.* Copy of verification of deposits.

~~8.~~ *9.* Copy of gift letters (and verification).

~~9.~~ *10.* Copy of sales contract.

~~10.~~ *11.* Copy of appraisal - this must be on a form acceptable to FmHA and must contain all supporting documentation necessary for valuation.

~~11.~~ *12.* Privacy Act Statement (Form FmHA 410-9).

~~12.~~ *13.* Loan submission cover letter. (Exhibit O(2))

~~13.~~ *14.* Appraiser's report. (Exhibit H)

~~14.~~ *15.* Acquisition cost worksheet. (Exhibit G)

~~15.~~ *16.* Affidavit of seller. (Exhibit F)

~~16.~~ *17.* Affidavit of borrower. (Exhibit E)

~~17.~~ *18.* Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof. (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to § 2.2.1 B 3 hereof, such letter must be enclosed instead).

~~18.~~ *19.* Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

~~19.~~ *20.* Signed request for copy of tax returns. (Exhibit Q)

~~20.~~ *21.* U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

~~21.~~ *22.* Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

~~22.~~ *23.* Truth-in-Lending Disclosure. (Exhibit K)

~~23.~~ *24.* RESPA Disclosure Statement. (Exhibit AA)

~~24.~~ *25.* Quality Control Disclosure and Authorization. (Exhibit Y)

~~25.~~ *26.* Other items which FmHA requires. The authority will advise the originating agent of such additional requirements, if any.

E. Delivery of package to the authority.

After the application package has been completed, it should be forwarded to:

Single Family Division
Originations Department
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 5206
Richmond, VA. 23220-8206

§ 2.14. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. *(For FmHA loans, upon approval of the applicant, the authority will submit the credit package to FmHA and upon receipt of the FmHA conditional commitment, will send the mortgage loan commitment.)* Also enclosed in ~~this~~ *the commitment* package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the

commitment, the originating agent shall retain the fee in accordance with § 2.1.2 D 1 above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2 D 1 above.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the originating agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The originating agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the originating agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

Single Family Division
Pre-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 4593
Richmond, VA 23220-8593

After the authority reviews the closing attorney's preliminary work and has been advised by the originating agent in the case of an FHA, VA or FmHA loan that all applicable FHA, VA or FmHA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the title insurance commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority , and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the originating agent. It is the originating agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding checks for buy-down points (this applies to both the monthly payment buydown program described in § 2.8 D above and the interest rate buydown program described in § 2.8 E). A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Division
Post-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 5427
Richmond, VA 23220-8427

Within 10 days after the closing of the loan, the originating agent must forward *to the authority* the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy. *For FmHA loans, the authority will apply to FmHA for its certificate of guarantee.*

Within 90 days after loan closing, the originating agent shall forward to the authority the original recorded deed of trust, "final mortgage title insurance policy and FHA certification of insurance, VA guaranty or FmHA guarantee. Within 55 days after loan closing the originating agent shall forward to the ~~authority~~ *servicing agent* the original hazard insurance policy *and forward a photocopy thereof to the authority* .

During the 120-day period following the loan closing the originating agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the originating agency may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event that the originating agent receives information at any time that any item noted on the originating agent's checklist for certain requirements of the tax code may not be correct or proper, the originating agent shall immediately notify the authority. *All time limits set forth in this subsection B may be modified by the authority by letter or memorandum mailed by the authority to the originating agents. In addition, the authority may waive such time limits on a case-by-case basis, by letter to the appropriate originating agent.*

§ 2.16. Property guidelines.

A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. That determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes) may be financed only if it is new construction and insured 100% by FHA (see subsection C). Existing manufactured housing is not eligible for authority financing.

B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. FHA, VA or FmHA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA, VA or FmHA loan must meet all applicable requirements imposed by FHA, VA or FmHA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term

includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1 D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Conventional loans.

The originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

B. FHA, VA or FmHA loans.

The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or by FmHA, in the case of an FmHA loan.

NOTE: Documents and forms referred to herein as Exhibits have not been adopted by the authority as a part of the rules and regulations for single family mortgage loans to persons and families of low and moderate income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the foregoing rules and regulations for single family mortgage loans to persons and families of low and moderate income. Copies of such documents and forms are available upon request at the offices of the authority.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

Title of Regulation: **VR 470-05-02. Regulations Governing Certification of Therapeutic Consultation and Residential Services.**

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia; Item 466.F.5 of the 1990 Appropriations Act.

Public Hearing Date: N/A - Written comments may be submitted until June 5, 1992.
(See Calendar of Events section for additional information)

Summary:

The Department of Medical Assistance Services (DMAS) with the assistance of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) has obtained approval for a home-based and community-based waiver under § 1915(c) of the Social Security Act. This waiver is designed to provide community-based alternatives to persons who would otherwise require placement in a Skilled Nursing Facility (SNF), Intermediate Care Facility (ICF) or an Intermediate Care Facility for the Mentally Retarded (ICF/MR). The intent of the waiver is to reduce the need for institutional placement.

A condition of obtaining the waiver is that the state assures that services are provided by individuals or facilities which are qualified to provide the services. In order to fulfill this condition, DMHMRSAS is promulgating regulations which require individuals and facilities to meet certain standards. For therapeutic consultation the regulations require that psychologists, occupational therapists, physical therapists, speech therapists, and social workers be licensed or certified by the Department of Health Professions. Behavioral therapy consultation must be provided by individuals who meet the knowledge, skills and abilities established by DMHMRSAS. The requirements for residential support services are that the individual must pass an objective test approved by DMHMRSAS.

VR 470-05-02. Regulations Governing Certification of Therapeutic Consultation Services and Residential Support

Services.

PART I.
GENERAL PROVISIONS.

Article 1.
Definitions; Legal base.

§ 1.1. Definitions.

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

"Board" means the State Mental Health, Mental Retardation and Substance Abuse Services Board.

"Commissioner" means the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services.

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

"Individual" means any person who provides Therapeutic Consultation or Residential Support Services to waiver recipients.

"Facility" means any facility not operated by an agency of the federal government by whatever name or designation which provides Therapeutic Consultation or Residential Support Services to waiver recipients. Such institution or facility shall include a hospital as defined in this section, outpatient clinic, special school, halfway house, home and any similar or related facility.

"Hospital" means any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the development period and is associated with impairment in adaptive behavior.

"Residential support" means services provided to the waiver recipient in the individual's home, in a residence licensed by the department or by the Department of Social Services or in an adult foster care home approved by a local Department of Social Services. These services include training, assistance and supervision provided in order to:

1. Maintain the individual's health;

2. Assist in self-care tasks;

3. Train in daily living activities; and

4. Assist in adapting to a community environment.

"Therapeutic consultation" means activities under a mental retardation waiver which assist parent/family members, residential support and day support providers in implementing an individual program plan.

"Waiver" means mental retardation services provided under §§ 1915(c), 1902(a)(10)(B), and 1902(a)(10)(c)(iii) of the Social Security Act.

§ 1.2. Legal base.

Pursuant to § 37.1-10 of the Code of Virginia, the board is authorized to make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of laws of the Commonwealth administered by the commissioner or the department. Section 37.1-179 et seq. requires facilities providing care and treatment of mentally ill, mentally retarded and substance abusing persons to be licensed in accordance with regulations promulgated by the board. Item 466.F.5 of the 1990 Appropriations Act requires that qualified providers shall be licensed or certified under regulations promulgated by the department.

Article 2.
Services Subject to Certification under these Regulations.

§ 1.3. Certification.

No person shall establish, conduct, maintain or operate in this Commonwealth therapeutic consultation or residential support services which receive reimbursement from the Department of Medical Assistance Services without first being duly certified except where such services are exempt from certification.

Article 3.
Application for Therapeutic Consultation and Residential Support Certification.

§ 1.4. Application for Residential Support Services Certification.

A facility or individual desiring to be certified or recertified for residential support services provided to waiver recipients for which reimbursement from the Department of Medical Assistance Services will be sought shall submit a letter to the commissioner requesting certification. This letter shall constitute the application for certification and shall state that the individuals providing these services have passed an objective test of knowledge, skills and abilities approved by the department.

§ 1.5. Application for therapeutic consultation services

certification.

A facility or individual desiring to be certified or recertified for therapeutic consultation services shall submit to the commissioner a letter stating that individuals providing the services for which reimbursement from the Department of Medical Assistance Services will be sought meet the following standards:

1. Psychologists shall be licensed by the Department of Health Professions.

2. Occupational therapists shall be certified by the Department of Health Professions.

3. Physical therapists shall be licensed by the Department of Health Professions.

4. Speech therapists shall be licensed by the Department of Health Professions.

5. Social workers shall be licensed by the Department of Health Professions.

6. Behavioral therapy consultation will be provided by individuals who are endorsed by the department as meeting the following knowledge, skills and abilities as established by the department:

Position qualifications:

The incumbent must have the following knowledge, skills and abilities for Behavior Therapy Consultation. These must be documented or observable in the application form or supporting documentation.

Knowledge of:

a. The definition and causes of mental retardation and program philosophy of mental retardation services;

b. Behavior assessment and functional analysis;

c. Behavior modification techniques utilized with MR and DD populations;

d. Methods of data collection, analysis and interpretation;

e. Methods of training and consultation; and

f. Consumer rights and ethical principles of behavior intervention.

Demonstrated abilities to:

a. Conduct behavior assessment;

b. Write a functional analysis of behavior;

c. Develop and present effective and practical behavior plan;

d. Train direct service providers;

e. Develop data collection procedures;

f. Analyze and interpret behavioral data and make program decisions/adjustment; and

g. Communicate effectively both written and orally.

Article 4.
Certification.

§ 1.6. Requirements for certification.

The commissioner may certify a facility or individual for the provision of therapeutic consultation or residential support services for which reimbursement is sought from the Department of Medical Assistance Services only after he is satisfied that (i) individuals providing therapeutic consultation under the waiver meet the standards in § 1.5 of these regulations or (ii) all individuals providing residential support services to waiver recipients have passed an objective test of knowledge, skills and abilities approved by the department. In addition, the commissioner must be satisfied that the facility or individual can:

1. Demonstrate the ability to serve individuals in need of services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;

2. Meet the administrative and financial management requirements of state and federal regulations; and

3. Document and maintain individual case records in accordance with state and federal requirements.

§ 1.7. Period of certification.

The commissioner may issue a certification to a facility or individual that has fulfilled the conditions listed in § 1.6 for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered earlier.

§ 1.8. Revocation or suspension of certification.

The commissioner may revoke or suspend any certification issued, or refuse issuance of a certification on any of the following grounds:

1. Permitting, aiding or abetting the commission of an illegal act.

2. Conduct or practices detrimental to the welfare of any client.

3. Failure of individuals to meet the standards set forth under these regulations.

§ 1.9. APA application.

Whenever the commissioner revokes, suspends or denies a certification, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) shall apply.

§ 1.10. Reapplication for certification.

If a certification is revoked or refused as herein provided, a new application for certification may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished.

§ 1.11. Suspension of certification.

Suspension of a certification shall in all cases be for an indefinite time and the suspension may be lifted and rights under the certification fully or partially restored at such time as the commissioner determines that the rights of the certified facility or individual appear to so require and the interests of the public will not be jeopardized.

Article 5.
Inspection.

§ 1.12. Examination of records by DMHMRSAS.

Each applicant or certified facility or individual shall agree, as a condition of application or certification, to permit properly designated representatives of the department to examine records to verify information contained in the application.

PART II.
REQUIREMENTS.

§ 2.1. Staff qualifications.

The facility or individual shall meet the following standards to provide therapeutic consultation services reimbursable under the waiver by the Department of Medical Assistance Services:

1. Psychologists shall be licensed by the Department of Health Professions.

2. Occupational therapists shall be certified by the Department of Health Professions.

3. Physical therapists shall be licensed by the Department of Health Professions.

4. Speech therapists shall be licensed by the Department of Health Professions.

5. Social workers shall be licensed by the Department of Health Professions.

6. Behavioral therapy consultation will be provided by individuals who are endorsed by the department as meeting the following knowledge, skills and abilities as determined by the department:

Position qualification:

The incumbent must have the following knowledge, skills and abilities for Behavior Therapy Consultation. These must be documented or observable in the application form or supporting documentation.

Knowledge of:

a. The definition and causes of mental retardation and program philosophy of mental retardation services;

b. Behavior assessment and functional analysis;

c. Behavior modification techniques utilized with MR and DD populations;

d. Methods of data collection, analysis and interpretation;

e. Methods of training and consultation; and

f. Consumer rights and ethical principles of behavior intervention.

Demonstrated abilities to:

a. Conduct behavior assessment;

b. Write a functional analysis of behavior;

c. Develop and present effective and practical behavior plan;

d. Train direct service providers;

e. Develop data collection procedures;

f. Analyze and interpret behavioral data and make program decisions/adjustment; and

g. Communicate effectively both written and orally.

§ 2.2. Requirements for reimbursement.

The facility or individual shall request reimbursement from the Department of Medical Assistance Services for residential support services provided to waiver recipients only when the services were provided by individuals who have passed an objective test of knowledge, skills and abilities approved by the department.

§ 2.3. Facility or individual requirements.

The facility or individual shall:

1. Demonstrate the ability to serve individuals in need of services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;

2. Have the administrative and financial management capacity to meet state and federal requirements;

3. Have the ability to document and maintain individual case records in accordance with state and federal requirements.

BOARD OF YOUTH AND FAMILY SERVICES

Title of Regulation: **VR 690-10-001. Regulations Governing the Certification Process.**

Statutory Authority: §§ 16.1-233, 16.1-234, 16.1-311, 16.1-312, and 66-10 of the Code of Virginia.

Public Hearing Date: May 13, 1992 - 4 p.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation establishes the Board of Youth and Family Services procedures for the review and certification of facilities and programs which are under the regulatory authority of the board.

This regulation is issued as a new regulation by the board which commenced operations on July 1, 1990. This regulation is a revision and update of similar standards issued by the Board of Corrections as VR 230-01-003.

This regulation prescribes the procedures for auditing and certifying facilities and programs, lists the actions the board and the Department of Youth and Family Services may take regarding certification, and specifies the procedures for appealing board actions regarding certification.

VR 690-01-001. Regulations Governing the Certification Process.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Administrative review" means the audit of the administrative records of a local jurisdiction or governing commission.

"Administrative probation" means the status granted to a program or facility in an emergency situation at the discretion of the director pending the next regularly scheduled board meeting.

"Appeal" means the action taken by a unit, facility or program administrator after an audit when there is disagreement with a team finding of noncompliance.

"Board" means the Virginia Board of Youth and Family Services (BYFS).

"Certified" means that a program has achieved an acceptable level of compliance with standards.

"Certification audit report" means the report prepared for review by the board.

"Certification inspector" means a staff member of the DYFS Certification Unit who serves as the chairperson of the certification team. This person is referred to as team leader.

"Certification status" means the three-year period of time during which the program must maintain its standards compliance levels and have acceptable plans of action.

"Certification team" means those persons designated by the Department of Youth and Family Services to conduct compliance audits, including the Certification Inspector.

"Certification unit" means the organizational unit of the Department of Youth and Family Services responsible for organizing and facilitating inspections of programs funded by the department.

"Certification unit manager" means that person employed by the Department of Youth and Family Services responsible for the administration of the certification unit.

"Chief of operations for information and evaluation" means that individual employed by the Department of Youth and Family Services accountable for the administration of information and evaluation. This individual also acts as the direct supervisor to the certification unit manager.

"Chief of operations for learning centers" means that individual employed by the Department of Youth and Family Services accountable for the administration and operation of learning centers.

"Complaint" means a report of a problem or concern made by staff, clients, parents or guardians, other agencies or the general public about a facility or program certified by the Board of Youth and Family Services.

"Compliance" means meeting the requirements of a standard.

"Compliance audit" means an on-site review by a certification team of a program's compliance with standards promulgated by the board.

"Compliance documentation" means those records, reports, pictures, blueprints, observations and interviews required to verify a program's adherence to standards.

"Decertification" means the Board of Youth and Family Services has determined that a program has not met a minimum acceptable level of compliance with standards.

"Department" means the Virginia Department of Youth and Family Services (DYFS).

"Deputy director for programs" means the individual employed by the Department of Youth and Family Services, and designated by the director as the administrator of program operations and funding.

"Deputy director for administration and finance" means the individual employed by the Department of Youth and Family Services, and designated by the director as responsible for the management of administrative and financial operations.

"Director" means the Director of the Department of Youth and Family Services.

"Interim certification report" means the program's verification of continued compliance with the standards.

"Life, health, safety standards (LHS)" means those standards related to the life, health or safety of the youth and staff in residential programs as defined by the board that must be maintained in 100% compliance at all times.

"Mandatory standards" means those standards of performance for nonresidential programs as defined by the board which must be maintained in 100% compliance at all times.

"Not applicable standards" means standards which are not relevant to the program because of the structure of the program or the services it provides.

"Plan of action" means a written document which explicitly states what has or will be done to bring all deficiencies into compliance with standards.

"Preparatory audit" means an on-site review of a new program by regional office staff prior to an audit by a certification unit staff member to provide guidance in audit documentation and standards compliance.

"Probationary status" means the temporary status granted to a program by the Board of Youth and Family Services to provide a period of time in which to come into compliance with standards.

"Program administrator" means the staff member responsible for the operation of a program, facility or institution.

"Quality of life and services statement" means the portion of the audit report to the board which describes issues regarding staff (such as motivation, commitment to the program, personal development, interaction between staff and clients and team work), the building (such as suitability of building and furnishings for program and population, provisions for privacy, maintenance, safety); and program (such as use of community resources, community interaction, interagency cooperation, individualized treatment).

"Related professional agencies" means any unit within the Department of Youth and Family Services or any public or private agency, which serves a similar clientele or provides services similar to those of the program to be certified.

"Standard deficiency" means that the performance of a unit, facility or program, or evidence supporting this performance, is insufficient to meet the requirements of a standard.

"Suggested compliance determination list" means a list of suggested documents or information sources which can be used to verify compliance with a standard.

"Unannounced interim visits" means periodic visits to a facility to monitor compliance with standards.

"Variance" means a decision by the Board of Youth and Family Services to relieve a program of having to develop a plan of action for a specified standard.

§ 1.2. References.

Code of Virginia:

§ 16.1-233. Department to develop court services, ...appointment and removal of employees, salaries.

§ 16.1-234. Duties of Department..(to insure that minimum standards are adhered to).

§ 16.1-311. Board to prescribe certain standards; how order of board enforced.

§ 16.1-312. Visitation and management of detention homes.

§ 66-10. Board to adopt regulations for the operation of halfway houses.

§ 66-10. Board to adopt standards for Delinquency Prevention and Youth Development Act Programs.

§ 1.3. Legal base.

Section 66-10 of the Code of Virginia requires the Board

of Youth and Family Services to prescribe program standards and to monitor the activities of the department in implementing the standards.

PART II.
ADMINISTRATION.

§ 2.1. Regulatory history.

These regulations replace and supersede Department of Corrections Regulations Governing the Certification Process, VR 230-01-003.

§ 2.2. Effective date.

These regulations shall become effective on .....

PART III.
AUDITS.

§ 3.1. Preaudit process.

A. The certification unit manager shall develop a compliance audit schedule to cover a one-year period for dissemination to affected programs and staff.

Requests for rescheduling the compliance audit may be granted provided the program requests the schedule change 90 days prior to the scheduled audit. Audits must occur before the expiration of the current certification.

B. Certification team members shall be appointed and notified of their appointment in writing by the regional administrators or the chief of operations for learning centers where appropriate. Team members shall have completed certification training and shall be approved by certification unit manager and the director or designee.

C. The agency to be audited shall receive a list of team members and shall have the right to request alternate team members. The request shall be in writing and shall be approved by the regional administrator assigning the team member. The regional administrator shall be responsible for finding a replacement for the team member if approved.

D. The certification unit inspector shall notify the program administrator at least 60 days in advance of the audit.

E. The certification inspector shall visit the program administrator prior to the audit to discuss the compliance audit process and procedures. Exceptions to this previsit shall be approved by the certification unit manager.

F. In instances where several programs are operated under the administration of a single commission, the certification unit manager and the program administrator may agree to an administrative review audit.

§ 3.2. Frequency of audits.

A. All state and local facilities, programs and units operated by or affiliated with the Department of Youth and Family Services shall be audited every three years by the certification unit or a designee of the unit. More frequent audits may occur as required by the board.

B. All programs referenced in § 3.2 A shall receive announced or unannounced documented interim audits by the regional office staff at least once every six months. More frequent audits may occur as required.

C. Exceptions to the frequency of audits as stated above shall be granted for the following reasons:

1. When a new program opens it shall undergo a documented preparatory audit by regional office staff during the first six months of operation. A compliance audit shall be conducted between the sixth and twelfth month of operation as arranged by the certification unit manager and every three years thereafter. More frequent audits may occur as required by the board.

2. Exceptions to the required frequency of audits may be granted when circumstances beyond the control of the program staff prohibit compliance with the standards. In no case shall the audit be postponed for more than six months.

§ 3.3. Agency narrative.

No later than 30 days prior to the audit, the agency shall submit a written description of the program to be audited.

§ 3.4. On-site audit procedures.

A. On-site audit procedures shall include the following:

1. Program administrator interview.

2. Facility tour.

3. Team orientation.

4. Data-gathering.

5. Team voting on standards compliance.

6. Assessment and discussion of quality of life issues.

7. Predebriefing with the program administration to discuss audit findings.

8. Debriefing to inform program staff of audit findings.

B. Burden of proof.

1. The burden of proof of compliance with standards rests with the program staff. Documentation

generated once the audit has begun shall not be accepted.

2. It is permissible to provide additional documentation should the audit team request it; however, such documentation shall already have been in existence when the audit began. Once the audit is concluded, an agency cannot bring itself into compliance with a standard for the purpose of changing the compliance rating for that standard. The changes become part of the program's plan of action.

3. The certification unit manager, the appropriate regional administrator or the chief of operations for learning centers where appropriate, and the director or designee shall be informed immediately of any serious problems or issues revealed to the team.

§ 3.5. Reports.

A. Post reporting process.

1. A report of the team's findings shall be submitted to the program administrator and the appropriate regional administrator or the chief of operations for learning centers where appropriate, within 10 working days following the compliance audit.

2. The program administrator may respond to the findings described in the report in one of three ways:

a. Submit a plan of action as described below.

b. Request a variance as described in § 3.5 C.

c. Appeal the findings as described in § 3.5 D.

3. The program administrator with assistance from the regional office shall develop a plan of action to correct all noncompliance findings. The plan of action shall be submitted to the appropriate regional administrator or the chief of operations for learning centers, where appropriate, within 15 days of receipt of the report of the team's findings.

4. Each plan of action shall identify:

a. The deficiency(ies).

b. The tasks required to correct each deficiency, including the steps necessary to prevent its recurrence.

c. The responsible agency and staff position, which may include the regional office.

d. The deadlines for the accomplishment of tasks.

5. Acceptable plans of action. Within five working days of receipt the regional administrator or chief of learning centers, if applicable, shall review and upon finding the plan acceptable, approve the plan of action and forward it to the certification unit manager. Within five working days the certification unit manager shall review, and forward the plan of action to the director or designee with recommendations regarding certification and recommendations to deny or approve variance requests. Within five working days the director or designee shall sign the plan of action indicating review and approval and return it to the certification unit for inclusion in the audit report to the board.

6. Unacceptable plans of action.

a. Regional office level. Within five working days of receipt the regional administrator shall review the plan of action and upon finding the plan unacceptable, return it to the program administrator with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The program administrator shall have five working days in which to resubmit an acceptable action plan. If the action plan is unacceptable, the regional administrator shall forward it to the director or designee for referral to the board for action with a copy to the certification unit manager.

b. Certification unit level. If a plan of action approved by the regional administrator is unacceptable to the certification unit manager, the certification unit manager within five working days shall return the plan of action to the regional administrator with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The regional administrator shall return the plan of action to the program administrator within five working days for revision. If the program administrator fails to submit an acceptable action plan within five working days, or the regional administrator does not agree with the certification unit manager, the matter shall be referred to the director or designee for a decision or referral to the board for action.

c. Director or designee level. If a plan of action is unacceptable to the director or designee, it shall be returned within five working days to the regional administrator with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The certification unit manager shall receive a copy. The regional administrator shall then have three working days to return the plan of action to the program administrator for revision. The program administrator shall have five working days to resubmit an acceptable plan of action. If an acceptable plan of action is not submitted within the required time frame, the director or designee shall refer the matter to the board for action.

B. Failure to submit an acceptable action plan.

When a program administrator fails to submit an acceptable plan of action within the time frame specified in § 3.5 A, the department shall refer the matter to the Board of Youth and Family Services with recommendations for action. In exceptional situations, the certification unit manager may grant a 30-day extension to a program administrator for the development of an action plan.

C. Variance request.

A variance may be requested in those instances where a facility is unable to comply with a standard.

A variance shall state:

1. The standard for which a variance is requested;

2. The justification for the request;

3. The actions being taken to come into compliance;

4. The person and agency responsible for such action;

5. The date at which time compliance is expected; and

6. The specific number of months requested for this variance.

Variance requests approved by the regional administrator, reviewed by the certification unit manager, and approved by the director or designee shall be forwarded to the board for final approval.

Should the program be subject to a compliance audit during the period of the variance, a copy of the approved variance shall be provided to the certification team during the on-site audit.

D. Appeal process.

If an appeal of any audit findings is being made, the program administrator shall attach the appeal request to any plan of action.

A plan to correct the deficiency should the appeal be denied shall be included in the plan of action.

Appeals shall be forwarded to the certification unit manager by the regional administrator or the chief of operations for learning centers along with the plan of action. The certification unit manager shall prepare a report on the appeal for review.

The levels of appeal review are as follows:

1. Regional administrator upon review of plan of action;

2. Chief of operations for information and evaluation;

3. Deputy director of administration and finance and the deputy director for programs;

4. Director for the Department of Youth and Family Services; and

5. Board of Youth and Family Services.

The certification unit manager shall distribute required documents within three working days of receipt of appeal documents. The administrators cited above shall complete required reviews or appeal decisions within five working days from receipt of the appeals.

Upon completion of each appeal level, the certification unit manager shall notify all parties involved of the appeal decisions within three workdays. The parties involved shall then have five working days from receipt of the decision notification to decide whether or not to appeal to the next level and to inform the certification unit manager of that decision.

If the appeal is granted, the certification unit manager shall note this decision on the plan of action and the deficiency shall be removed from the audit report.

E. Board review of audit report.

The certification unit manager shall submit audit reports at the first regular board meeting which occurs 75 days or more after the audit.

§ 3.6. Board action on audit results.

Based upon the information submitted by the department, the board shall make one of the following findings:

1. The program is certified.

2. The program is placed on probationary status.

3. The program is decertified (or not certified if a new program.)

The board may also place a program on administrative probation in emergency situations or continue an administrative probation status initiated by the director.

§ 3.7. Notification of certification status.

A. Information regarding program status shall be made available to the appropriate departmental, state and local authorities within two weeks of the board's actions.

B. Administrators shall receive notification of their program's certification status in the following manner:

1. A certificate shall be issued by the board to each

certified program.

2. A letter shall be issued by the board to programs that are placed on probationary status or decertified.

C. Public notification of certification status certificates and status letters shall be posted upon receipt in a conspicuous place in the facility or program offices.

D. When a certifiable level of compliance is not achieved, the director or designee shall:

1. Notify the program administrator of the board's action and provide 15 days to respond in writing to the board's action.

2. Send a copy of such notice to the person or entity authorized to take action.

§ 3.8. Failure to achieve certification.

When a program fails to achieve certification, the following actions may be taken in compliance with statutes, policies, and procedures established by the board, the department and other state or federal agencies.

1. Department-administered. If the Department of Youth and Family Services administers the program, actions may include, but are not limited to, the following:

a. The program administrator may reorganize the program, take necessary personnel action(s) and any other steps that will bring the program into compliance;

b. The program may be closed. The procedure for such action shall be in compliance with all board, department, state and federal regulations, policies, or requirements of law.

2. Locally or privately operated. If the program is locally or privately operated, and affiliated with the Department of Youth and Family Services, actions may include, but are not limited to, the following:

a. A recommendation may be made to the person or entity authorized to take action, to reorganize the program structure or take necessary personnel action or any other steps as may be necessary to bring the program into compliance with standards;

b. The Director of the Department or the Board of Youth and Family Services may initiate proceedings, and under authority of §§ 16.1-311, 16.1-322.1 through 16.1-322.3, and § 66-30 as well as any other applicable laws relating to child abuse to withdraw funding or to prohibit placement of children.

§ 3.9. Grounds for decertification.

A facility or program may be decertified at any time for the following reasons:

1. Staff of the facility or program are alleged to have permitted, aided or abetted the commission of any illegal act in the facility or program;

2. Staff of the facility or program are alleged to have engaged in conduct or practices which are in violation of statutes related to abuse or neglect of children;

3. Staff of the facility or program are alleged to have deviated significantly from the program or services for which a certificate was issued without obtaining prior approval from the Board of Youth and Family Services, failing to correct such deviations within the time specified by the board, or both; or

4. A program or facility may also be placed on administrative probation at any time pending investigation of alleged occurrences of any or all of the items stated above, or in an emergency situation at the discretion of the director pending board approval at its next regularly scheduled meeting.

§ 3.10. Newly adopted standards.

A. When standards are adopted for newly developed programs, or when new standards are adopted for existing programs, the programs affected shall be held responsible for demonstrating compliance with the standards 90 days after board approval of the new standards.

B. New programs to be certified under existing standards will undergo a preparatory audit by the regional office within 90 days of accepting the first client (residential programs) or hiring of the director (nonresidential programs). A full audit by the certification unit staff will be conducted no more than six months after the preparatory audit.

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.

REPRINT
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

NOTICE: The following final regulation was published in 8:12 VA.R. 1955-1966 March 9, 1992, and is being reprinted to correct the effective date and to print the language in § 12 which was inadvertently dropped from the computer's database.

Title of Regulation: **State Plan for Medical Assistance Relating to Reduction of Threshold Days for Hospital Utilization Review and Second Surgical Opinion. VR 460-03-3.1100. Amount, Duration and Scope of Services.**

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

Effective Date: April 8, 1992.

Summary:

The purpose of this action is to promulgate permanent regulations to supersede the current emergency regulations providing for the same policies.

The section of the State Plan for Medical Assistance affected by this regulatory action is the Amount, Duration, and Scope of Services narrative (Attachment 3.1 A & B Supplement 1) for inpatient hospital services, outpatient hospital, and physician services.

Reduction of Threshold Days for Hospital Utilization Review (UR).

DMAS adopted its current limits on inpatient hospital lengths of stay in 1982. For all admissions of patients 21 years of age and older that exceed 14 days (up to a maximum of 21 days), the hospital must attach medical justification records to the billing invoice. (Patients younger than 21 years must, by federal law, be exempted from this sort of service limit.) Each of these claims is reviewed before payment by a registered nurse and all days determined not to be medically necessary are denied. The hospital is notified of these reduced days in its remittance vouchers.

This regulation reduces the limit placed on inpatient hospital lengths of stay for which claims must be manually reviewed from 14 days to 7 days. Hospitals will now be required to attach medical justification for all claims for lengths of stay exceeding 7 days. Under the authority of this new policy, fewer inpatient hospital claims will be paid automatically by the computerized billing system.

Second Surgical Opinion Program.

The Second Surgical Opinion Program (SSOP) was implemented in 1984 with a list of 10 surgical procedures requiring a second opinion. Procedures were considered for the program based upon high utilization volume, potential for abuse, high failure rates, or cost-effectiveness of the procedure.

The program objectives are to provide additional information to the patient when considering a recommendation for surgery, to monitor the utilization trends of identified procedures, and to prevent unnecessary surgeries. If unnecessary surgeries are prevented or alternative therapies implemented, then risk to the patient would decline and the cost-effectiveness of medical intervention would improve. Recipients receiving a second opinion that differed from the initial recommendation were under no obligation to accept the second opinion.

DMAS performed an overall review of the program and its previous evaluations. The review indicated the SSOP has not been successful in achieving its objectives, cost savings cannot be directly linked to the presence of the program, and that alternative programs could be implemented that would be more effective and less inconvenient to both Medicaid recipients and providers. Therefore, the recommendation to discontinue the second surgical opinion requirement was presented to and approved by the Board of Medical Assistance Services on June 10, 1991.

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.~~ [*Repealed.*]

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 peformance 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 sterlization, 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 utilzation 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.

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 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 *and psychologists clinical licensed by the Board of Psychology* 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.~~ [*Repealed.*]

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 ophthamologists, 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. Nursing services provided by a home health agency.

1. 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.

2. Patients may receive up to 32 visits by a licensed nurse within a 60-day period without authorization. A patient may receive a maximum of 64 nursing visits annually without authorization. If services beyond these limitations are determined by the physician to be required, then the home health agency shall request authorization from DMAS for additional services.

C. Home health aide services provided by a home health agency.

1. Home health aides must function under the supervision of a professional nurse.

2. Home health aides must meet the certification requirements specified in 42 CFR 484.36.

3. For home health aide services, patients may receive up to 32 visits within a 60-day period without authorization from DMAS. A recipient may receive a maximum of 64 visits annually without authorization. If services beyond these limitations are determined by the physician to be required, then the home health agency shall request authorization from DMAS for additional services.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medically necessary supplies, equipment, and appliances are covered for patients of the home health agency. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, respiratory equipment and oxygen, and ostomy supplies, as authorized by the agency.

3. Supplies, equipment, or appliances that are not covered include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners.

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office.

c. Furniture or appliances not defined as medical equipment (such as blenders, bedside tables,

mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales).

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience (i.e., electric wheelchair plus a manual chair); cleansing wipes.

e. Prosthesis, except for artificial arms, legs, and their supportive devices which must be preauthorized by the DMAS central office (effective July 1, 1989).

f. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and nonlegend drugs.

g. Orthotics, including braces, splints, and supports.

h. Home or vehicle modifications.

i. Items not suitable for or used primarily in the home setting (i.e., car seats, equipment to be used while at school, etc.).

j. Equipment that the primary function is vocationally or educationally related (i.e., computers, environmental control devices, speech devices, etc.).

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

1. Service covered only as part of a physician's plan of care.

2. Patients may receive up to 24 visits for each rehabilitative therapy service ordered within a 60-day period without authorization. Patients may receive up to 48 visits for each rehabilitative service ordered annually without authorization. If services beyond these limitations are determined by the physician to be required, then the home health agency shall request authorization from DMAS for additional services.

§ 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:

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 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.

Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services. These services shall be prescribed by a physician and be part of a written plan of care. Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

11a. Physical Therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, 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 service 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.

C. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care 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 is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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.

11b. Occupational therapy.

A. Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. Occupational therapy services shall be directly and specifically related to an active written care plan designed by a 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, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see Page 1, General and Page 12, Physical Therapy and Related Services.)

A. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Speech-language 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, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

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 or under the direction of a speech-language pathologist who meets the qualifications in number 1. The program shall meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; 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.

11d. Authorization for services.

A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, or home health agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized. This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS.

11e. Documentation requirements.

A. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided by a hospital-based outpatient setting, home health agency, a school division, or a rehabilitation agency shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's condition;

2. Include an accurate and complete chronological picture of the patient's clinical course and treatments;

3. Document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;

4. Include a copy of the physician's orders and plan of care;

5. Include 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);

6. Describe changes in each patient's condition and response to the rehabilitative treatment plan;

7. (Except for school divisions) 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; and

8. In school divisions, include an individualized education program (IEP) which describes the anticipated improvements in functional level in each school year and the time frames necessary to meet these goals.

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.

11f. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of

treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. Physical therapy, occupational therapy and speech-language services are to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided by someone other than the skilled rehabilitation professional.

§ 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 anorexiant 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 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 ot 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.

A. Intensive physical rehabilitation:

1. Medicaid covers intensive inpatient rehabilitation services as defined in subdivision A 4 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 physical rehabilitation services as defined in subdivision A 4 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs).

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.

5. Nothing in this regulation is intended to preclude DMAS from negotiating individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special intensive rehabilitation needs.

§ 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.

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).

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 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 critieria 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.

VIRGINIA STATE BAR

NOTICE: The Virginia State Bar (the "Bar") is exempt from the provisions of the Administrative Process Act as an agency of the Supreme Court. The regulations set forth below have been adopted by the Bar and are published here for informational purposes only.

RESOLUTION OF THE COUNCIL OF THE VIRGINIA STATE BAR

Establishing a Clients' Protection Fund

WHEREAS, it is the desire of the lawyers of Virginia acting through the State Bar to preserve and protect the honor and integrity of the profession, and;

WHEREAS, it is recognized that despite the high standards of ethical conduct required of and generally maintained by the Virginia State Bar, a member of the Virginia State Bar may engage in dishonest conduct and that such conduct may result in losses to his clients, and;

WHEREAS, it is the desire of the Virginia State Bar to alleviate the injury to persons so sustaining loss or damage in certain cases.

NOW, THEREFORE, BE IT RESOLVED BY THE VIRGINIA STATE BAR:

1. That there is hereby established a special Board of the Virginia State Bar to be known as the Clients' Protection Fund Board (hereinafter called the "Board") whose function it shall be to receive, hold, manage and distribute, pursuant to the terms herein contained, such funds as may from time to time be appropriated to it by the Council of the Virginia State Bar or through voluntary contribution or otherwise for the purpose of maintaining the integrity and protecting the good name of the legal profession by reimbursing to the extent deemed proper and feasible by the Board losses caused by the dishonest conduct of members of the Virginia State Bar.

2. The Board shall consist of thirteen members, one of whom shall be a nonlawyer, appointed by the Council. One member shall be from each of the ten (10) Congressional Districts in Virginia, and three (3) shall be appointed from the State at large. The terms of all present members of the board shall expire on June 30, 1988. All are eligible for reappointment. Four persons shall be appointed for one-year terms, five for two-year terms, and four for three-year terms. All subsequent appointments shall be for a term of three years. No appointees shall serve more than two consecutive full terms until after the expiration of at least one year. Vacancies shall be filled by appointment by the President of the Virginia State Bar for the unexpired term.

3. The Board shall be authorized to consider petitions for reimbursement of losses arising after January 1, 1976 and caused by the dishonest conduct of a member of the Virginia State Bar, acting either as a lawyer or as a fiduciary in the matter in which the loss arose except to the extent to which they are bonded or to the extent such losses are otherwise covered, provided such member has been disbarred or suspended from the practice of law, has voluntarily resigned from the practice of law, has died, has disappeared, has removed himself from the State and is not subject to judicial process, has been adjudicated as bankrupt, or has been adjudicated mentally incompetent or where the loss has been certified to the Board by one of the District Committees of the Virginia State Bar as an appropriate case for consideration because the loss was caused by the dishonest conduct of a member of the Virginia State Bar. The Board shall be authorized and empowered to admit or reject such petitions in whole or in part, and the Board shall have complete discretion in determining the order, extent, and manner of payment. Payment to any petitioner shall not exceed the sum of $10,000.00 for losses incurred prior to July 1, 1985, $15,000.00 for losses incurred on or after July 1, 1985 and prior to July 1, 1990, $25,000.00 for losses incurred on or after July 1, 1990. On establishing the Clients' Protection Fund, the Virginia State Bar does not create or acknowledge any legal responsibility for the acts of individual lawyers in the practice of law. All reimbursements of losses from the Clients' Protection Fund shall be a matter of grace in the sole discretion of the Board and not as a matter of right. No client or member of the public shall have any right in the Clients' Protection Fund as a third party beneficiary or otherwise. No attorney shall be compensated for presenting a petition except as authorized by the Board.

4. The Board shall operate pursuant to rules of procedure approved by the Council of the Virginia State Bar for the management of the Board's funds and affairs, for the presentation of petitions, and the processing and payment thereof.

5. All sums appropriated by the Council of the Virginia State Bar for the use of the Board shall be held and invested as a separate account known as Clients' Protection Fund, subject to the written direction of the Board under written Board rules approved by the Council of the Virginia State Bar; the interest or other income thereby received to be added to and automatically become a part of the Fund.

6. The Board may use or employ the Clients' Protection Fund for any of the following purposes within the scope of the Board's objectives, as heretofore outlined:

(a) To make payments or reimbursements on approved petitions as herein provided to clients and members of the public;

(b) To purchase insurance to cover such losses in whole or in part, provided that such insurance is obtainable at reasonable costs and is deemed appropriate and provided that the purchase of such insurance is approved by the Council of the Virginia State Bar.

7. The administrative expenses of the Board shall be paid out of the general fund of the Virginia State Bar in accordance with policies established by the Council. However, the board annually at its discretion may contribute to the cost of administration by designating a sum to be paid out of the Clients' Protection Fund to the Virginia State Bar.

8. The Board shall provide a full report of its activities at least yearly to the Council of the Virginia State Bar, and it shall make such other report of its activities and give only such publicity to same as the Council may deem advisable.

9. The Council at any time may abolish the Board and the Fund. In the event of such abolition, all assets of the Fund shall be and remain the property of the Virginia State Bar to be used for its general purposes, as determined by the Council.

10. The financial condition of the Clients' Protection Fund shall be reviewed annually in conjunction with the State Bar's annual budgeting process. The Council of the Virginia State Bar shall make appropriations adequate to maintain the funding of the Clients' Protection Fund at a reasonable level, provided, however, that no appropriation may be made which will increase the assets of the fund to an amount in excess of $1,000,000.00

11. Payment shall be made from the Fund only upon condition that the Virginia State Bar receive a pro tanto assignment from the payee of the payee's assignable rights against the lawyer involved, his personal representatives, heirs, devisees and assigns, and upon condition that the Fund shall be entitled to reimbursement on such terms as the Board may deem proper under the circumstances, including reimbursement of costs incurred in prosecuting a claim against said lawyer, his personal representatives, etc. The net proceeds collected by reason of such assignment shall be for the sole benefit of the Fund and applied thereto, and enforcement of this right shall be within the sole discretion of the Board.

12. The Board may give such publicity to awards made or to the work, procedures, and existence of the Clients' Protection Fund as it shall deem proper, except that in no case shall the name of the payee be stated in any release to the media. Copies of all releases shall be sent to the Executive Director of the Virginia State Bar to ensure conformity with this rule. No publicity shall be given to pending claims without the express approval of the Council of the Virginia State Bar.

Title of Regulation: **VR 167-01-201. Rules of Procedure of the Clients' Protection Fund of the Virginia State Bar.**

Statutory Authority: § 54.1-3910 of the Code of Virginia and Part 6, § IV, Paragraph 16 of the Rules of Virginia Supreme Court.

Effective Date: February 22, 1992.

I. Definitions.

For the purpose of these Rules of Procedure, the following definitions shall apply:

1. The "Board" shall mean the Clients' Protection Fund Board.

2. The "Fund" shall mean the Clients' Protection Fund of the Virginia State Bar.

3. A "lawyer" shall mean one who, at the time of the act complained of, was a member of the Virginia State Bar, was domiciled in Virginia, and was actually engaged in the practice of law in Virginia. The fact that the act complained of took place outside of the State of Virginia does not necessarily mean that the lawyer was not engaged in the practice of law in Virginia.

4. "Reimbursable losses" are only those losses of money or other property of clients of lawyers which meet the following tests:

(a) The conduct which occasioned the loss occurred on or after January 1, 1976.

(b) The loss must be caused by the dishonest conduct of the lawyer and shall have arisen out of and by reason of a lawyer-client relationship or a fiduciary relationship between the lawyer and the claimant.

(c) The loss to be paid to any one client shall not exceed $25,000.00. For purposes of this provision, the Board may regard two or more persons, firms or entities as "one client" with respect to a lawyer's dishonest conduct in handling a given matter where the facts and equities are found to justify such a conclusion.

(d) The lawyer has been disbarred or suspended from the practice of law, has voluntarily resigned from the practice of law, has died, has disappeared, has removed himself from the State and is not subject to judicial process, has been adjudicated as

bankrupt, or has been adjudicated mentally incompetent, or where the loss has been certified to the Board by one of the District Committees of the Virginia State Bar as an appropriate case for consideration because the loss was caused by the dishonest conduct of a member of the Virginia State Bar.

The following shall be excluded from "Reimbursable losses":

(a) Losses of spouses, other close relatives, partners, associates and employees of lawyers causing the losses;

(b) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby; including any loss to which any bonding agent, surety or insurer is subrogated;

(c) Losses of any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract;

(d) Losses by any business entity controlled by the lawyer;

(e) Losses incurred by any governmental entity or agency;

(f) Losses occasioned by a loan or an investment transaction with a lawyer, unless it arose out of and in the course of the attorney-client relationship and but for the fact that the dishonest attorney enjoyed an attorney-client relationship with the claimant such loss could not have occurred. In considering whether that standard has been met, the following factors will be considered:

1. The disparity in bargaining power between the attorney and the client and their respective educational backgrounds and business sophistication.

2. The extent to which the attorney-client relationship overcame the normal prudence of the applicant.

3. The extent to which the attorney, by virtue of the attorney-client relationship with the applicant, became privy to information as to the applicant's financial affairs.

4. Whether a principal part of the service arose out of a relationship requiring a license to practice law.

5. "Dishonest conduct" means any wrongful act committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value, including but not limited to, refusal to refund unearned fees received in advance where the lawyer performed no services or such an insignificant portion of service that the refusal to refund the unearned fees constitutes a wrongful taking or conversion of money.

II. Application for Reimbursement.

1. The Board shall prepare a form of Petition for reimbursement; in its discretion the Board may waive a requirement that a Petition be filed on such form.

2. The form shall require, as minimum information:

(a) The name and the address of the lawyer.

(b) The amount of the loss claimed.

(c) The date or period of time during which the alleged loss was incurred.

(d) Name and address of the Petitioner.

(e) A general statement of facts relative to the loss.

(f) Verification by the Petitioner.

3. The Petition shall contain the following statement in bold type:

"In establishing the Clients' Protection Fund, the Virginia State Bar did not create or acknowledge any legal responsibility for the acts of individual lawyers in the practice of law. All reimbursements of losses from the Clients' Protection Fund shall be a matter of grace in the sole discretion of the Board administering the fund and not as a matter of right. No client or member of the public shall have any right in the Clients' Protection Fund as a third party beneficiary or otherwise."

4. Petitions shall be submitted to the central office of the Virginia State Bar in Richmond, Virginia, and shall forthwith be transmitted by such office to the Chair of the Board, with a copy being simultaneously transmitted to each member of the Board.

III. Processing Petitions.

1. The Chair of the Board shall cause each such Petition to be sent to a member of the Board or other member of the Virginia State Bar for investigation and report. A copy shall be served upon or sent by registered mail to the lawyer complained of at his last known address. Wherever possible, the member to whom such Petition is referred shall practice in the jurisdiction wherein the attorney complained of practiced. Such member shall be reimbursed for his or her reasonable out-of-pocket expenses in making such investigation. From time to time, the Chair may request of the Petitioner further information with respect to the alleged loss.

2. A member to whom a Petition is referred for investigation shall conduct such investigation as to him seems necessary and desirable in order to determine whether the same is for a reimbursable loss and in order to guide the Board in determining the extent, if any, to which the loss shall be reimbursed from the Fund. The District Committees of the Virginia State Bar shall allow such member to have access, during such investigation, to the files and records, if any, pertaining to the alleged loss. Any information obtained by the member from said District Committee files shall be used solely by or for the Clients' Protection Fund Board, but otherwise shall constitute confidential information.

3. When, in the opinion of the member to whom the Petition has been referred, the Petition is clearly not for a reimbursable loss, no further investigation need by conducted, but a report with respect to such Petition shall be made by the member to whom the Petitioner was referred, as hereinafter specified.

4. Reports with respect to Petitions shall be submitted by the members to whom they have been referred for investigation to the Chair of the Board. The Chair shall summarize each report in such detail as to him shall seem necessary and shall send to each member of the Board a copy of such summary.

5. No Petition with respect to which an inadequate opportunity for investigation has been afforded need be considered by the Board for reimbursement in the year in which such claim is presented.

6. In those instances where the reporting member in his report suggests or any other member of the board, after studying the summaries of Petitions to be processed, requests that the Board hear evidence, the Board shall hear the Petitioner, the attorney complained of and such other evidence as may presented. Absent such recommendation or request, Petitions may be processed on the basis of information contained therein and in the report of the member who investigated such Petitions. In all cases, the attorney complained of or his personal representative will be given an opportunity to be heard by the board if he so requests. The Petitioner shall be given an opportunity to be heard by the Board if the attorney complained of exercises his right to be heard by the Board.

7. The Board shall, in its sole discretion, determine the amount of loss, if any, for which any Petitioner shall be reimbursed from the Fund. In making such determination, the Board shall consider inter alia, the following:

(a) Any conduct of the Petitioner which contributed to the loss.

(b) The degree of hardship suffered by the Petitioner subject to the following guidelines:

(1) The claim form utilized by the Board shall state that no claim will be considered unless accompanied by a current financial statement of the Petitioner, and a copy of a simple financial statement form shall be made a part of the claim application;

(2) It is presumed that hardship results when dishonest conduct, as defined in these Rules, is committed by a lawyer. Because the assets of the Clients' Protection Fund are limited, however, reimbursement of loss sustained as a result of such conduct may be denied to any petitioner who has a net worth in excess of $1,000,000 or adjusted gross income for the year preceding the claim in excess of $75,000.

(c) The total amount of losses reimbursable hereunder on account of the misconduct of any one lawyer or association of lawyers (including, without limitation, a law firm, professional corporation, or an office-sharing arrangement among lawyers) shall be limited to ten percent (10%) of the net worth of the Clients' Protection Fund at the time the first claim is made. In the event of multiple claims on account of the misconduct of any one lawyer or association of lawyers, claims may be considered in any order or grouping which the Board, in its discretion, finds appropriate, taking into account the equities and timeliness of each claim, and no further payment shall be made in respect to misconduct of any one lawyer or association of lawyers once the ten percent limit has been reached.

(d) The total amount of reimbursable losses in previous years for which payment has not been made and the total assets of the Fund.

(e) The Board may, in its sole discretion, allow further payment in any year on account of a reimbursable loss allowed by it in prior years which has not been fully paid; provided such further payment would not be inconsistent or in conflict with any previous determination with respect to such loss.

(f) No payment shall be made upon any Petition, a summary of which has not been submitted to the members in accordance with these Rules of Procedure. No payment shall be made to any Petitioner unless said payment is duly approved by the Board.

(g) No claim shall be considered by the Board unless the same shall have been filed within three years for the date of the occurrence giving rise to the claim, or within one year of the discovery of such occurrence if discovery could not reasonably have been made within three years thereof. In no

event shall a claim be allowed if made more than five years after the occurrence complained of.

8. A member who has or has had a lawyer-client relationship or financial relationship with a claimant or lawyer who is the subject of a claim shall not participate in the investigation or adjudication of a claim involving that claimant or lawyer. A member with any other past or present relationship with a claimant or the lawyer whose alleged conduct is the subject of the claim, shall disclose such relationship to the Board and, if the Board deems appropriate, that member shall not participate in any proceeding relating to such claim.

IV. Assignment When Payment Made.

In the event payment is made from the Fund to a Petitioner, the Fund may require an assignment from the Petitioner of such claim as he may have against the lawyer complained of and may bring such action thereon in the name of the Petitioner as is deemed advisable against the lawyer, his assets or his estate. The Petitioner may be required to execute such an assignment. Prior to the commencement of an action by the Board, it shall advise the Petitioner thereof at his last known address. The Petitioner may then join in such action to press a claim for his loss in excess of the amount of the payment made by the Fund or for any other claims. The Board may impose such other conditions and requirements as it may deem appropriate in connection with payment to any Petitioner.

V. Meeting of the Board.

1. The Board shall meet annually after the close of the fiscal year, but not later than September. In addition, the Board shall meet from time to time upon call of the Chair, or of any two members of the Board.

2. The members shall be given not less than 15 days' written notice of the time and place of the annual meeting and not less than five days' written notice of each special meeting. Notice of any meeting may be waived by a member either before or after the meeting.

3. A quorum at any meeting of the Board shall be six (6) members. No action shall be taken by the Board in the absence of a quorum; except that any action which might be taken at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all the members of the Board.

4. Written minutes of each meeting shall be prepared and permanently maintained.

5. The Chair of the Board shall be elected by a majority of the Board at each annual meeting; his term shall extend until the next annual meeting of the Board and until his successor is elected and qualified. Should a vacancy occur in the office of Chair, such vacancy shall be filled by like vote of the members of the Board at the meeting next following the occurrence of the vacancy.

VI. General Purposes.

These Rules of Procedure shall be liberally interpreted and, in any given case, the Board may waive technical adherence to these Rules of Procedure in order to achieve the objectives of the Fund, as contained in the enabling Resolution establishing the Fund.

VII. Authorized Investments.

Investment of monies of the Clients' Protection Fund shall be restricted to the following:

(a) Interest-bearing deposits (including as well certificates of deposit) in federally insured banks and savings institutions located in the state of Virginia.

(b) Direct obligations of the Commonwealth of Virginia and the United States Government; provided that no such deposit, certificate or obligation shall have a maturity beyond ten years from the date of the investment; and provided further that the interest, discount or other gain or income realized from any such investment, net of any bank or brokerage charges incurred in connection therewith, shall automatically become a part of the Fund.

VIII. Amendments.

These Rules may be changed at any time by a majority vote of the Board at a duly held meeting at which a quorum is present, and subject to the approval of the Council of the Virginia State Bar.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to OBRA 90 Pharmacy Program Requirements.**
VR 460-01-79.6. Pharmacy Services Rebate Agreement Terms.
VR 460-03-3.1100. Amount, Duration and Scope of Services.
VR 460-03-3.1105. Drugs or Drug Categories Which are not Covered.

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

Effective Dates: March 11, 1992 through March 10, 1993.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled OBRA 90 Pharmacy Program Requirements. This policy will conform the Plan to federal requirements and to changes in the Social Security Act relative to the pharmacy program services.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding OBRA 90 Pharmacy Program Requirements. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: February 9, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: February 20, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: March 10, 1992

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: March 11, 1992

DISCUSSION

6. BACKGROUND: The sections of the State Plan for Medical Assistance affected by this emergency regulation action are new preprinted page 79 g and Attachment 3.1 A & B, Supplement 1 (Amount, Duration, and Scope of Services) and new Supplement 5 to provide a separate listing of drugs or categories of drugs considered non-covered services. These changes have been required by the Health Care Financing Administration (HCFA) as a result of an earlier State Plan Amendment (SPA 91-01) submitted in conformity with the Omnibus Budget Reconciliation Act of 1990 § 4401 (OBRA 90).

OBRA 90 § 4401 mandated that the Secretary of Health and Human Services enter into agreements with drug manufacturers to provide specified rebates to state Medicaid programs on a quarterly basis in order for a state to receive federal matching dollars for those drugs. Payment for covered outpatient drugs of a manufacturer must be covered in a rebate agreement in effect between the manufacturer and the Secretary on behalf of all states. Payment may also be made if the rebate agreement is between the manufacturer and the state, if the Secretary has delegated authority to the state to enter into such agreements.

OBRA 90 provides for specific circumstances under which federal matching payment may be made for drugs not covered under a rebate agreement. Payment for drugs not covered by rebate agreements may be made if they are single-source or innovator multiple source drugs which the state has determined to be essential to the state's beneficiaries' health under the State plan; if the drugs have been given a 1-A rating by the U.S. Food and Drug Administration, and if either the physician has obtained approval for use in advance of dispensing in accordance with the requirements of an established prior authorization program, or if the Secretary has approved the state's determination that the drugs are essential to the beneficiaries.

The law does, however, allow the states to exclude any or all of 11 categories of drugs regardless of whether a rebate agreement is in effect with the manufacturer or not. These categories of drugs, known as "optional drugs", are generally considered not medically necessary or are drugs with a very high potential for abuse. The Department has elected to exclude coverage of the optional drug topical minoxidil (also known as Rogaine) which is used for the treatment of baldness to induce hair growth.

Each state is required to report to each manufacturer and to HCFA the total number of dosage units of each covered outpatient drug dispensed under the plan during the quarter. Drug manufacturers must also make price reports to the Secretary each quarter.

To assist states with start-up administrative costs of the rebate program, an enhanced federal match of 75% was provided for federal FY 91.

Finally the law established a four year moratorium on reductions in dispensing fees to pharmacists.

In response to the Commonwealth's submission of SPA 91-01, HCFA is requiring the submission of additional Plan pages and changes to the originally submitted page (Supplement 1, page 12). The required changes necessitated additional regulatory action on the Department's part before response to HCFA's requirements could be made.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (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) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

OBRA 90 § 4401 amended § 1903 and added § 1927 of the Social Security Act to provide for revisions to the pharmacy services program.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met.

8. FISCAL/BUDGETARY IMPACT: With the exception of an estimated decrease in yearly GF expenditures of approximately $2,500. for discontinuing the coverage of topical minoxidil, this emergency regulation does not contain any fiscal impact beyond that of the earlier emergency regulation.

Savings, which shall apply to all state programs, are based on projected federal rebate agreements with pharmaceutical manufacturers. States may continue their own agreements with pharmaceutical firms, through the minimum term of the contract, provided the contract complies with § 1927(a) of the Social Security Act and the manufacturer's rebate totals at least 10% of the manufacturer's sales to the Virginia Medicaid program.

Virginia had already initiated a plan that would reimburse pharmacies for the Average Wholesale Price (AWP) minus 9%. This initiative was projected to generate cost savings of $1,156,000 in FY 91 ($578,000 GF and $578,000 NGF). FY 92 cost savings were expected to be $1,262,000 ($631,000 GF and $631,000 NGF). A $1,000,000 ($500,000 GF and $500,000 NGF) reduction in FY 92 had been taken from the DMAS budget in anticipation of savings from the HB 1046, which required those rebates. However, the effective date of HB 1046 was postponed to July 1, 1992, and the functions of that legislation have now been superseded by OBRA '90. The OBRA 90 drug rebate program is anticipated to result in GF savings of $6.5 million in FY 92.

DMAS is also, as one of its cost management initiatives, implementing a drug utilization review program. This program is expected to save $200,000 ($100,000 GF and $100,000 NGF) in FY 92 net of administrative costs.

Savings in future years will be reflected in the pharmacy forecasts.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective upon its filing with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to modify the State Plan in conformance with HCFA's requirements.

10. APPROVAL SOUGHT for VR 460-01-79.6 and VR 460-03-3.1100.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-01-79.6. Pharmacy Services Rebate Agreement Terms.

Citation

Act § 1927(b)(2)

§ 4.36. Pharmacy Services Rebate Agreement Terms.

The Commonwealth conforms to § 1927(b)(2) with regard to the reporting of information on the total number of dosage units of each covered outpatient drug dispensed under the plan during the quarter, and in such a manner as specified by the Secretary of HHS and also shall promptly transmit a copy of such report to the Secretary. The Commonwealth also conforms to § 1927(b)(3)(D) with regard to assuring the confidentiality of the disclosure of the identity of a manufacturer or wholesaler and prices charged for drugs by such manufacturer or wholesaler.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

A. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 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. ~~Drugs, except for over-the-counter drugs when prescribed for nursing facility residents shall not be covered except as provided in §§ 1927(a)(3) or 1927(d) unless the manufacturer of the outpatient drugs complies with the rebate requirements of 1927(a), for which Federal Financial Participation is not available shall not be covered.~~ *Drugs for which Federal Financial Participation is not available, pursuant to the requirements of § 1927 of the Social Security Act (OBRA '90 § 4401), shall not be covered except for over-the-counter drugs when prescribed for nursing facility residents.*

A. Non-legend drugs, except insulin, syringes, and needles and diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in nursing facilities.

B. Legend drugs, with the exception of anorexant drugs prescribed for weight loss and the drugs or classes of drugs provided for in Supplement 5 ~~transdermal drug delivery systems,~~ are covered. Coverage of anorexiants for other than weight loss requires ~~preauthorization~~ *medical justification* .

C. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

D. ~~Notwithstanding the provisions of § 32.1-87 of the Code of Virginia (1950), as amended, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his/her own handwriting "brand necessary" for the prescription to be dispensed as written.~~ *Notwithstanding the provisions of § 32.1-87 of the Code of Virginia (1950), as amended, and in compliance with a provision of § 4401 of the Omnibus Reconciliation Act of 1990, § 1927(e) of the Social Security Act as amended by OBRA 90, and pursuant to the authority provided for under the Code of Virginia § 32.1-325(A), prescriptions for Medicaid recipients for multiple source drugs subject to 42 CFR § 447.332 shall be filled with generic drug products unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his/her own handwriting "brand necessary" for the prescription to be dispensed as written.*

E. ~~New drugs, except for Treatment Investigational New Drugs (Treatement 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.~~ *New drugs shall be covered pursuant to the Social Security Act § 1927(d) (OBRA 90 § 4401).*

F. The number of refills shall be limited pursuant to the Drug Control Act, Code of Virginia Title 54.1, § 54.1-3411.

12b. Dentures.

A. Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

VR 460-03-3.1105. Drugs or Drug Categories Which are not Covered.

§ 1. Agents when used for anorexia or weight gain.

§ 2. Agents when used for cosmetic purposes or hair growth.

A. Minoxidil shall not be covered when prescribed for hair growth or other cosmetic purposes.

§ 3. Nonprescription drugs.

* * * * * * * *

Title of Regulation: **VR 460-04-8.14. "MEDALLION" Regulations.**

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

Effective Dates: March 11, 1992 through March 10, 1993.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation for Managed Care ("MEDALLION"). "MEDALLION" will establish a managed care system for Medicaid recipients in selected localities.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Managed Care ("MEDALLION"). The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: February 11, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: February 20, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: March 10, 1992

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: March 11, 1992

DISCUSSION

6. BACKGROUND: House Bill 30, passed by the 1990 session of the General Assembly, directed the Department of Medical Assistance Services (DMAS) to develop a plan to test the feasibility of establishing a statewide managed care system for Medicaid patients. The plan was developed and submitted to the Committee on Health Care for All Virginians (SJR 118) on October 1, 1990. The Committee examined the plan based on three criteria: 1) the feasibility of expanding the system, 2) alternatives for the design and staffing of such a system, 3) costs and benefits associated with the preferred options. DMAS subsequently was instructed to proceed with its coordinated care program, named "MEDALLION".

The Commonwealth has requested and received approval from the Health Care Financing Administration (HCFA) for a waiver under § 1915(b) of the Social Security Act. DMAS will provide coordinated care services to those selected Medicaid recipients of the Commonwealth.

The services provided by this waiver would establish and support Primary Care Providers (PCP) who would become recipient care managers responsible for coordination of "MEDALLION" recipients' overall health care. The PCP will assist the client in gaining access to the health care system and will monitor on an ongoing basis the client's condition, health care needs, and service delivery to include referrals to specialty care. This form of health care delivery is expected to foster a more productive physician/patient relationship, reduce inappropriate use of medical services, and increase client knowledge and use of preventive care.

DMAS is the single state agency authority responsible for supervision of the administration of these waiver services. DMAS will contract with those providers of services which meet all licensing and certification criteria required in these regulations and which are willing to adhere to DMAS policies and procedures.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of DMAS the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

DMAS received approval from the federal funding agency, the Health Care Financing Administration, under § 1915(b) of the Social Security Act on December 27, 1991, to operate its "MEDALLION" Program. Section 1915(b) provides for a waiver of statewideness of this Medicaid covered service.

Without an emergency regulation, this program cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. An emergency regulation will enable the Department to meet the intended March 1, 1992, effective date.

8. FISCAL/BUDGETARY IMPACT: The fiscal impact of "MEDALLION" is estimated to create a cost savings of approximately $1,356,404 ($678,203 GF) over a two year period, beginning with the effective date of March 1, 1992. Estimated FY 92 savings are projected to be $248,583 ($124,292 GF). FY 93 savings are projected to be $678,202 ($339,101 GF) and for the first half of FY 94 savings of $429,619 ($214,810 GF). These savings were taken into account in the development of the Department's budget.

Several other states' primary care case management models in the Medicaid environment have achieved substantial reductions in inappropriate service utilization patterns. This has occurred most notably in reductions of non-emergency use of emergency rooms. It is anticipated that "MEDALLION" will achieve similar results.

Once the "MEDALLION" pilots become operational and the effects of "MEDALLION" on utilization are measured, projections of cost savings attributable to "MEDALLION" will be made.

9. RECOMMENDATION: Recommend approval of this request for an emergency adoption action to become effective upon its adoption and filing with the Registrar. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement its "MEDALLION" Program in conformance with the direction of the Committee on Health Care for All Virginians (SJR 118).

10. Approval Sought for VR 460-04-8.14.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-04-8.14. "MEDALLION" Regulations.

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

"ADC" shall mean Aid to Dependent Children which is a public assistance program, administered by the Department of Social Services, providing financial assistance to needy citizens.

"ADC related" shall mean those recipients eligible for assistance as an extension of the ADC program, such as pregnant women and indigent children under specific ages. It shall not include foster care or Medically Needy clients.

"Ancillary Services" shall mean those services accorded to a client that are intended to support the diagnosis and treatment of that client. These shall include, but are not necessarily limited to: laboratory, pharmacy, radiology, physical therapy, and occupational therapy.

"Client or clients" shall mean an individual or individuals having current Medicaid eligibility who shall be authorized to participate as a member or members of "MEDALLION".

"Comparison group" shall mean the group of Medicaid physicians whose utilization and costs per client will be compared against similar groups of "MEDALLION" providers.

"Covering provider" means a provider designated by the Primary Care Provider to render health care services in the temporary absence of the primary provider.

"DMAS" shall mean the Department of Medical Assistance Services.

"Emergency services" shall mean services provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in:

a. Placing the client's health in serious jeopardy;

b. Serious impairment to bodily functions; or

c. Serious dysfunction of any bodily organ or part.

"EPSDT" shall mean the Early and Periodic Screening, Diagnosis, and Treatment program.

"Gatekeeper" shall mean the function performed by the "MEDALLION" Primary Care Provider in controlling and managing assigned clients through appropriate levels of medical care.

"General practitioner" shall mean a licensed physician who provides routine medical treatment, diagnosis, and advice to maintain a client's health and welfare.

"Pilot site" shall mean those cities and regions selected to implement "MEDALLION".

"Primary Care Provider" or "PCP" shall mean that "MEDALLION" provider responsible for the coordination of all medical care provided to a "MEDALLION" client and shall be recognized by DMAS as a Medicaid provider.

"Specialty or specialist services" shall mean those services, treatments, or diagnostic tests intended to provide the patient with a higher level of medical care or a more definitive level of diagnosis than that routinely provided by the primary care provider.

"State" shall mean the Commonwealth of Virginia.

§ 2. Program purpose. The purpose of "MEDALLION" shall be to provide management in the delivery of health care services by linking the Primary Care Provider (PCP) with targeted clients. The PCP shall provide medical services as appropriate for clients' health care needs and shall coordinate clients' receipt of other health services. This shall include, but not be limited to, referral to specialty providers as medically appropriate.

§ 3. "MEDALLION" Clients. Except for those covered under the exclusions shown below, clients of "MEDALLION" shall be individuals receiving Medicaid as ADC or ADC-related Categorically Needy except for foster care children, whether or not receiving cash assistance grants.

A. Exclusions. The following individuals, within the pilot sites, shall be excluded from participating in "MEDALLION":

1. Individuals who are inpatients in mental hospitals and skilled nursing facilities;

2. Individuals who are receiving personal care services;

3. Individuals who are participating in foster care or subsidized adoption programs, who are members of spend down cases, or who are refugees.

4. A client may be excluded from participating in "MEDALLION" if any of the following apply:

(a) Client not accepted to the caseload of any participating PCP within the pilot sites.

(b) Client whose enrollment in the caseload of assigned PCP has been terminated and other PCP's have declined to enroll the client.

(c) Client resides in a geographical area not included in designated pilot sites.

B. Client enrollment process.

1. All ADC or ADC-related recipients in pilot sites of Martinsville (to include Henry County), Petersburg, Hampton, and Richmond (limited to specific zip codes in the eastern regions), excepting those meeting one of the exclusions of § 3 above shall be enrolled in "MEDALLION". Other pilot sites may be added to the scope of "MEDALLION" at DMAS discretion, and with the approval of the Health Care Financing Administration.

2. Newly eligible individuals shall not participate in "MEDALLION" until completion of the Medicaid enrollment process. This shall include initial enrollment at the time of eligibility determination by DSS staff, or any subsequent reenrollment that may occur.

3. Clients shall receive an interim Medicaid card from DMAS, and shall be provided authorized medical care in accordance with current procedures, after eligibility requirements are met.

4. Once clients are fully registered as "MEDALLION" clients, they will receive a "MEDALLION" identification card to replace the Medicaid card.

C. PCP Selection. Clients shall be given the opportunity to select the PCP of their choice.

1. Clients shall notify DMAS of their PCP selection within 30 days of receiving their "MEDALLION" enrollment notification letter. If notification is not received by DMAS within that timeframe, DMAS shall select a PCP for the client.

2. Selected PCP shall be a "MEDALLION" enrolled provider.

3. PCP will provide 24 hour access, which shall include as a minimum, a 24 hour telephone number to be placed on each client's "MEDALLION" card.

4. DMAS shall review client requests in choosing a specific PCP for appropriateness and to insure client accessibility to all required medical services.

D. Mandatory Assignment of PCP. Assignments shall be made for those clients not selecting a PCP as described in paragraph (C) of this section. The selection process shall be as follows:

1. Clients shall be assigned to "MEDALLION" providers on a random basis. The age, gender, and any special medical needs shall be considered in assigning a provider with an appropriate specialty. Any prior patient-provider relationships shall be maintained if appropriate. Families will be grouped and assigned to the same provider when possible.

2. Each pilot site having two or more separately identifiable provider groups shall be divided into separate regions for client assignment. Clients shall initially be assigned to a PCP according to the region in which they reside. Should insufficient PCPs exist within the client's specific region, clients shall be assigned a PCP in another region of the pilot site.

3. Each PCP shall be assigned a client, or family group if appropriate, until the maximum number of clients the PCP has elected to serve has been reached, or until there are no more clients suitable for assignment to that PCP, or all clients have been assigned.

E. Changing PCPs. "MEDALLION" clients shall remain with the assigned PCP for a period of not less than six months. After that time clients may elect to change PCPs. Changes may be made annually thereafter.

1. Requests for change of PCP "for cause" are not subject to the six month limitation, but shall be reviewed and approved by DMAS staff on an individual basis. Examples of changing providers "for cause" may include but shall not be necessarily limited to:

a. Client has a special medical need which cannot be met in his or her service area.

b. Client has a pre-existing relationship with a Medicaid provider.

c. Mutual decision by both client and provider to sever the relationship.

d. Provider or client moves to a new residence, causing transportation difficulties for the client.

e. Provider cannot establish a rapport with the client.

2. The existing PCP shall continue to retain client in the caseload, and provide services to the client until a new PCP is assigned or selected.

3. PCP's may elect to release Medallion clients from their caseloads for cause with review and approval by DMAS on a case by case basis. In such circumstances, § 3(E)(2) shall apply.

F. "MEDALLION" Identification Card. Each client enrolled shall receive a "MEDALLION" card, which shall replace and be distinct from the Medicaid card in appearance, and embossed with the "MEDALLION" logo.

1. The front of the card shall include the client's name, Medicaid case identification number, birthdate, sex, PCP's name, address, 24 hour access telephone number, and the effective time period covered by the card.

2. The reverse side of the card shall have the following statements:

a. "Members: Carry this card with you at all times and present it whenever you receive medical care. All non-emergency care must be under the supervision of your Primary Care Provider. Except in emergencies, you must contact your Primary Care Provider prior to receiving care."

b. "Providers: This card is for identification purposes only, and does not guarantee coverage. All non-emergency services must be approved by the Primary Care Provider listed."

3. The "MEDALLION" Hot Line 800 number will be listed on the card.

4. Clients shall contact their assigned PCP or designated covering provider to obtain authorization prior to seeking non-emergency care.

5. Emergency services shall be provided without delay or prior authorization. However, the emergency nature of the treatment shall be documented by the provider providing treatment and reported to the PCP after treatment is provided. Clients shall inform the PCP of any emergency treatment received.

§ 4. Providers of services. Providers who may enroll to provide "MEDALLION" services include, but are not limited to, physicians of the following primary care specialties: general practice, family practice, internal medicine, and pediatrics. Exceptions may be as follows:

A. providers specializing in obstetric/gynecologic care may enroll as "MEDALLION" providers if selected by clients as PCP's but only if the providers agree to provide or refer clients for primary care.

B. Physicians with primary care subspecialties may enroll as "MEDALLION" providers if selected by clients as PCP's but only if the providers agree to provide or refer clients for primary care.

C. Other specialty physicians may enroll as PCP's under extraordinary, client-specific circumstances when DMAS determines with the provider's and recipient's concurrence that the assignment would be in the client's best interests. Such circumstances may include, but are not limited to: the usual-and-customary practice of general medicine by a board-certified specialist; to maintain a pre-existing patient-physician relationship; or to support the special medical needs of the client.

D. DMAS shall review applications from physicians and other health care professionals to determine appropriateness of their participating as a "MEDALLION" PCP.

§ 5. "MEDALLION" provider requirements.

A. PCPs must require their clients to present their currently effective "MEDALLION" card upon presentation for services.

B. PCPs shall track and document any emergency care provided to "MEDALLION" clients.

C. PCPs shall function as "gatekeeper" for assigned clients. Specific requirements shall include but are not necessarily limited to:

1. Provide patient management for the following services: physician; pharmacy; hospital inpatient and out-patient; laboratory; ambulatory surgical center; radiology; and durable medical equipment and supplies.

2. Provide or arrange for physician coverage 24 hours per day, seven days per week.

3. Determine the need for and authorize when appropriate, all non-emergency care.

4. Be an EPSDT provider, or have a referral relationship with one , and provide or arrange for preventive health services for children under the age of 21 in accordance with the periodicity schedule recommended in the Guidelines for Health Supervision of the American Academy of Pediatrics (AAP).

5. Make referrals when appropriate, conforming to standard medical practices, to medical specialists or services as required. The referral duration shall be at the discretion of the PCP, and must be fully documented in the patient's medical record.

6. Coordinate inpatient admissions either by personally ordering the admission, or by referring to a specialist who may order the admission. The PCP must have admitting privileges at a local hospital or must make arrangements acceptable to DMAS for admissions by a physician who does have admitting privileges.

7. Maintain a legibly written, comprehensive, and unified patient medical record for each client consistent with documentation requirements set forth in DMAS' Physician Manual.

8. Document in each client's record all authorizations for referred services.

9. Provide education and guidance to assigned clients for the purpose of teaching correct methods of accessing the medical treatment system and promoting good health practices.

§ 6. Services exempted from "MEDALLION".

A. The following services shall be exempt from the supervision and referral requirements of "MEDALLION":

1. Obstetrical services

2. Psychiatric and psychological services, to include but not be limited to mental health, mental retardation services

3. Family planning services

4. Routine newborn services when billed under the mother's Medicaid number

5. Annual or routine vision examinations

6. Dental services

7. Emergency services

B. While reimbursement for these services does not require the referral from or authorization by the PCP, the PCP must continue to track and document them to ensure continuity of care.

§ 7. PCP payments.

A. DMAS shall pay for services rendered to "MEDALLION" clients through the existing fee-for-service methodology and an incentive payment plan.

B. Incentive Plans. "MEDALLION" providers shall opt for one of the two following incentive plans:

1. Case management fees. A PCP can opt to receive a monthly $2 case management fee for each client assigned, plus an additional $2 per client incentive fee for each month the PCP's utilization is below the mean of his comparison group. Payment of fees shall be quarterly.

2. Cost reductions. PCPs can opt to share in 50% of cost reduction accrued to the State due to management of inappropriate services within the PCP's caseload. Payment of fee shall be annually.

C. PCPs may serve a maximum of 1000 "MEDALLION" clients. Groups or clinics may serve a maximum of 1000 "MEDALLION" clients per authorized PCP in the group or clinic.

§ 8. Utilization review

A. DMAS shall review claims for services provided by or resulting from referrals by authorized PCP's. Claims review shall include, but not be limited to, review for the following:

1. Excessive or inappropriate services.

2. Unauthorized or excluded services.

3. Analysis of possible trends in increases or reductions of services.

§ 9. Client and provider appeals.

A. Client appeals. Clients shall have the right of appeal of any adverse action taken by DMAS consistent with the provisions of VR 460-04-8.7.

B. Provider appeals. Providers shall have the right to appeal any adverse action taken by DMAS under these regulations pursuant to the provisions of the Code of Virginia § 9-6.14:1 et seq (the Administrative Process Act).

BUREAU OF INSURANCE

March 6, 1992

ADMINISTRATIVE LETTER 1992-8

TO: All Companies Required to Register with the Commission as Members of an Insurance Holding Company System

RE: Required Filings of Insurers that are Members of an Insurance Holding Company System

Subsection E of § 38.2-1329 of the Code of Virginia states that each insurer shall report to the Commission all dividends and other distributions to shareholders within two business days following their declaration. The Commission's rules concerning "Insurance Holding Companies" (Regulation No. 14), at Section 7, require that this report include the following:

(1) the date declared, date of record and date of payment of the dividend;

(2) a statement as to whether the dividend is to be in cash or other property, and, if in property, a description thereof, its cost, and the fair market value of such property together with an explanation of the basis of valuation;

(3) the amounts and dates of all dividends paid within the period of 12 consecutive months ending on the date fixed for payment of the reported dividend and commencing on the day after the same day of the month in the last preceding year; and

(4) a brief statement as to the effect of the reported dividend upon the insurer's surplus as regards policyholders and the reasonableness of surplus as regards policyholders in relation to the insurer's outstanding liabilities and the adequacy of surplus as regards policyholders relative to the insurer's needs.

Each registered insurer shall also keep current the information required in a Form B registration statement by filing an amendment to its registration statement within 120 days after the end of each fiscal year of the ultimate controlling person of the insurance holding company system.

An amendment to Form B must be filed within 15 days after the end of any month in which an insurer learns of the following:

(i) there is a change in the control of the registrant, in which case the entire Form B shall be made current;

(ii) there is a material change in the information given in Item 5 of Form B;

(iii) there is a material change in any portion of the information given in Item 6 of Form B which relates to previously reported material transactions with affiliates;

(iv) there are additional material transactions with affiliates involving information of the type required to be reported in Item 6 of Form B.

The Bureau has become aware that some insurers may not be making all the filings as required by § 38.2-1329 and Insurance Regulation 14. Reports of past dividend or other distributions to shareholders which have not been filed with the Commission and any other filings which may be delinquent should be submitted immediately. The failure to make timely filings may result in the imposition of monetary penalties. Additional regulatory action may be taken by the Commission if a company remains out of compliance with provisions of the Code of Virginia.

Any questions regarding the contents of this letter should be directed in writing to:

Mr. Edward J. Buyalos, Jr., CFE, CPA, FLMI
Supervisor, Financial Analysis Section
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23209

/s/ Steven T. Foster
Commissioner of Insurance

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 5, 1992

COMMONWEALTH OF VIRGINIA

At the relation of the
STATE CORPORATION COMMISSION

CASE NO. INS920077

Ex Parte: In the matter
of adopting Revised Rules Governing
Variable Life Insurance

ORDER TO TAKE NOTICE

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code §§ 38.2-223 and 38.2-3313 provide that the Commission is authorized to issue reasonable rules and regulations governing variable life insurance;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Revised Rules Governing Variable Life Insurance" which is

attached hereto and made a part hereof; and

WHEREAS, the Commission is of the opinion that the proposed revised regulation should be adopted;

THEREFORE, IT IS ORDERED:

(1) That all interested persons TAKE NOTICE that the Commission shall enter an order subsequent to April 22, 1992, adopting the revised regulation proposed by the Bureau of Insurance unless on or before April 22, 1992, any person objecting to the adoption of such a regulation files a request for a hearing, specifying in detail their objection to the adoption of the proposed revised regulation, with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(2) That an attested copy hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the proposed adoption of the revised regulation to all insurance companies licensed to write life insurance in the Commonwealth of Virginia; and

(3) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

Rules Governing Variable Life Insurance (Insurance Regulation No. 26)

Article I - Authority

Section 1. Authority.

This regulation is issued under the authority of § 12.1-13 and *§ 38.2-3313* ~~38.1-443~~ of the Code of Virginia and is effective on June 1, 1992.

Article II - Scope

Section 1. Scope.

All life insurance, as defined in § *38.2-102* ~~38.1-3~~ of the Code of Virginia, payable in variable dollar amounts shall be subject to the provisions of this regulation. In the event of conflict between the provisions of this regulation and the provisions of any other regulation issued by the Commission, the provisions of this regulation shall be controlling as to variable life insurance.

Nothing contained in this regulation shall be construed to relieve an insurer of complying with the statutory requirements set forth in Title *38.2* ~~38.1~~ of the Code of Virginia to the extent such statutory requirements may be deemed by the Commission to be applicable to variable life insurance.

Article III - Definitions

As used in this regulation:

Section 1. Affiliate.

"Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

Section 2. Agent.

"Agent" means any person, corporation, partnership, or other legal entity which is licensed by this Commonwealth as a life and health insurance agent.

Section 3. Assumed Investment Rate.

"Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

Section 4. Benefit Base.

"Benefit base" means the amount to which the net investment return is applied.

Section 5. Commission.

"Commission" means the State Corporation Commission.

Section 6. Control.

"Control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than ten (10) percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the Commission that control does not exist in fact. The Commission may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of

fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Section 7. Flexible Premium Policy.

"Flexible premium policy" means any variable life insurance policy other than a scheduled premium policy as specified in § 14 of this Article.

Section 8. General Account.

"General Account" means all assets of the insurer other than assets in separate accounts established pursuant to § *38.2-3113* ~~38.1-443~~ of the Code of Virginia or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

Section 9. Incidental Insurance Benefit.

"Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

Section 10. Minimum Death Benefit.

"Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

Section 11. Net Investment Return.

"Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

Section 12. Person.

"Person" means any association, aggregate of individuals, business, company, corporation, individual, joint stock company, organization, partnership, receiver, reciprocal, or interinsurance exchange, trustee or society.

Section 13. Policy Processing Day.

"Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

Section 14. Scheduled Premium Policy.

"Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

Section 15. Separate Account.

"Separate account" means a separate account established pursuant to § *38.2-3113* ~~38.1-443~~ of the Code of Virginia or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Section 16. Variable Death Benefit.

"Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

Section 17. Variable Life Insurance Policy.

"Variable life insurance policy" means any policy or contract that provides for a form of life insurance as defined in § *38.2-102* ~~38.1-3~~ of the Code of Virginia, the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to §§ *38.2-3114* ~~38.1-408~~ and *38.2-3113* ~~38.1-443~~ of the Code of Virginia or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Article IV - Qualification of Insurer to Issue Variable Life Insurance

The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this Commonwealth or having authority to issue variable life insurance in this Commonwealth.

Section 1. Licensing And Approval to do Business in this Commonwealth.

An insurer shall not deliver or issue for delivery any variable life insurance policy in this Commonwealth unless:

a. the insurer is licensed to transact a life insurance business in this Commonwealth;

b. the insurer has obtained the necessary written approvals of the Commission for the conduct of a variable life insurance business in this Commonwealth. The Commission shall grant such written approval only after it has found that:

(1) the plan of operation for the issuance of variable life insurance policies is not unsound;

(2) the general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in

this Commonwealth; and

(3) the present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this Commonwealth. The Commission shall consider, amount other things:

(A) the history of operation and financial condition of the insurer;

(B) the qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(C) the applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(D) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

Section 2. Filing for Approval to do Business in this Commonwealth.

The Commission may, at its discretion, require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this Commonwealth, file the following information for the consideration of the Commission in making the determination required by Section 1, subsection b of this Article:

a. copies of and a general description of the variable life insurance policies it intends to issue; however, approval of the insurer pursuant to this Article shall not be construed as approval of the forms pursuant to Article V of this regulation;

b. a general description of the methods of operation of the variable life insurance business of the insurer; including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer;

c. with respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the issuer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

d. a description of any investment advisory services contemplated as required by Section 10 of Article VII;

e. a copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies; and

f. biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form; and

g. a statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

Section 3. Standards of Suitability.

Every insurer seeking approval to enter into the variable life insurance business in this Commonwealth shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such Standards of Suitability shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy or certificate shall be issued in the absence of reasonable grounds to believe that the purchase of such policy or certificate is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

Section 4. Use of Sales Materials.

An insurer authorized to transact variable life insurance business in this Commonwealth shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate.

Variable life insurance marketing communications shall be subject to the additional requirements of Insurance Regulation No. 23, Rules Governing Life Insurance and Annuity Marketing Practices adopted by the Commission in Case No. INS810107.

Section 5. Requirements Applicable To Contractual Services.

Any material contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the Commission with any information or reports in connection with such services which the Commission may request in order to

ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with these regulations and any other applicable law or regulations.

Section 6. Reports to the Commission.

Any insurer authorized to transact the business of variable life insurance in this Commonwealth shall submit to the Commission, in addition to any other materials which may be required by this regulation or any other applicable laws or regulations:

a. an annual statement of the business of its separate account or accounts in such form as may be prescribed by the Commission; and

b. prior to its use in this Commonwealth any information furnished to applicants as provided for in Article VIII; and

c. prior to its use in this Commonwealth the form of any of the Reports to Policyholders as provided for in Article X; and

d. such additional information concerning its variable life insurance operations or its separate accounts as the Commission shall deem necessary,

Any material submitted to the Commission under this Section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the Commission may require the distribution of amended material.

Section 7. Authority of Commission to Disapprove.

Any material required to be filed with and approved by the Commission shall be subject to disapproval or withdrawal of approval if at any time such material is found by the Commission not to comply with the standards established by this regulation, or any other applicable statute or regulation.

Article V - Insurance Policy Requirements

The Commission shall not approve any variable life insurance form filed pursuant to this regulation unless it conforms to the requirements of this Article and all other statutory and regulatory requirements deemed applicable by the Commission. No policy or certificate approved prior to the effective date of this regulation shall be delivered or issued for delivery in this Commonwealth until it has been approved by the Commission under the requirements established by this regulation.

Section 1. Filing of Variable Life Insurance Policies.

All variable life insurance policies or certificates, and all riders, endorsements, applications and other documents which are to be attached to and made a part of the policy or certificate and which relate to the variable nature of the policy, shall be filed with and approved by the Commission prior to such forms being put in force, issued for delivery, or delivered in this Commonwealth.

a. The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with this regulation, the same as those otherwise applicable to other life insurance forms.

b. The Commission may approve variable life insurance policies and related forms with provisions the Commission deems to be not less favorable to the policyholder and the beneficiary than those required by this regulation.

Section 2. Mandatory Policy Benefit and Design Requirements.

Variable life insurance policies delivered or issued for delivery in this Commonwealth shall comply with the following minimum requirements.

a. Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

b. For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy less any indebtedness so long as premiums are duly paid.

c. The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer which shall be set forth in the policy. The insurer must demonstrate that the reflection of the investment experience in variable life insurance policy is actuarially sound.

d. Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

e. Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

f. The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits, as described either in the policy or in a statement filed with the insurance supervisory official of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other nonforfeiture benefits must be at least equal to the minimum values required by § *38.2-3200* ~~38.1-459~~ through § *38.2-3229* ~~38.1-470.1~~ (Standard

Nonforfeiture Law) of the Code of Virginia for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under the Standard Nonforfeiture Law of this Commonwealth. If the policy does not contain an assumed investment rate this demonstration shall be based on the maximum interest rate permitted under the Standard Nonforfeiture Law. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

g. The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the Commission.

Section 3. Mandatory Policy Provisions.

Each variable life insurance policy filed for approval in this Commonwealth shall in addition to other applicable statutory requirements, contain the following:

a. The first page of each policy shall contain:

(1) A prominent statement ~~in contrasting color and~~ in boldface type at least two points larger than the type used for policy provisions , *printed in all capital letters,* that the amount or duration of death benefits may be variable or fixed under specified conditions;

(2) A prominent statement ~~in contrasting color and~~ in boldface type at least two points larger than the type used for policy provisions , *printed in all capital letters,* that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

(3) A prominent statement in contrasting color and in boldface type at least two points larger than the type used for policy provisions, printed in all capital letters, describing any minimum death benefit required pursuant to Section 2b of this Article V;

(4) A statement describing the method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;

(5) When appropriate a prominent statement ~~in contrasting color and~~ in boldface type at least two points larger than the type used for policy provisions , *printed in all capital letters,* that the policy loan value is less than one hundred percent (100%) of the policy's cash value surrender value;

b. (1) For scheduled premium policies, a provision for a grace period of not less than thirty-one days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

(2) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than 61 days after the mailing date of the report to policyholders required by Paragraph 3 of Article X.

The death benefit payable during the grace period will equal the death benefit less any outstanding indebtedness and less any overdue charges at the time of the last valuation of the policy preceding the beginning of the grace period.

c. (1) For scheduled premium policies, a provision that the policy will be reinstated at any time within three years from the date of default upon the written application of the insured, and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

(A) All overdue premiums with interest at a rate not exceeding six (6) percent per year compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate as provided in § *38.2-3308* ~~38.1-397.1~~ of the Code of Virginia; or

(B) 110 percent of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding six (6) percent per annum compounded annually.

(2) For flexible premium policies a provision that the policy will be reinstated at any time within three years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

(A) a charge not to exceed three months cost of insurance; or

(B) 110 percent of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate note exceeding six (6) percent per annum compounded annually.

d. A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

e. A provision designating the separate account to be used and stating that:

(1) The assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account;

(2) The assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

f. A designation of the officers who are empowered to make an agreement or representation on behalf of the insurer;

g. A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

h. A statement of any conditions or requirements concerning the assignment of the policy;

i. A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

j. A provision stating that the investment policy of the separate account shall not be changed without the approval of the Insurance Supervisory Official of the state of domicile of the insurer, and that the approval process is on file with the Commission;

k. A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

(1) For up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account, or

(2) Otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical;

l. If settlement options are provided, at least one such option shall be provided on a fixed basis only;

m. A description of the basis for computing the cash value and the surrender value under the policy shall be included;

n. Premiums or charges for incidental insurance benefits shall be stated separately;

o. The insurer may establish a reasonable minimum cash value below which any nonforfeiture insurance options will not be available. Upon termination of any policy if there is any cash value, the cash value shall be returned to the owner of the policy.

Section 4. Policy Loan Provisions.

Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this Commonwealth shall contain, in addition to other applicable statutory requirements, provisions which are not less favorable to the policyholder than the following:

a. A provision for policy loans after the policy has been in force for two full years which provides the following:

(1) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one days after the date of mailing of such notice.

(2) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyowner may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

(3) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

(4) The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof.

(5) Any amount paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amount for policy loans from the general account.

(6) At least ninety percent (90%) of the policy's cash surrender value may be borrowed.

Section 5. Other Policy Provisions.

The following provisions may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this Commonwealth:

a. For any increase in death benefits which results from an application of the owner subsequent to the policy issue date, the policy may provide an exclusion for suicide within two years of such increase as to the increased amount of death benefits. Any refund due under a suicide exclusion may be adjusted to reflect the investment activity of the variable account;

b. Incidental insurance benefits may be offered on a fixed or variable basis;

c. A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under Section 4 of this Article, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed;

d. A provision allowing the policyholder to make partial withdrawals;

e. Any other policy provision approved by the Commission.

Article VI - Reserve Liabilities For Variable Life Insurance

Section 1. Variable Life Policies.

Reserve liabilities for variable life insurance policies shall be established under § *38.2-1307* ~~38.1-166~~ through § *38.2-1315* ~~38.1-173.2~~ of the Code of Virginia, the Standard Valuation Law, in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Section 2. Scheduled Premium Policies.

For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

a. The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

b. The aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue", as described in paragraph (1), of the prior year's "attained age level" reserve on the contract, with any "residue", increased or decreased by a payment computed on an attained age basis as described in paragraph (2) below.

(1) The "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess", if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

(2) The payment referred to in Subsection 2b of this Article shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue", as described in paragraph (1), of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and§or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

c. The valuation interest rate and mortality table used in computing the two minimum reserves described in (a) and (b) above shall conform to permissible

standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

Section 3. Flexible Premium Policies.

For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate.

The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

Section 4. Fixed Incidental Insurance Benefits.

Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

Article VII - Separate Accounts

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer.

Section 1. Establishment and Administration of Separate Accounts.

Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to § *38.2-3113* ~~38.1-443~~ of the Code of Virginia.

a. If no law or other regulation provides for the custody of separate account assets and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the Commission shall have authority to review and approve or disapprove of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

b. Such insurer shall not without the prior written approval of the Commission employ in any material capacity in connection with the handling of separate account assets any person who:

(1) Within the last ten years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342, or 1343 of Title 18, United States Code; or

(2) Within the last ten years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

(3) Within the last ten years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

c. All persons with access to the cash, securities, or other assets of the separate account shall be under bond in the amount of not less than a value indexed to the National Association of Insurance Commissioners fidelity bonding recommendations regarding personnel handling general account assets or as determined by the Commission.

d. The assets of such separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

Section 2. Amounts in the Separate Account.

The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

Section 3. Investment by the Separate Account.

a. No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(1) In case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(2) Such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the Commission in advance.

b. The separate account shall have sufficient net investment income and readily marketable assets to meet

anticipated withdrawals under policies funded by the account.

Section 4. Limitations on Ownership.

a. A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States Government, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by these regulations, would exceed ten (10) percent of the value of the assets of the separate account. The Commission may waive this limitation in writing if it believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this Commonwealth.

b. No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts in the aggregate will own more than ten (10) percent of the total issued and outstanding voting securities of such issuer. The Commission may waive this limitation in writing if it believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this Commonwealth or jeopardize the independent operation of the issuer of such securities.

c. The percentage limitation specified in subsection a of this section shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or asset pools comply substantially with the provisions of Section 3 of this Article and other applicable portions of this regulation.

Section 5. Valuation of Separate Account Assets.

Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

Section 6. Separate Account Investment Policy.

The investment policy of a separate account operated by a domestic insurer filed under Section 2c of Article IV shall not be changed without first filing such change with the Commission.

(1) Any change filed pursuant to this section shall be effective sixty days after the date it was filed with the Commission, unless the Commission notifies the insurer before the end of such sixty day period of its disapproval of the proposed change. At any time the Commission may, after notice and opportunity to be heard, disapprove any change that has become effective pursuant to this section.

(2) The Commission may disapprove the change if it determines that the change would be detrimental to the interests of the policyholders participating in such separate account.

Section 7. Charges Against Separate Account.

The insurer must disclose to the policyholder and§or certificateholder in writing, prior to or at the time of delivery of the policy or certificate, all charges that may be made against the separate account, including, but not limited to, the following:

(1) Taxes or reserves for taxes attributable to investment gains and income of the separate account;

(2) Actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase of sale of separate account assets;

(3) Actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(4) Charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(5) A charge, at a rate specified in the policy, for mortality and expense guarantees;

(6) Any amounts in excess of those required to be held in the separate accounts;

(7) Charges for incidental insurance benefits.

Section 8. Standards of Conduct.

Every insurer seeking approval to enter into the variable life insurance business in this Commonwealth shall adopt by formal action of its board of directors a written statement specifying the Standards of Conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such Standards of Conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17j under the Investment Company Act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this section.

Section 9. Conflicts of Interest.

Rules under any provision of the insurance laws of this Commonwealth or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate accounts committee or other similar body.

Section 10. Investment Advisory Services to a Separate Account.

An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

(1) The person providing such advice is registered as an investment advisor under the Investment Advisers Act of 1940; or

(2) The person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974 with respect to the assets of each employee benefit plan allocated to the separate account; or

(3) The insurer has filed with the Commission and continues to file annually the following information and statements concerning the proposed advisor:

(a) The name and form of organization, state of organization, and its principal place of business;

(b) The names and addresses of its partners, officers, directors, and persons performing similar functions, or if such an investment advisor be an individual, of such individual;

(c) A written Standard of Conduct complying in substance with the requirements of § 8 of this Article which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors, and affiliates;

(d) A statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

(i) Has been convicted within ten years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director or an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of United States Code;

(ii) Has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

(iii) has been found by federal or state regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or

(iv) has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or has been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

(4) Such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than sixty days' written notice to the investment advisor.

The Commission may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if it deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

Article VIII - Information Furnished to Applicants

An insurer delivering or issuing for delivery in this Commonwealth variable life insurance policies shall deliver to the applicant for the policy or certificate, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this Article shall be deemed to have been satisfied to the extent that a disclosure containing information required by this Article is delivered, either in the form of (1) a prospectus included in the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof.

1. A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provisions required by § *38.2-3301* ~~38.1-390.1~~ and § *38.2-3304* ~~38.1-393~~ of the Code of Virginia regarding the ten day free look and entire contract provisions of the policy or certificate.

2. A statement of the investment policy of the separate account, including:

(a) A description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and

(b) any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

3. A statement of the net investment return of the separate account for each of the last ten years or such lesser period as the separate account has been in existence.

4. A statement of the charges levied against the separate account during the previous year.

5. A summary of the method to be used in valuing assets held by the separate account.

6. A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary.

7. Illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible level of benefits if it is made clear that such assumed rates are hypothetical only.

8. If there are any guaranteed elements to the accumulation of cash values, an illustration or proposal must separately display:

a) The guaranteed cash values and

b) The guaranteed loan values if the loan values are less than one hundred percent (100%) of the cash values.

9. If the loan value is less than one hundred percent (100%) of the cash surrender value such fact must be shown as a percentage of cash surrender value and such fact must be prominently displayed on any proposal or in any illustration.

Article IX - Applications

The application for a variable life insurance policy shall contain:

1. A prominent statement in boldface capital letters that the death benefit may be variable or fixed under specified conditions;

2. A prominent statement in boldface capital letters that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

3. Questions based on the insurer's standards of suitability so that in view of the applicant's other insurance, investment objectives, age, earnings, marital status, number and age of dependents, current life insurance program, the value of savings and other assets, net worth, and any other pertinent information, the insurer may determine that variable life insurance is suitable for the applicant.

Article X - Reports to Policyholders

Any insurer delivering or issuing for delivery in this Commonwealth any variable life insurance policies or certificates shall mail to each variable life insurance policyholder and certificateholder at his or her last known address the following reports:

1. Within thirty days after each anniversary of the policy, a statement or statements with serialized pages of the cash surrender value, loan value if less than one hundred percent (100%) of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to Section 4 of Article V under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within thirty days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty days prior to the mailing of such notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. The report must show the loan value separately if the loan value is less than one hundred percent (100%) of the policy's cash surrender value. In addition, the report must show the projected cash value, and cash surrender value if different from the projected cash value, and projected loan value if less than one hundred percent (100%) of the policy's projected cash surrender value, as of one year from the end of the period covered by the report assuming that: (i) planned periodic premiums, if any, are paid as scheduled; (ii) guaranteed costs of insurance are deducted; and (iii) the net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

2. Annually, a statement or statements including:

a. A summary of the financial statement of the separate account based on the annual statement last filed with the Commission;

b. The net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;

c. A list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the Commission;

d. Any charges levied against the separate account during the previous year;

e. A statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment advisor of the separate account.

3. For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for the payment of such amount.

Article XI - Foreign Companies

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by these regulations, the Commission to the extent deemed appropriate by it in its discretion, may consider compliance with such law or regulation as compliance with these regulations.

Article XII - Qualifications of Agents for the Sale of Variable Life Insurance

Section 1. Qualification to Sell Variable Life Insurance.

a. No person may sell or offer for sale in this Commonwealth any variable life insurance policy unless such person is currently licensed by the Commission as a life and health insurance agent, is authorized to represent the insurer through which the policy is offered and evidence has been filed with the Commission, in a form satisfactory to the Commission, that such person also holds any license or authorization which may be required by this Commonwealth or the Federal Government for the solicitation or sale of variable life insurance.

b. Any examination administered by the Commission for the purpose of determining the eligibility of any person for licensing as an agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and sale of variable life insurance as the Commission deems appropriate.

Section 2. Reports of Disciplinary Actions.

Any person qualified in this Commonwealth under this Article to sell or offer to sell variable life insurance shall immediately report to the Commission:

a. Any suspension or revocation of his agent's license in any other state or territory of the United States;

b. The imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

c. Any judgement or injuction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

Section 3. Refusal to Qualify Agent to Sell Variable Life Insurance: Suspension, Revocation, or Nonrenewal of Qualification.

The Commission may reject any application or suspend or revoke or refuse to renew any agent's qualification under this Article to sell or offer to sell variable life insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this Commonwealth. The rules governing any proceeding relating to the suspension or revocation of any agent's license shall also govern any preceeding for suspension or revocation of an agent's qualification to sell or to offer to sell variable life insurance.

Article XIII - Severability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall be not affected thereby.

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 5, 1992

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE910076

Ex Parte: In re: Revision of
Commission rules governing public
utility rate increase applications

ORDER GRANTING EXTENSION OF TIME

The Division of Consumer Counsel, Office of the Attorney General, has requested an extension of time to file comments in this case from March 6, 1992 until April 6, 1992.

IT APPEARING THAT such an extension of time is reasonable and would not prejudice persons interested in the proceeding,

IT IS ORDERED:

(1) That all comments received in this proceeding on or before April 6, 1992 shall be deemed timely filed, and

(2) That a copy of this order shall be sent to all of the parties named in the service list attached to the Commission's order of December 13, 1991 herein, and to William H. Chambliss, Esquire, Division of Consumer Counsel, Office of the Attorney General, 101 North Eighth Street, Richmond, Virginia 23219, and the Commission's Office of General Counsel and Divisions of Energy Regulation, Communications, Public Utility Accounting and Economics and Finance.

SERVICE LIST

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Commonwealth Public Service Corp.
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General Manager
P.O. Box 589
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Shenandoah Gas Company
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United Cities Gas Company
Mr. Gene Koonce, President &
General Manager
5300 Maryland Way
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Virginia Natural Gas
Mr. W. F. Fritsche, Jr.
President & CEO
5100 East Virginia Beach Blvd.
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Washington Gas Light Company
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Mr. Patrick J. Maher, President
1100 H. Street, N.W.
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GTE Virginia
1108 E. Main Street, Suite 1108
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Mr. L. Ronald Smith
President/General Manager
Mountain Grove-Williamsville
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P. O. Box 105
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New Hope, Virginia 24469

Mr. E. B. Fitzgerald, Jr.
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P. O. Box 367
Gretna, Virginia 24557

Mr. Allen Layman, President
Roanoke & Botetourt Telephone Company
Daleville, Virginia 24083

Mr. Christopher E. French
President
Shenandoah Telephone Company
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Edinburg, Virginia 22824

Mr. William K. Smith, President
United Inter-Mountain Telephone Company
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Ralph L. Frye
Virginia Telephone Association
11 South 12th Street
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Richmond, Virginia 23219

WATER AND SEWER COMPANIES

Dale Service Corporation
c/o Norris Sisson
13901 Jefferson Davis Highway
Woodbridge, Virginia 22191

Virginia American Water Company
(Alexandria & Prince William County
and Hopewell Area)
c/o David Legg, Manager
or Cheryl Snyder, Customer Service
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STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER THIRTY-THREE (91)

VIRGINIA'S TWENTY-SECOND INSTANT GAME LOTTERY; "WILD CARD," 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 twenty-second instant game lottery, "Wild Card." 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
December 16, 1991

DIRECTOR'S ORDER NUMBER SIX (92)

VIRGINIA'S TWENTY-FOURTH INSTANT GAME LOTTERY; "BREAK THE BANK," 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 twenty-fourth instant game lottery, "Break the Bank." 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
March 3, 1992

DIRECTOR'S ORDER NUMBER SEVEN (92)

VIRGINIA'S TWENTY-FIFTH 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 twenty-fifth 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
March 3, 1992

DIRECTOR'S ORDER NUMBER EIGHT (92)

"GO FOR THE GOLD"; VIRGINIA LOTTERY RETAILER SALES PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Go For The Gold" Virginia Lottery Retailer Sales Promotional Program Rules for the lottery retailer incentive program which will be conducted from Monday, March 30, 1992 through Sunday, June 7, 1992. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These 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
March 3, 1992

DIRECTOR'S ORDER NUMBER NINE (92)

VIRGINIA'S NINETEENTH INSTANT GAME LOTTERY; "JOKER'S WILD," END OF GAME.

State Lottery Department

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's nineteenth instant game lottery, "Joker's Wild," will officially end at midnight on Thursday, March 26, 1992. The last day for lottery retailers to return for credit unsold tickets from "Joker's Wild" will be Thursday, April 16, 1992. The last day to redeem winning tickets for "Joker's Wild" will be Tuesday, September 22, 1992, 180 days from the declared official end of the game. Claims for winning tickets from "Joker's Wild" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of September 22, 1992, 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
March 3, 1992

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission 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 B to publish all final regulations.

Title of Regulation: **VR 450-01-0037. Pertaining to Speckled Trout and Red Drum.**

Statutory Authority: §§ 28.1-23 and 28.1-50 of the Code of Virginia.

Effective Date: March 1, 1992.

Preamble:

This regulation establishes minimum size limits for the taking and/or possession of speckled trout and red drum by commercial and recreational fishermen. The purpose of the minimum size limits is to protect the spawning stocks and increase yield in the fishery. This regulation was originally implemented in May 1986 in response to the recommendations of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plans for Speckled Trout and Red Drum. The goal of these plans is to perpetuate the speckled trout and red drum resources in fishable abundance throughout their range and generate the greatest possible economic and social benefits from their harvest and utilization over time. In February 1992 more conservative regulations on red drum were added to respond to overfishing problems identified by the South Atlantic Fishery Management Council. These regulations are designed to increase protection of young red drum in order to rebuild the depleted spawning stock.

VR 450-01-0037. Pertaining to Speckled Trout and Red Drum.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § *§* 28.1-23 *and 28.1-50* of the Code of Virginia.

B. ~~No prior regulations pertain~~ *This regulation amends VR 450-01-0037, "Pertaining* to Speckled Trout ~~or~~ *and* Red Drum *," promulgated on June 1, 1986* . ~~Section 28.1-50 of the Code of Virginia establishes a possession limit of two red drum over 32 inches in length.~~

C. The possession limit of one fish over 27 inches established by this regulation, supersedes the possession limit for red drum described in § 28.1-50 of the Code of Virginia.

~~C.~~ *D.* The effective date of this regulation is ~~June 1, 1986~~ *March 1, 1992* .

§ 2. Purpose.

The purpose of this regulation is to protect *and rebuild* the spawning stocks of speckled trout and red drum, minimizing the possibility of recruitment failure, and to increase yield in their fisheries.

§ 3. ~~Minimum~~ Size limits.

A. Speckled trout.

It shall be unlawful for any person to take, catch, ~~or have in possession~~ *or possess* any speckled trout less than 12 inches in length.

B. Red drum.

It shall be unlawful for any person to take, catch ~~or have in possession~~ *or possess* any red drum less than ~~14~~ *18* inches in length *or more than one red drum greater than 27 inches in length* .

C. Length is measured in a straight line from tip of nose to tip of tail.

§ 4. Bag limit.

A. It shall be unlawful for any person to take or catch more than five red drum per day, only one of which may exceed 27 inches in length.

B. It shall be unlawful for any person to possess more than one red drum in excess of 27 inches in length at any time.

§ ~~4.~~ *§ 5.* Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * * * * *

Title of Regulation: **VR 450-01-0043. Pertaining to the Taking of Black Drum.**

Statutory Authority: §§ 28.1-23 and 28.1-23.2 of the Code of Virginia.

Effective Date: March 1, 1992.

Preamble:

This regulation establishes management measures for the black drum fishery designed to cap current harvests, minimize current conflicts between user groups, provide accurate commercial fishery data, and protect black drum until they reach sexual maturity.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-23.2 of the Code of Virginia.

B. ~~No prior regulations pertain~~ *This regulation amends VR 450-01-0043, "Pertaining* to the Taking of Black Drum *," which was promulgated on May 5, 1987* .

C. The effective date of this regulation is ~~May 5, 1987~~ *March 1, 1992* .

§ 2. Definitions.

A. Black Drum: Any fish of the species Pogonias cromis.

B. Commercial Harvest: Any black drum taken from the tidal waters of Virginia by any harvesting method, including ~~rod and reel~~ *hook-and-line* , and sold ~~to a licensed seafood buyer~~ .

§ 3. Purpose.

The purpose of this regulation is to ~~provide~~ *limit black drum harvest to levels over the last 10 years in order to prevent overfishing. A management area with time restrictions is also designated to reduce conflicts between recreational and commerical fishermen that concentrate on drum fishing grounds in the Lower Bay. The regulation also provides* for the collection of management information for the black drum commercial fishery. Additionally, a minimum size limit is imposed to provide protection of black drum until they reach sexual maturity.

§ 4. Commercial harvest quota.

During any calendar year, the total allowable sum of commercial harvest of black drum from Virginia tidal waters shall be 120,000 pounds of whole fish. At such time as the total harvest of black drum reaches 120,000 pounds, it shall be unlawful for any person to take, catch, or land any black drum by any method for commercial purposes.

§ 5. Daily bag limits on hook and line harvests.

A. It shall be unlawful for any person using hook and line, rod and reel, or hand line to take or catch from Virginia tidal waters more than one black drum per day. Any black drum taken after the bag limit of one has been reached shall be returned to the water immediately.

B. When fishing from any boat or vessel, the daily bag limit shall be equal to the number of persons on board the vessel. Retention of the legal number of black drum is the responsibility of the vessel operator or owner.

§ 6. Special management area/time retrictions.

It shall be unlawful for any person to place, set, or fish gill nets or trotlines from 7 a.m. to 8:30 p.m. of each day for the period of May 1 to June 7, dates inclusive, in the lower, eastern Chesapeake Bay in the area bounded by a line drawn from the Cape Charles Jetty to the C-12 Buoy to the RN-28 Buoy, south along the Baltimore Channel to the Fourth Island of the Chesapeake Bay Bridge Tunnel, then north along Chesapeake Bay Bridge Tunnel to Fisherman's Island then over north along the cost, returning to the Cape Charles Jetty.

§ ~~4~~ *7* . Minimum size limit.

A. It shall be unlawful for any person to take, catch, or ~~have in possession~~ *possess* any black drum less than 16 inches in total length.

B. *Total* length shall be measured in a straight line from the tip of the nose to the tip of the tail.

§ ~~5~~ *8* . Commercial harvest permits required.

A. It shall be unlawful for any person to take or catch and sell black drum without first having obtained a Black Drum Harvesting and Selling Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee and a copy kept in the possession of th while fishing and selling black drum.

B. It shall be unlawful for any person, firm, or corporation to buy any black drum from the harvester without first having obtained a Black Drum Buying Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee and a copy kept in possession of the permittee while buying black drum.

C. Any person, firm or corporation that has black drum in possession with the intent to sell must either be a permitted harvester or buyer, or must be able to demonstrate that those fish were imported from out of the state or purchased from a permitted buyer or seller.

§ ~~6~~ *9* . Mandatory reporting of commercial harvest.

A. Commercial harvesters and buyers of black drum shall report daily harvest information on forms to be provided by the commission. Such information shall include, but is not limited to, the number of fish, their weight, location of harvest, method of capture and the buyer's and seller's permit identification number. Such reports shall be completed in full and shall be submitted to the commission on a weekly basis.

B. Buyers of black drum imported from out of state shall also report the amount of black drum imported on the forms provided by the commission.

C. Marine Resources Commission personnel may also collect biological information from black drum accumulated at the place of business of commercial buyers. Such sampling shall be done with the cooperation of the buyers and in a manner which will not inhibit normal business operations.

§ ~~7~~ *10* . Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor. In addition, those in violation shall forfeit their Black Drum Harvesting or Buying Permit and its privileges.

/s/ William S. Pruitt
Commissioner

* * * * * * * * *

Title of Regulation: **VR 450-01-9201. Closed Public Oyster Season.EB**

Statutory Authority: § 28.1-82 of the Code of Virginia.

Effective Date: April 1, 1992 to October 1, 1992.

Preamble:

The following order of the Marine Resources Commission closes all public oyster rocks, grounds and shoals within certain designated areas of the state in order to promote and protect the oyster fishery.

§ 1. Authority, effective date.

A. This order is promulgated pursuant to the authority contained in § 28.1-82 of the Code of Virginia.

B. The effective date of this order is April 1, 1992.

§ 2. Purpose.

The purpose of this order is to close all public oyster grounds, rocks, and shoals in the "clean cull" areas of the state, except the Jail Island clean cull area of the James River, and all public oyster grounds, rocks, and shoals on the Seaside of Eastern Shore to the taking of oysters in order to conserve the resource and promote the growth of the oysters in these areas.

§ 3. Designated areas.

The following areas in the state, where public oyster rocks, grounds, and shoals are located are closed to the taking of oysters:

1. Seaside of Eastern Shore.

2. All "clean cull" areas of the state, except the Jail Island clean cull area of the James River.

§ 4. Expiration date.

This order shall terminate on October 1, 1992.

/s/ William S. Pruitt
Commissioner

Virginia Tax Bulletin

Virginia Department of Taxation

MARCH 16, 1992 92-1

INTEREST RATES
SECOND QUARTER 1992

Rates change: State and certain local interest rates are subject to change every quarter based on changes in the federal rates established pursuant to I.R.C. § 6621. The federal rates for the second quarter of 1992 will be 8% for tax underpayments (assessments), 7% for tax overpayments (refunds), and 10% for "large corporate underpayments" as defined in I.R.C. § 6621(c). Va. Code § 58.1-15 provides that the underpayment rate for Virginia taxes will be 2% higher than the corresponding federal rates. Accordingly, the Virginia rates for the second quarter of 1992 will be 10% for tax underpayments, 7% for tax overpayments, and 12% for "large corporate underpayments."

Rate for Addition to Tax for Underpayments of Estimated Tax

Taxpayers whose taxable year ends on March 31, 1992: For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts), Form 760F (for farmers and fishermen) or Form 500C (for corporations), the second quarter 10% underpayment rate will apply through the due date of the return, July 15, 1992.

Individuals: Tax returns for the calendar year 1991 are due on May 1, 1992. For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts) or Form 760F (for farmers and fishermen), the first quarter 11% underpayment rate will apply through the due date of the return, May 1, 1992.

Corporations with taxable years ending on December 31, 1991: Tax returns for the calendar year 1991 are due on April 15, 1992. For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 500C, the first quarter 11% underpayment rate will apply through the due date of the return, April 15, 1992.

Local Tax

Assessments: Localities assessing interest on delinquent taxes pursuant to Va. Code §58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the underpayment rate in effect for the applicable quarter, whichever is greater, for the second and subsequent years of delinquency. For the second quarter of 1992, the federal underpayment rate is 8%.

Refunds: Localities which have provided for refund of erroneously assessed taxes may provide by ordinance that such refund be repaid with interest at a rate which does not exceed the rate imposed by the locality for delinquent taxes.

Recent Interest Rates

Accrual Period Beginning	Through	Overpayment (Refund)	Underpayment (Assessment)	Large Corporate Underpayment
1-JAN-87	30-SEP-87	8%	9%	—
1-OCT-87	31-DEC-87	9%	10%	—
1-JAN-88	31-MAR-88	10%	11%	—
1-APR-88	30-SEP-88	9%	10%	—
1-OCT-88	31-MAR-89	10%	11%	—
1-APR-89	30-SEP-89	11%	12%	—
1-OCT-89	31-MAR-91	10%	11%	—
1-APR-91	30-JUN-91	9%	10%	—
1-JUL-91	31-DEC-91	9%	12%	14%
1-JAN-92	31-MAR-92	8%	11%	13%
1-APR-92	30-JUN-92	7%	10%	12%

For additional information: Contact the Taxpayer Assistance Section, Office Services Division, Virginia Department of Taxation, P. O. Box 6-L, Richmond, Virginia 23282, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8036
Withholding Tax	(804) 367-8038
Soft Drink Excise Tax	(804) 367-8016
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Title of Regulation: **VR 240-01-02. Rules Relating to Compulsory In-Service Training Standards for Law Enforcement Officers, Jailors or Custodial Officers, Courthouse Security Officers, Process Service Officers, and Officers of the Department of Corrections, Division of Adult Institutions.**

Governor's Comment:

Promulgation of these regulations would establish in-service training regulations for law enforcement officers, jailors or custodial officers, courthouse security officers, process service officers, and officers of the Department of Corrections. Approval is recommended.

/s/ Lawrence Douglas Wilder
Governor
Date: March 11, 1992

* * * * * * * *

Title of Regulation: **VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.**

Governor's Comment:

Promulgation of these regulations would establish rules and standards for the certification of criminal justice instructors by the Department of Criminal Justice Services. Approval is recommended.

/s/ Lawrence Douglas Wilder
Governor
Date: March 11, 1992

* * * * * * * *

Title of Regulation: **VR 240-04-3. Rules Relating to the Court-Appointed Special Advocate Program (CASA).**

Governor's Comment:

Promulgation of these regulations would establish regulations for the local Court-Appointed Special Advocate programs by the Department of Criminal Justice Services. Approval is recommended.

/s/ Lawrence Douglas Wilder
Governor
Date: March 6, 1992

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: **VR 385-01-09. Public Participation Guidelines for Promulgation of Regulations under the Administrative Process Act.**

Governor's Comment:

These regulations will amend the Department of Transportation's public participation guidelines to bring them into full compliance with the Administrative Process Act, and will streamline the Department's regulatory process. I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: March 11, 1992

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-15-03. Surface Water Management Area Regulation.**

Governor's Comment:

As the regulation is necessary to protect the beneficial uses of surface waters during periods of low stream flow, I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder
Governor
Date: March 11, 1992

Symbol Key †
† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

General Notice

Office of Weights and Measures

Administrative Procedure for Processing Violations for Civil Penalty Assessment

Inspector

1. Documents violations at time of inspection.

2. Writes Summary of Violations immediately following inspection.

3. Forwards reports and summary related to violations to regional manager by Friday of each week. (6 days or less after violation)

Regional Manager

1. Evaluates violations to determine needed level of enforcement and initiates action within 8 working days. In no cases will this period of time be more than 3 weeks after the date of inspection.

Supervisor of Field Operations

1. Reviews all submitted reports from regional managers for completeness and accuracy. Within 5 work days submits to compliance officer for action.

Compliance Officer

1. If minor violation, send an official Notice of Violation within 5 work days to alleged violator; copy to inspector, and post in tracking docket.

2. If violation warrants a Civil Penalty, prepare a penalty assessment worksheet; prepare a Notice of Violation, and penalty assessment explanation within 5 work days for mailing to alleged violator.

3. If Civil Penalty is $500 or less, mail to alleged violator within 5 work days; and post in tracking docket.

4. If Civil Penalty is greater than $500, forward to the Program Manager within 3 work days for review and approval.

Program Manager

1. If Civil Penalty of greater than $500 is approved, return to the compliance officer within 3 work days for mailing to alleged violator, and posting in tracking docket.

2. If Civil Penalty greater than $500 is not approved, return to compliance officer with 3 work days for reassessment of penalty or issue of Official Notice of Violation.

Compliance Officer

1. Mail approved civil penalty assessment within 2 work days of receipt of approval to alleged violator, along with notification that the assessment can be appealed in a FACT-FINDING CONFERENCE which can be requested by WRITING TO THE COMMISSIONER; send copy to inspector, and post in tracking docket.

2. If penalty is not approved, reassess or send Notice of Warning within 2 work days as recommended; resubmit any penalty assessment for approval as before.

Commissioner

1. Consider written request for FACT-FINDING CONFERENCE within 5 work days of receipt of request; appoint a conference officer as required; request Weights and Measures' compliance officer to schedule the conference with the alleged violator and conference officer.

Compliance Officer

1. If a FACT-FINDING CONFERENCE is requested by alleged violator in writing to the Commissioner within 15 days of the Notice of Violations, schedule conference with conference officer designated by the Commissioner within 5 work days after receiving the request, and notify alleged violator of date and time;

notify inspector, and post in tracking docket.

Conference Officer appointed by Commissioner

1. Hold FACT-FINDING CONFERENCE as requested to consider all relevant information on violation within 30 days of receipt of request; officer may affirm, raise, lower, or abate penalty or may Negotiate a Settlement based on new information, inform the alleged violator that the decision can be appealed in an ADJUDICATIVE CONFERENCE (on a civil penalty) or in a FORMAL HEARING (for denial, suspension, revocation or modification of a permit, certificate, or registration). REQUEST FOR AN APPEAL CONFERENCE OR HEARING MUST BE IN WRITING TO THE COMMISSIONER.

2. Conference Officer shall affirm, raise, lower, or abate penalty within 5 work days of conference date, and post in tracking docket.

Commissioner

1. Consider written request for ADJUDICATIVE CONFERENCE within 5 work days of receipt of request; appoint a conference officer as required; request Weights and Measures' compliance officer to schedule the conference with the alleged violator and conference officer.

Compliance Officer

1. If an ADJUDICATIVE CONFERENCE is requested by alleged violator in writing within 15 days of receiving the decision from the fact-finding conference, schedule a conference with conference officer designated by the Commissioner within 5 work days after receiving the request; arrange conference to be held in the area of venue; notify the inspector, and post in tracking docket.

Conference Officer appointed by Commissioner

1. Hold ADJUDICATIVE CONFERENCE as requested to hear all relevant information concerning the case within 30 days of receipt of request.

2. Officer shall consider all the facts concerning a civil penalty case, then transmit findings and recommendation to the Board of Agriculture and Consumer Services within 5 work days of conference date.

3. Inform alleged violator that the Board of Agriculture and Consumer Services will hear final verbal arguments (15 minutes maximum time) only upon written request to the Board within 15 days of date of ADJUDICATIVE CONFERENCE.

Commissioner

1. Consider written request for a FORMAL HEARING within 5 work days of receipt of request; if formal hearing is warranted, request Weights and Measures' compliance officer to arrange for a hearing.

Compliance Officer

1. If FORMAL HEARING is requested by the alleged violator or when violations may result in the denial, suspension, revocation or modification of a permit, certificate, or registration, within 15 days of receiving decision from the fact-finding conference, the Compliance Officer will arrange for an attorney appointed by the State Supreme Court to act as the hearing officer within 3 work days after receipt of request; case will be heard in area of venue; notify inspector, and post in tracking docket.

Court Appointed Attorney

1. Hold FORMAL HEARING as requested within 60 days of receipt of request to hear all relevant information concerning the case.

2. Hearing Officer shall consider the facts of related violations presented as part of the same case within 30 work days of the hearing date; and transmit the findings and recommendation to the Board of Agriculture and Consumer Services.

3. Inform alleged violator that the Board will hear final verbal arguments (15 minutes maximum time unless additional time for presentation is petitioned by the alleged violator) only upon written request to the Board within 15 days of date of formal hearing.

Board of Agriculture and Consumer Services

1. Consider recommendations from ADJUDICATIVE CONFERENCE or a FORMAL HEARING at the next Board meeting after receipt of recommendation; Board may hear final arguments from VDACS and alleged violator before rendering a decision; ALLEGED VIOLATOR MUST PETITION THE BOARD TO HEAR VERBAL ARGUMENTS (15 minutes maximum length unless additional time for presentation is petitioned by the alleged violator).

2. Board shall render a decision concerning a civil penalty or the status of a permit, certificate, or registration within 5 work days of considering the case; inform alleged violator that decision can be appealed to court for judicial review. Send a copy of transcript and decision to the Office of Weights and Measures.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

† Notice of Availability of Funds for Pre-Release and Post-Incarceration Services

The Department of Criminal Justice Services (DCJS) announces the availability of grant funds to support pre-release and post-incarceration services which increase the opportunity for, and likelihood of, successful reentry and reintegration into local society by incarcerated adult offenders.

Pre-release services are intended to prepare offenders for transition to normal lives within their communities. Post-incarceration services are expected to address the specific needs of individual offenders after their release from prison or jail in order to help them successfully reintegrate into their communities.

The Department of Criminal Justice Services is authorized by the Appropriations Act to make grants to non-profit public or private organizations to support the provision of these services. The amount available pursuant to this notice for the fiscal year beginning on July 1, 1992, is $186,140.

Organizations seeking funding to support these services must submit to DCJS a completed DCJS Grant Application. Applications must be received by DCJS no later that the close of business on Friday, May 1, 1992.

Successful applicants will receive funding for the 12-month period, July 1, 1992 through June 30, 1993.

Organizations interested in applying for funds may obtain a copy of the necessary application forms and program guidelines by contacting Mr. Richard Napoli, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-9652.

COUNCIL ON THE ENVIRONMENT

Public Notice

Virginia Coastal Resources Management Program Public Meeting Evaluation

A public meeting will be held on Wednesday, April 8, 1992, at the Glenns, Virginia (Gloucester County) campus of the Rappahannock Community College from 7 p.m. to 9 p.m. in the college's Lecture Hall to hear comments and recommendations regarding Virginia's Coastal Resources Management Program. The meeting is being held to give the public the opportunity to present its views on how well Virginia's Coastal Resources Management Program meets the objectives of the federal Coastal Zone Management Act.

Federal officials from the office of Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration (NOAA) will visit the Commonwealth during the week of April 6 to April 10 to assess the effectiveness of the Virginia Coastal Resources Management Program. Federal review will focus on implementation of Virginia's networked coastal program, which is enforced by the Virginia Marine Resources Commission, State Water Control Board, Air Pollution Control Board, the Game and Inland Fisheries, Health, and Conservation and Recreation departments. The review team also may consider such issues as local government involvement in the program and federal consistency with Virginia coastal policies and regulations.

The April 8 public meeting is the central feature of the federal review process.

Comments regarding Virginia's coastal program may be submitted orally or in writing. Written comments should be mailed to Eric Hughes, CCRM/NOAA, 1825 Connecticut Avenue, N.W., Room 705, Washington, D.C. 20235. Copies of written comments should be forwarded to Keith Buttlemen, Administrator, Virginia Council on the Environment, 202 N. Ninth Street, Suite 900, Richmond, Virginia 23219.

For additional information on the Virginia Coastal Resources Management Program and the federal evaluation process, contact Stephen Laughlin, Council on the Environment, (804) 786-4500.

DEPARTMENT OF HEALTH

† Public Notice

The State Health Commissioner, acting on behalf of the Board of Health, has established in § 3.7 C of the proposed Alternative Discharging Sewage Treatment System Regulations for Individual Single Family Dwellings a minimum standard to which sewage effluent discharged to a dry ditch or intermittent streams must be treated. This treatment standard requires effluent quality not to exceed 10 mg/l of BOD5 (Five Day Biochemical Oxygen Demand), 10 mg/l of suspended solids and a fecal coliform level of less than or equal to 100 per 100 ml.

The purpose of this notice is to request public comments on the appropriateness of this proposed standard taking into consideration public health factors, ground water protection factors, nuisance factors, as well as environmental resource factors. Comments as to other appropriate standards necessary to reduce risks to public health, abate nuisances, or reduce the impact to environmental resources are also requested.

The preferred point of discharge is an all weather stream where sewage effluent can be readily diluted at least 10:1 as measured during a 7 consecutive day average of a 10 year low flow (7-Q-10) and thereby minimize public health and water quality impacts. The State Water Control Board's General Permit establishes discharge limitations of 30 mg/l of BOD5, 30 mg/l of suspended solids, and a fecal coliform bacteria level of less than or equal to 200 per 100 ml. If these limitations remained the same for discharges to dry ditches or intermittent streams then comments are requested on the requirement that a polishing sand filter or similar device be added to the

treatment facility. The purpose of this requirement is to reduce the risks to public health and the impact on groundwater and other environmental resources and to minimize nuisances, where partially treated effluent is not diluted.

Comments on these proposals should be submitted to Donald J. Alexander, Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, Virginia 23218. Comments must be received by May 29, 1992.

DEPARTMENT OF LABOR AND INDUSTRY

General Notice

Virginia Occupational Safety and Health Standards For General Industry

Extension of Administrative Stay to the General Industry Standard for Occupational Exposure to Formaldehyde

On February 25, 1992, the Virginia Safety and Health Codes Board adopted an additional extension of the administrative stay for Occupational Exposure to Formaldehyde - § 1910.1048(m)(1)(i).

The effective date of the stay is February 26, 1992, and it will remain in effect through May 5, 1992.

While the stay is in effect, affected employers must continue to comply with the provisions of OSHA's Hazard Communication Standard.

Notice to the Public

The Safety and Health Codes Board adopted the following Federal OSHA Standards at its meeting on February 25, 1992:

1. Occupational Exposure to Bloodborne Pathogens; Final Rule - 1910.1030.

   Effective date is June 1, 1992.

2. Extension of Administrative Stay to the General Industry Standard for Occupational Exposure to Formaldehyde, 1910.1048(m)(1)(i) through (m)(4)(ii).

   Effective date is February 26, 1992, and will remain in effect until May 5, 1992.

Contact person for additional information: John J. Crisanti, Director of Office of Enforcement Policy, (804) 786-2384.

MARINES RESOURCES COMMISSION

Notice of Public Hearing

The Marine Resources Commission invites public comment on recommendations to restore the Virginia oyster industry. During 1991, a panel of industry representatives, legislators, members of local government, scientists and managers appointed by the Secretary of Natural Resources met to discuss the status of Virginia oyster resources and devised a set of recommendations advising the Commission on steps to take to restore the troubled fishery.

The Commission will hold two public hearings to consider testimony regarding these recommendations. Hearings will be held on Monday, March 23 and Monday, April 27, 1992. The hearings will begin at 3 p.m. and will be held at the Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, VA.

Please contact the Fisheries Management Division to obtain a full copy of the Panel Recommendations at P.O. Box 756, 2600 Washington Avenue, Newport News, VA 23507-0756; (804) 247-2248. The scheduled hearing dates and topics are as follows:

Monday, March 23, 1992, 3 p.m.

• Use of Non-Native Oysters for Restoration of Oyster Beds: the Panel has recommended that research be performed to determine potential disease resistance and geographic distribution of Japanese oysters in the Chesapeake Bay. Conditional on favorable research results, a test reef is recommended for the York River followed by potential introductions to other areas of the Bay, if the pilot programs are successful.

• Improve Assistance to Oyster Aquaculture Industry: the Panel recommends improvements to technical advisory programs designed to assist the aquaculture industry, the study of tax incentives to help industry growth, and promulgation of regulations simplifying permitting requirement for aquaculture facilities.

• Improve Oyster Markets: the Panel recommends funding economic studies to understand the best marketing strategies to maximize industry stability and growth.

• Develop Depuration Techniques: depuration of oysters is used to eliminate any bacterial contamination from live oysters to ensure product safety. The Panel recommends the development of this technique to use oyster resources in areas closed by the Department of Health and to improve marketability of uncooked oyster products.

Monday, April 27, 1992, 3 p.m.

• Management of Public Grounds: the Panel has recommended the following specific harvest restrictions and management measures for public grounds. In general the Panel also endorsed the concept of limited entry as a means of controlling and allocating harvest of limited oyster resources.

James River:

1. Establish an 18' maximum shaft long length

2. Establish an annual harvest quota

3. Increase the minimum size limit to 3" in the Jail Island Clean Cull Area

4. Reduce allowable amount of shell in a bushel of seed oysters from 10 quarts to 6 quarts

5. Create a 2000 acre sanctuary in the Jail Island and Wreck Shoal Area

6. Transplant oysters from Deepwater Shoal to the Sanctuary

7. Allow limited public use of Deepwater Shoal during May if sufficient oysters remain

8. Establish beds for intensive repletion near the Sanctuary

Rappahannock River:

1. Expand the prohibited area for patent tonging to include the area on the southside of the river to the channel above a line connecting Bailey Point (Urbanna) and Beach Creek (Northside).

2. Establish a 50-acre sanctuary and associated repletion areas

Pocomoke/Tangier Sounds:

Prohibit patent tonging and dredging for 3 years.

Seaside Eastern Shore:

Establish minimum size of 3" in areas in Chincoteague and Hog Island Bays.

Mobjack Bay:

Establish a 50-acre sanctuary and associated repletion areas.

Plankstand and Great Wicomico Rivers:

Continue present role as seed areas for the Repletion Program.

Repletion Strategies:

1. Develop special repletion areas where sanctuaries are established and seeded if necessary; adjacent beds then will be rehabilitated by turning and cleaning or placing clean shell to increase strike of young oysters.

2. Intensively monitor all repletion areas to evaluate success and determine allowable harvest.

3. Monitoring will include complete harvest data as well as scientific survey information by individual oyster bed.

VMRC does not discriminate against individuals with disabilities, therefore, if you are in need of reasonable accommodations due to a disability, please advise Kathy Leonard (804) 247-2120 no less than 72 hours prior to the meeting time and identify your need.

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 County of Lee and the Towns of Jonesville, Pennington Gap and St. Charles. The County of Lee 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 April 21, 1992 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or 804-371-8737/TDD ☎

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at (804) 225-2667.

VIRGINIA CODE COMMISSION

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 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:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

DEPARTMENT OF HEALTH PROFESSIONS

Title of Regulation: **VR 495-01-1. Board of Nursing Regulations.**

Publication: 8:12 VA.R. 1194-2011 March 9, 1992.

Correction to Final Regulation:

Page 2006, § 5.3.C.2.b.(3), should read: Ensure that the provisions of § 5.3.C.6 of these regulations are maintained.

Page 2006, § 5.3.D.1.a., should read: Communicate and interact competently on a one-to-one basis with the clients.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Community Mental Health/Mental Retardation Services.**
VR 460-03-3.1100. Amount, Duration and Scope of Services.

Publication: 8:12 VA.R. 1855-1868 March 9, 1992.

Correction to Proposed Regulation:

The following language in § 12 was inadvertently dropped from the computer database.

Page 1863, column 2, before § 13, insert:

§ 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 anorexiant 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 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 ot 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.

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

† **April 21, 1992 - 8 a.m.** – Open Meeting
† **April 22, 1992 - 8 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to (i) review applications; (ii) review correspondence, (iii) review enforcement cases; (iv) conduct routine board business; (v) review committee reports; and (vi) file Notice of Intended Regulatory Action.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

Virginia Department For The Aging

DEPARTMENT FOR THE AGING

Long-Term Care Council

† **May 8, 1992 - 9 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Janet Lynch, Director, Long-Term Care Council, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 371-0552 or (804) 225-2271/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

† **May 18, 1992 - 9 a.m.** – Open Meeting
† **May 19, 1992 - 9 a.m.** – Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia.

A meeting to (i) hear new project proposals which are properly supported by the Board of Directors of a Commodity Group; (ii) review financial statements; and (iii) discuss any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, 7th Floor, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-0792.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

April 16, 1992 - 10 a.m. – Open Meeting
April 17, 1992 - 9 a.m. – Open Meeting
The Community Cultural Center, Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia. ♿

During the general business meeting, the board will conduct a forum, during which the public may comment on the residential use of pesticides. Beginning at 9 a.m. the public will also have an opportunity to comment on matters not on the board's agenda. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Winegrowers Advisory Board

April 6, 1992 - 10 a.m. – Open Meeting
Virginia Agricultural Experiment Station, 2500 Valley Avenue, Winchester, Virginia.

The board will (i) hear reports from Committee Chairs and Project Monitors; (ii) review old and new business; and (iii) hear and vote on new proposals for the 1992-1993 fiscal year.

Contact: Annette C. Ringwood, Wine Marketing Specialist, 1100 Bank Street, Suite 1010, Richmond, VA 23219, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

April 8, 1992 - 10 a.m. – Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia.

A public meeting to receive input on the development of proposed amendments to Regulations for the Control and Abatement of Air Pollution.

Contact: Karen G. Sabasteanski, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-2378.

DEPARTMENT OF AIR POLLUTION CONTROL

† **April 16, 1992 - 6:30 p.m.** – Public Hearing
Wickham Building, Board of Supervisors Meeting Room, Ashland, Virginia. (Interpreter for deaf provided upon request)

A public hearing to consider a PSD permit to construct, modify, and operate a pulp and paper mill at Bear Island Paper Company, L.P., Hanover County, Virginia.

Contact: Mark Williams, Environmental Engineer Consultant, Department of Air Pollution Control, Region V, 9210 Arboretum Parkway, Suite 250, Richmond, VA 23236, telephone (804) 323-2409.

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

Board for Architects

April 9, 1992 - 9:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes from January 23, 1992, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Interior Designers

April 24, 1992 - 1 p.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes from March 27, 1992, meeting; (ii) review correspondence; and (iii) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

BOARD FOR BARBERS

† **April 13, 1992 - 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; and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

BOARD FOR BRANCH PILOTS

April 16, 1992 - 9:30 a.m. – Open Meeting
The Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia.

A regular meeting to consider routine business.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **May 6, 1992 - 8 a.m.** – Open Meeting
Anchor Motel Conference Room, Route 13, Nassawadox, Virginia. (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area Programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by April 29, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Central Area Review Committee

† **April 20, 1992 - 10 a.m.** – Open Meeting
April 27, 1992 - 10 a.m. – Open Meeting
May 11, 1992 - 10 a.m. – Open Meeting
June 8, 1992 - 10 a.m. – Open Meeting
June 22, 1992 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

April 8, 1992 - 10 a.m. – Open Meeting
May 13, 1992 - 10 a.m. – Open Meeting
May 27, 1992 - 10 a.m. – Open Meeting
June 10, 1992 - 10 a.m. – Open Meeting
June 24, 1992 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

May 6, 1992 - 10 a.m. – Open Meeting
June 3, 1992 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

April 15, 1992 - 10 a.m. – Open Meeting
Hampton Roads Planning District Commission, The Regional Building, 723 Woodlake Drive, Chesapeake, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Regulatory Review Committee and Program Study Group

† **April 22, 1992 - 10 a.m.** – Open Meeting
St. Paul's Parish Hall, 815 East Grace Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

† **May 20, 1992 - 10 a.m.** – Open Meeting
† **June 17, 1992 - 10 a.m.** – Open Meeting
Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee and group will consider issues relating to Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01. Public comment will be heard at the end of the meeting.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

† **April 9, 1992 - 9 a.m.** – Open Meeting
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. The public comment period is 1 p.m. Please call ahead of time for possible changes in meeting time.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone

(804) 662-9217.

BOARD OF COMMERCE

May 4, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A regular meeting. Items to be discussed include legislation passed in the 1992 Session of the General Assembly which will impact upon the agency, and the full board will receive a study progress report concerning HJR 365, requesting a study of contractors who install electronic security systems.

Contact: Alvin D. Whitley, Secretary to the Board, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8564 or SCATS (804) 367-8519.

BOARD FOR CONTRACTORS

April 10, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to amend regulations entitled: **VR 220-01-2. Board for Contractors Licensing Regulations.** These amendments are proposed to enhance the administration of the board's regulations, thereby promoting public health, safety and welfare, as well as benefiting consumers and licensed/registered contractors.

Contact: Florence R. Brassier, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8557.

VIRGINIA COUNCIL ON COORDINATING PREVENTION

† **April 17, 1992 - 10 a.m.** – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ♿

A quarterly meeting to update prevention-related legislation passed by the 1992 session and prevention programs contained in the 92-94 budget and presentations on innovative prevention programs.

Contact: Ron Collier, Director, Virginia Council on Coordinating Prevention, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530.

BOARD OF CORRECTIONS

April 15, 1992 - 1 p.m. – Open Meeting
May 13, 1992 - 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 to the board.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

May 14, 1992 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ♿

A meeting to address and discuss criminal justice issues.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

† **April 13, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

† **April 14, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A regulatory review meeting.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

BOARD OF DENTISTRY

April 6, 1992 - 8 a.m. – Open Meeting
April 7, 1992 - 8 a.m. – Open Meeting
Virginia Beach Resort and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia. ♿

Formal hearings. No public testimony will be received.

April 11, 1992 - 9 a.m. – Open Meeting
Northern Virginia Community College, Woodbridge Campus, Woodbridge, Virginia. ♿

Informal conferences. No public testimony will be received.

April 15, 1992 - 1 p.m. – Open Meeting
May 6, 1992 - 11:30 a.m. – Open Meeting
Alcoholic Beverage Commission, 4907 Mercury Boulevard,

Hampton, Virginia.

Informal conferences. No public testimony will be received.

April 21, 1992 - 10 a.m. – Open Meeting
Alcoholic Beverage Commission, 1103 South Military Highway, Chesapeake, Virginia.

Informal conferences. No public testimony will be received.

April 25, 1992 - 11:30 a.m. – Open Meeting
June 20, 1992 - 8 a.m. – Open Meeting
Wytheville Community College, Wytheville, Virginia.

Informal conferences. No public testimony will be received.

May 9, 1992 - 9 a.m. – Open Meeting
Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia.

Informal conferences. No public testimony will be received.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

STATE EDUCATION ASSISTANCE AUTHORITY

† **May 19, 1992 - 10 a.m.** – Public Hearing
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled **VR 275-01-1. Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs Under Title IV Part B of the Higher Education Act.** The purpose of the proposed amendments is to update and clarify the administration of the Title IV Part B Loan Programs.

STATEMENT

Basis, purpose, substance, issues and impact:

Background: The State Education Assistance Authority (SEAA) administers the federally guaranteed student loan program in Virginia and insures lenders against the death, permanent and total disability, bankruptcy or default of the borrower. The guaranteed student loan programs are governed by the Higher Education Act and by regulations 34 CFR 668 and 34 CFR 682. Lenders and schools participating in the SEAA programs must comply with the requirements set forth in those federal regulations. The SEAA's regulations supplement federal statute and regulations.

The proposed regulations represent the first amendments to the SEAA's regulations governing the federal student loan programs since 1986. During the intervening period, a number of changes have been made in the programs on the federal level which are reflected in this proposal. Several amendments to existing regulations are proposed to codify existing SEAA policies which have been adopted since the regulations were promulgated. In addition, some new policies are proposed to address recent changes in the student loan market. Finally, the proposal seeks to finalize emergency regulations promulgated in August 1991 to disqualify out-of-state students attending out-of-state proprietary schools from using the SEAA's guarantee.

Meeting Federal Requirements: The proposed regulations reflect that the Guaranteed Student Loan Program was renamed the "Stafford Loan Program." References to the federal student loan programs collectively have been changed to "Title IV, Part B" or to "Title IV" as appropriate. The proposed regulations also recognize that the Supplemental Loans for Students program (SLS) has been established independently of the Parent Loans for Undergraduate Students program (PLUS) and that the PLUS program no longer makes loans to independent students.

Amendments to the Higher Education Act require the SEAA to offer a "Lender of Last Resort" to borrowers denied loan access. The proposed regulations describe how borrowers may submit applications to the lender of last resort.

Federal statute permits the SEAA to disqualify loans for correspondence courses for which there is not a residential component. The proposed regulations reflect this policy and are intended to curtail the disproportionate default risks that correspondence courses represent.

Provisions relating to the capitalization of interest reflect that the federal government now allows lenders to capitalize overdue interest for SLS accounts without the written consent of the borrower. The proposal also reflects changes in federal law pertaining to the discharge of student loans through bankruptcy.

Codifying or Clarifying Existing SEAA Policy: Most of the proposed changes to the definitions section are intended to include terms that now are in regular use. Many of the amendments to existing language are intended as housekeeping measures to clarify guidelines or to restate them more succinctly.

The SEAA's existing regulations describe requirements for out-of-state lenders which have fallen into disuse. The section would be deleted because the stated requirements have not been useful or practical and because growth and expansion among multi-state lenders has rendered meaningless the distinction between in-state and out-of-state lenders.

The proposal would codify the SEAA's existing late disbursement policy for schools and lenders. This policy is the same as that distributed to schools and lenders and published in the SEAA's loan manual. Language pertaining to guarantee fee refunds would clarify the SEAA's policy of returning such fees only if the loan is cancelled or repaid within 120 days and if the borrower has not used the funds.

Documentation requirements for default claims stated in the proposed regulations reflect existing policy and were listed in order to be consistent with the stated documentation requirements for other types of claims.

The SEAA stopped guaranteeing loans to out-of-state students attending out-of-state proprietary schools in August 1991 under emergency regulations. The proposed regulations seek to finalize this policy. This policy was instituted to curtail the disproportionate default risks that such schools present.

Finally, the proposal states existing policies regarding the assignment of loans to servicers and secondary markets.

Proposed New Policy: Requirements for due diligence in collecting from loan endorsers would be delineated in greater detail. Federal regulations require lenders to exercise due diligence with respect to endorsers but have not stated what that due diligence should constitute. As a consequence, many lenders treat loan endorsers the same as borrowers when a loan becomes delinquent. The proposed regulations would establish a due diligence cycle with the first required activity between the 31st and the 60th day of delinquency. This proposal would allow lenders to begin collection activities somewhat later than is their current practice, thus avoiding customer relations problems in common cases in which a borrower falls a month behind in payment.

Proposed skip tracing guidelines are based on federal requirements that lenders take steps to locate borrowers upon discovering an invalid address. Lenders would be required to make at least three attempts to locate borrowers–one attempt in each of three described periods of delinquency–and would require skip tracing invalid telephone numbers as well.

Federal regulations imply an expanded due diligence cycle for loans that are billed on a quarterly basis. The proposed regulations describe the due diligence activities for these loans consistent with federal policy.

Other due diligence changes include the establishment of a requirement that lenders send delinquency letters to borrowers for each delinquency cycle, regardless of whether telephone contact has been made. This is intended to provide the borrower with a written reminder of the amount owed and the address to which payment should be sent. The proposal also delineates the instances in which lenders need not attempt telephone contact.

Disbursement due diligence requirements for PLUS loans would specify that checks be made co-payable to parent borrowers and the school and be mailed to the parents' address. This proposal is in response to school concerns in which parent borrowers received loans but did not apply loan proceeds to outstanding charges. The policy would allow schools to deduct outstanding charges before refunding the remainder of the loan to the parent borrower and is intended to ensure that loan proceeds are used for education expenses. Similarly, disbursements for students attending foreign schools would be made co-payable to the school and mailed to the borrower's home address.

Reinstating a cancelled guarantee more than six months after cancellation is an expensive and time consuming process for the SEAA. Therefore, the proposed regulations would allow the SEAA to charge a reinstatement fee in addition to the guarantee fee if the cancellation resulted from school or lender error. The proposal would allow up to six months to reinstate the guarantee without penalty.

In order to prevent default, the proposed regulations would liberalize interest capitalization. Current regulations discourage interest capitalization for most loans. Forbearance provisions also liberalize SEAA policy by extending the maximum hardship forbearance from 12 months to 24 months, and are intended to reduce default. Although the proposed regulations would eliminate a requirement that lenders receive advance approval for forbearances longer than three months, the SEAA would reserve the right to require advance notification if the authority finds that a lender has a pattern of using forbearance indiscriminately. Finally, the proposal would prohibit lenders from renewing forbearances for accounts with outstanding interest charges. This change is intended to avoid interest delinquencies and operational difficulties when borrowers leave forbearance.

Policies regarding the payment of interest on claims would be amended substantially, establishing a limit on interest payment based on the timeliness of claims submission. Existing regulations allow lenders 15 days in which to submit a default claim and penalizes lenders for interest between the 195th day of delinquency and the date of claim submission. However, existing language implies that there is no cap on post-default interest payment. The proposed regulations would allow lenders until the 205th day of delinquency to submit a claim in order to be guaranteed up to 295 days of interest–25 days more than the federal government reinsures. Lenders submitting claims on or after the 206th day of delinquency would, in most cases, be limited to 270 days interest payment. However, in the event that lenders submit claims after the 205th day and the SEAA's claim processing exceeds 65 days, lenders can earn up to an additional 25 days after the 65th day of review. This is intended to provide the SEAA with an incentive to review claims in a timely manner. Interest payments for quarterly billed loans would reflect the expanded due diligence cycle, and would also allow lenders to receive up to 25 days more interest than

reinsured by the federal government, assuming that claims are submitted in a timely manner.

The proposed language limits the payment of interest based on the limits established by the federal government for reinsurance. The SEAA will assume an additional 25 days interest in the case of default and an additional 30 days interest in the case of death, disability and bankruptcy claims to compensate for cases in which claims processing exceeds the time reinsured by the federal government.

Claims returned to lenders would continue to be ineligible to receive interest payments. However, the proposal recognizes that there may be instances in which the SEAA returns a claim in error, and would allow the lender up to 30 additional days interest for an erroneous return. The proposal also states federal requirements that returned claims be resubmitted to the SEAA within 60 days and proposes a policy of allowing no more than two resubmissions of a returned claim. The limitation on resubmission is intended to respond to situations in which lenders file incomplete claims in order to gain additional time to locate documentation. The policy is also intended to halt instances in which lenders repeatedly resubmit denied claims in hopes that a subsequent review will accept the claim.

Statutory Authority: § 23-38.64 of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

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† **May 19, 1992 - 10 a.m.** – Public Hearing
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled **VR 275-02-1. Regulations Governing the Edvantage Loan Program.** The purpose of the proposed amendments is to update and clarify the administration of the Edvantage Loan Program.

STATEMENT

Basis, purpose, substance, issues and impact: The Edvantage program is a long-term student loan program to help families and students meet the education expenses of undergraduate, graduate and professional education. The State Education Assistance Authority administers and guarantees the loans, insuring lenders against losses arising from the death, bankruptcy, permanent and total disability or the default of the borrower.

Regulations to govern the Edvantage program were promulgated in 1989 and have not been amended since their promulgation. Many of the proposed regulations are of a housekeeping nature and are intended to reflect changes in the SEAA's operations or in the federal student loan programs upon which the Edvantage program is model. A description of the more substantive changes follows.

Codifying Existing SEAA Policy: All changes in the definitions section are intended to recognize terms that have been in use, but previously have not been defined. The section pertaining to borrower eligibility clarifies the existing requirement that the student on whose behalf the loan is made shall always be included as a borrower. All references to a "primary borrower" have been deleted in order to clarify that all borrowers are equally responsible for repayment. The regulations would also clarify that any lender placed under limitation, suspension or termination in the federal student loan programs will be placed in the same status for the Edvantage program.

Language regarding lender responsibilities has been revised for clarity and to make direct reference to due diligence requirements. However, these changes reflect current policies. Similarly, the proposed regulations would clarify that it is the prerogative of the SEAA's Board of Directors to set guarantee fees. The authority has retained 60 days advance notice for changes in the guarantee fee in order to allow lenders to program computer changes in these instances. The regulations would also clarify the existing policy of refunding guarantee fees only in cases in which the borrower has not made use of the funds within 120 days of disbursement. The proposal also clarifies the requirement that all claims are contingent upon lenders exercising due diligence.

Proposed New Policy: Provisions pertaining to claims payment would establish a deadline for claims submission of 30 days after a qualifying event. Claims not submitted by this deadline would be rejected.

Interest capitalization would be permitted for up to 45 days to accommodate the sale or transfer of a loan and to accommodate the consolidation of serial loans.

Several verification and credit criteria requirements would be repealed in order to allow lenders to use their own criteria for unsecured debt as long as the borrower's monthly debt obligation (including the loan applied for) does not exceed 40% of income. This proposal should provide greater flexibility for lenders while maintaining solid credit standards.

Similarly, the proposal would delete several documentation tasks for schools. When the program was first established, the documentation requirements were intended to ensure that financial aid officers use all less-expensive forms of

aid before certifying an Edvantage loan. Experience in the program has demonstrated that the documentation requirements are burdensome and that financial aid officers appropriately refer students to lower cost aid when it is available.

The proposed regulations would delete options that allow schools to serve as co-borrowers, to make payments or to pay guarantee fees on the borrower's behalf. This proposal in response to several court cases in which borrowers have charged that relationships between a lender and a school subject the lender to consumer complaints. The options to be repealed have not been exercised to date.

Disbursement requirements would be altered to require that disbursement to nonstudent borrowers be made co-payable to the nonstudent borrower and the school of attendance. In addition, the proposal would require that refunds of loan proceeds be made to the student. These changes are in response to concerns that loan proceeds be used for education expenses.

Lender due diligence requirements would be altered by the establishment of "buckets" during which the described activities must take place. These buckets allow greater tolerance in the times allotted for completing the activities. In addition, telephone due diligence would clarify that the required telephone contact allows either a conversation with the borrower or two attempts to converse with the borrower.

Provisions relating to bankruptcy claims would require lenders to file proofs of claim with the court and to assign the proofs of claim to the SEAA before filing for reimbursement. In addition, lenders would be required to notify the SEAA promptly if they receive notice of an adversary hearing after filing a bankruptcy claim. These requirements mirror federal student loan bankruptcy regulations and are intended to preserve the SEAA's interest in the debt by ensuring timely response to bankruptcy proceedings.

Provisions relating to the return of claims for inadequate documentation would require lenders to resubmit these claims within 30 days and would allow lenders up to 30 days additional interest if the claim is returned in error. These requirements mirror similar regulatory proposals for the federal student loan program. Similarly, provisions requiring the notification of borrowers in the event that loans are sold or transferred are patterned after federal student loan regulations and should help to keep Edvantage borrowers well-informed.

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

April 21, 1992 - 8 a.m. – Open Meeting
April 22, 1992 - 8 a.m. – Open Meeting
April 23, 1992 - 8 a.m. – Open Meeting
James Monroe Building, 101 North Fourteenth Street, Conference Rooms D and E, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Dr. Margaret Roberts, Executive Director, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

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April 24, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to **repeal** existing regulations entitled **VR 270-02-0000. Teacher Certification Regulations,** and to **adopt new** regulations entitled: **VR 270-01-0000:1. Regulations Governing the Licensure of School Personnel.** These regulations provide a basis for the licensure of school personnel including teachers, administrators, and support personnel.

NOTICE

Public hearings were scheduled in four locations statewide for February 20, 1992, four days prior to the publication of the regulations in the Virginia Register. A snow date has been set for March 5 (except in Manassas where the snow date is set for March 4).

Although initially, the hearings were inadvertently scheduled for the earlier dates, it appears that there will be significant comment from the public relative to the requirements. Department staff will need the additional time to analyze the comments and to make any necessary revisions to the proposed regulations. Written comments will be accepted through April 24, 1992.

The following steps have been (or will be in the very near future) taken to make the public aware of the public hearings:

1. Approximately 800 copies of the proposed regulations and hearing notices have been mailed to

appropriate stakeholders in local school divisions, certain private schools, colleges and universities, and professional organizations. Staff feels that we have successfully identified and reached the vast majority of stakeholders.

2. The Board of Education will issue a statewide press release to the media announcing the date and details of the hearings.

3. Information regarding the hearings will be posted on VaPEN, Virginia's Educational Computer Network. This will be available to all users nationwide who have access to the network. This will include teachers and administrators in most local school divisions and Virginia colleges and universities, as well as many of the same population nationwide.

4. Word-of-mouth announcements have been made from individuals who are members of professional organizations. These individuals include staff of the department who are members of the organizations and/or staff who have met with the organizations since the date was set back in November, 1991.

If there is sufficient opposition to any of the proposals or substantial revision to them, the Board of Education may hold a second public hearing prior to the formal adoption of the regulations.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Written comments may be submitted until April 24, 1992.

Contact: Charles W. Finley, Associate, School Accreditation, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2747 or toll-free 1-800-292-3820.

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April 6, 1992 - 7 p.m. – Public Hearing
Lakeland High School, Suffolk, Virginia.

April 9, 1992 - 7 p.m. – Public Hearing
W.C. Taylor Junior High School, Warrenton, Virginia.

April 14, 1992 - 7 p.m. – Public Hearing
George Wythe High School, Wytheville, Virginia.

May 23, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled **VR 270-01-0012. Regulations Establishing Standards for Accrediting Public Schools in Virginia.** These regulations establish the basis for accrediting public schools. Such accreditation is required by the Standards of Quality.

Statutory Authority: § 22.1-253.13:3 B of the Code of Virginia.

Written comments may be submitted until May 23, 1992.

Contact: Lin Corbin-Howerton, Lead Specialist, Policy Analysis, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2543.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

April 14, 1992 - 10 a.m. – Open Meeting
Monroe Building, Council Conference Room, 9th Floor, Monroe Building, Richmond, Virginia. ♿

A general business meeting. For more information contact the Council.

Contact: Anne Pratt, Associate Director, 101 North Fourteenth Street, 9th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2629.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

May 7, 1992 - 5:30 p.m. – Open Meeting
June 4, 1992 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ♿

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

April 22, 1992 - 6:30 p.m. – Open Meeting
Gloucester Administration Building, Conference Room, Gloucester, Virginia. ♿ (Interpreter for deaf provided if requested)

A quarterly meeting to include a briefing on the DES, Zelda Hurricane Exercise, a report from the By-Laws Committee and approval of the final draft of LEPC Hazardous Materials Plan Update.

Contact: Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042.

LOCAL EMERGENCY PLANNING COMMITTEE - HANOVER COUNTY

† **April 14, 1992 - 9 a.m.** – Open Meeting
Hanover Volunteer Fire Company No. 5, Route 1004 at Route 301 North, Hanover, Virginia.

A meeting to (i) update the emergency plan; (ii) review inactive member procedure; (iii) vote on frequency of meetings; (iv) report on hazmat transportation exercise in March; (v) conduct new business and old business; and (vi) conduct a 15-minute discussion period.

Contact: John F. Trivellin, Hazardous Materials Coordinator, P.O. Box 470, Hanover, VA 23069, telephone (804) 798-8554.

COUNCIL ON THE ENVIRONMENT

† **April 23, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Richmond, Virginia. ♿

The council will discuss and vote on final Oil and Gas Drilling Environmental Impact Assessments Guidelines and will discuss options for recognizing competency of wetlands delineators. A tentative agenda will be available the first week of April. Citizens will have an opportunity to present issues of concern during the Citizen's Forum portion of the agenda.

Contact: Hannah Crew, Assistant Administrator for Planning and Program Development, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500 or (804) 371–7604/TDD ☎

Virginia Coastal Resources Management Program

April 8, 1992 - 7 p.m. – Open Meeting
The Lecture Hall of the Rappahannock Community College Southern Campus, Glenns, Virginia. ♿

A meeting to hear recommendations and comments regarding how well Virginia's Coastal Resources Management Program meets the objectives of the federal Coastal Zone Management Act.

Contact: Stephen Laughlin, Coastal Resources Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

VIRGINIA FIRE SERVICES BOARD

† **April 24, 1992 - 9 a.m.** – Open Meeting
Best Western Hotel, Route 7 and Route 15 at East Market Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies. The meeting is open to the public for their comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Training and Education Committee

† **April 23, 1992 - 1 p.m.** – Open Meeting
Best Western Hotel, Route 7 and Route 15 at East Market Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies. The meeting is open to the public for their comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **April 23, 1992 - 9 a.m.** – Open Meeting
Best Western Hotel, Route 7 and Route 15 at East Market Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies. The meeting is open to the public for their comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **April 23, 1992 - 1 p.m.** – Open Meeting
Best Western Hotel, Route 7 and Route 15 at East Market Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies. The meeting is open to the public for their comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

April 6, 1992 - 7 p.m. – Open Meeting
April 7, 1992 - 9 a.m. – Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A regular board meeting. Public comment period will be during the first 30 minutes of the meeting.

April 8, 1992 - 9 a.m. – Open Meeting

May 6, 1992 - 9 a.m. – Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

Informal hearings.

April 14, 1992 - 9 a.m. – Open Meeting
Martinsville City Hall, General District Court Room, 55 West Church Street, Martinsville, Virginia. ♿ (Interpreter for deaf provided if requested)

A formal administrative hearing.

May 5, 1992 - 10 a.m. – Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A regular board meeting. Public comment period will be during the first 30 minutes of the meeting. State Licensure examinations at 9 a.m.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

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April 27, 1992 – 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-2. Regulations of the Board of Funeral Directors and Embalmers.** The amendments are designed to delete the requirements for the funeral services trainee program that are now incorporated into VR 320-01-4.

Statutory Authority: §§ 54.1-2400, 54.1-2803 (10), and 54.1-2820 of the Code of Virginia.

Written comments may be submitted until April 27, 1992.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907.

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April 27, 1992 – 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-3. Regulations for Preneed Funeral Planning.** The amendments are designed to bring current regulations into compliance with 1991 legislation requiring insurance policies and annuity contracts which fund preneed contracts to offer a minimum rate of return.

Statutory Authority: §§ 54.1-2400, 54.1-2803 (10), and 54.1-2820 of the Code of Virginia.

Written comments may be submitted until April 27, 1992.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907.

BOARD OF GAME AND INLAND FISHERIES

† **May 14, 1992 - 9:30 a.m.** – Open Meeting
Farmville, Virginia.

Board members will meet in Farmville and tour department owned lands and facilities in the area.

† **May 15, 1992 - 9:30 a.m.** – Open Meeting
Longwood College, Main Ruffner Hall, Virginia and Prince Edward Rooms, Farmville, Virginia.

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Wildlife and Boat Committee, followed by the Planning Committee, Finance Committee, Law and Education Committee and ending with the Liaison Committee.

The Wildlife and Boat Committee will discuss and possibly recommend to the full board that it adopt certain nongame regulation proposals that define wild animal, native animal, naturalized animal, nonnative (exotic) animal and domestic animal; a new regulation that prohibits the possession, importation or selling of any wild animal unless specifically permitted and defines those nonnative animals for which a permit for the importation and possessions thereof will be required. These nongame regulation proposals may include either a requirement that a permit will be necessary to import, liberate or possess in the Commonwealth wolf hybrids, or in the alternative that the definition of a domestic animal will include the wolf hybrid, thus exempting this animal from the permit requirement.

In addition, this committee will also consider and possibly recommend to the full board that it adopt a proposed bear hound training season outside of the regular hunting season, a proposed extension of the raccoon chase season in counties west of the Blue Ridge Mountains, and proposed emergency deer hunting regulations for the City of Lynchburg.

The Planning, Finance, Law and Education and Liaison Committees will review items appropriate to their authority and recommend any general and administrative matters necessary to the full board for adoption or consideration.

† **May 16, 1992 - 9 a.m.** – Open Meeting
Longwood College, Main Ruffner Hall, Virginia and Prince Edward Rooms, Farmville, Virginia.

The board will meet to consider for adoption nongame regulation proposals that will define wild animal, native animal, naturalized animal, nonnative (exotic) animal and domestic animal; a new regulation that prohibits the possession, importation or selling of any wild animal unless specifically permitted and defines those nonnative animals for which a permit for the importation and possession thereof. These nongame regulation proposals may include either a requirement that a permit will be necessary to import, liberate or possess in the Commonwealth wolf hybrids, or in the alternative that the definition of a domestic animal will include the wolf hybrid, thus exempting this animal from the permit requirement.

The board will also consider for adoption a proposed bear hound training season outside of the regular hunting season, a proposed extension of the raccoon chase season in counties west of the Blue Ridge Mountains, and proposed emergency deer hunting regulations for the City of Lynchburg.

Other general and administrative matters as necessary, will be discussed and acted on.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad Street, P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

April 14, 1992 - 10 a.m. – Public Hearing
Martha Washington Inn, Grand Ballroom, Abingdon, Virginia.

April 14, 1992 - 7 p.m. – Public Hearing
Virginia Western Community College, Whitman Auditorium in the Business Science Building, Roanoke, Virginia.

May 5, 1992 - 2 p.m. – Public Hearing
Tidewater Community College, Portsmouth Campus, in the "Theater," Portsmouth, Virginia.

May 6, 1992 - 9 a.m. – Public Hearing
Eastern Shore Community College, Melfa Campus, in the Lecture Hall, Accomack, Virginia.

May 14, 1992 - 10 a.m. – Public Hearing
Martha Washington College, Klein Theatre in dePont Hall, Fredericksburg, Virginia.

May 19, 1992 - 10 a.m. – Public Hearing
Blue Ridge Community College, Auditorium, Weyers Cave Exit, I-81, Harrisonburg, Virginia.

May 20, 1992 - 10 a.m. – Public Hearing
Loudoun County Courthouse, Board Room, Leesburg, Virginia.

May 26, 1992 - 10 a.m. – Public Hearing
General Assembly Building, Senate Room A, Richmond, Virginia.

The Commission has been established to study the application of the Dillon Rule as it affects local government authority to operate in an efficient and effective manner.

Contact: Paul Grasewicz, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-7893.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

DEPARTMENT OF HEALTH (STATE BOARD OF)

April 12, 1992 - 7 p.m. – Open Meeting
April 13, 1992 - 9 a.m. – Open Meeting
Airlie Conference Center, Airlie, Virginia. ♿ (Interpreter for deaf provided if requested)

A retreat to plan for board activities over next biennium.

April 14, 1992 - 9:30 a.m. – Open Meeting
Warrenton/Green Building, 10 Hotel Street, Warrenton, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to (i) receive department reports; (ii) consider regulatory matters; and (iii) conduct regular business for the board.

Contact: Susan R. Rowland, MPA, Assistant to the Commissioner, Virginia Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23219, telephone (804) 786-3561.

† **May 18, 1992 - 7 p.m.** – Public Hearing
Wise County Health Department, 134 Roberts Street, S.W., Wise, Virginia.

† **May 19, 1992 - 7 p.m.** – Public Hearing
J. Robert Jamison Memorial Library, Main Street, Appomattox, Virginia.

† **May 20, 1992 - 7 p.m.** – Public Hearing
Council Chambers Room, City Hall, 715 Princess Anne Street, Fredericksburg, Virginia.

† **May 21, 1992 - 7 p.m.** – Public Hearing
112 South Main Street, Board Meeting Room, Woodstock, Virginia.

† **May 27, 1992 - 7 p.m.** – Public Hearing
Peninsula Health Center, Auditorium, J. Clyde Morris Boulevard, Newport News, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-34-400. Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings.** These regulations govern the construction and operation of sewage treatment systems serving individual, single family homes with flows of 1,000 gallons per day or less.

STATEMENT

Basis: Sections 32.1-12, 32.1-163 and 32.1-164 of the Code of Virginia authorize the Board of Health to promulgate regulations pertaining to the location and construction of alternative discharging systems in the Commonwealth.

Substantive effect of the regulations: These regulations govern the construction and operation of sewage treatment systems serving individual, single family homes with flows of 1,000 gallons per day or less. Once installed, the regulations require routine operation and maintenance to occur for the life of the system.

Fiscal Impact: Systems governed by these regulations are estimated to cost between $3,000 and $10,000 depending upon design selected and the reliability desired. Operation and monitoring costs are largely unknown. Maintenance contracts are required to limit the homeowners liability to $200 per year beyond the cost of the contract. This will necessitate individuals offering this service to amortize the cost of major repairs over the life of the system. The cost of the contract will therefore reflect the reliability of various systems and system components. Analysis for formal testing constituents can be collected and run for under $100.

Prior to issuing a discharge in permit by VDH, the Department must first deny the site for a conventional on-site system. Staffing for this initial visit is already accomplished at current funding levels. A significant portion of the field evaluation work necessary to issue or deny a discharging system permit will be completed during this review for the on-site system. The regulations further require the Department to make at least one additional annual inspection of each permitted site. Fees have been authorized and will be charged for inspections required to permit and to inspect these systems.

Reaction of affected parties and entities: The process of obtaining a permit described by these regulations represents a major streamlining of the permitting process. This will likely result in a proliferation of discharging systems, especially in areas of the Commonwealth where onsite system denial rates are high. Environmental groups have questioned the ability of discharging systems to consistently and reliably treat effluent well enough to protect public health and the environment. In addition to questioning whether systems can meet the permit limits, the issue of the impact of discharging a chlorinated waste (or actually an improperly dechlorinated waste) into trout waters has been raised. The operation and monitoring controls built into the regulations were intended to address these needs and concerns. System manufacturer's have questioned whether the safeguards are excessive. The sampling requirements have been considered excessive by some manufacturers, while others have been willing to accept most any sampling requirements provided they are applied equally to all manufacturers.

Statutory Authority: §§ 32.1-12, 32.1-163 and 32.1-164 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3559.

BOARD OF HEALTH PROFESSIONS

Compliance and Discipline Committee

† **April 10, 1992 - 11:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 4, Richmond, Virginia. ♿

The committee will review its assignments for calendar 1992 and prepare a work plan and report for consideration of the full Board of Health Professions on April 21.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Committee on Professional Education and Public Affairs

† **April 10, 1992 - 2:30 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 4, Richmond, Virginia. ♿

The committee will review its assignments for calendar 1992 and prepare a work plan and report for consideration of the full Board of Health Professions on April 21.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Regulatory Research Committee

† **April 10, 1992 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 4, Richmond, Virginia. ♿

The committee will review its assignments for calendar 1992 and prepare a work plan and report for consideration of the full Board of Health Professions on April 21.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

April 28, 1992 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

The council will conduct its monthly meeting.

Contact: Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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May 22, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia 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.** Section 6.3 of the regulation is being amended to specify when amendments or modifications to currently filed charge schedules would have more than a minimal impact on revenues and would therefore have to be filed at least 60 days in advance of their effective date.

Statutory Authority: §§ 9-161(D) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

State Review Board

† **April 21, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to consider the nomination of the following properties to the Virginia Landmark Register and the National Register of Historic Places:

1. Blandford Cemetery, Petersburg
2. Country Cabin, Wise County
3. Ditchley, Northumberland County
4. Enniscorthy, Albemarle County
5. Hurstville, Northumberland County
6. Onancock Historic District, Accomack County
7. Salem Post Office, Salem
8. Virginia Episcopal School, Lynchburg

Contact: Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

Virginia Historics Landmark Board

† **April 22, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A general business meeting to consider the listing of the following properties on the Virginia Landmark Register:

1. Blandford Cemetery, Petersburg
2. Center Theater, Norfolk
3. Country Cabin, Wise County
4. Crockett's Cove Presbyterian Church, Wythe County
5. Ditchley, Northumberland County
6. Enniscorthy, Albemarle County
7. Fairfax Elementary School Annex, City of Fairfax
8. Hughlett's Tavern, Northumberland County
9. Hurstville, Northumberland County
10. Norge Historic District, James City County
11. Onancock Historic District, Accomack County
12. Powhatan Rural Historic District, King George County
13. Salem Post Office, Salem
14. Tastee 29 Diner, City of Fairfax
15. Virginia Episcopal School, Lynchburg

Contact: Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

April 7, 1992 - 9 a.m. – Open Meeting
May 5, 1992 - 9 a.m. – Open Meeting
Hopewell Community Center, Second & City Point Road, Hopewell, Virginia. ♿ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

† **April 15, 1992 - 9 a.m.** – Open Meeting
Kings Dominion, Doswell, 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, Building Regulation, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-4752 or (804) 786-5405/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **April 21, 1992 - 11 a.m.** – Open Meeting
601 S. Belvidere Street, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners to (i) review, and if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr. General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

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† **April 15, 1992** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.** The proposed amendments to the Authority's Rules and Regulations applicable to its single family mortgage loan program will (i) redefine "originating guide" to include both Parts I and II of the Rules and Regulations; (ii) delete provisions relating to the Farmers Home Administration Interest Assistance Program, in which the Authority will not be participating; (iii) delete the reference to the specific amount of the reservation fee and continue to allow the Authority to set the amount from time to time; (iv) continue to allow $100 of the reservation fee to be applied by the originating agent to its fee and require balance to be remitted to the Authority; and (v) make minor clarifications and typographical corrections.

STATEMENT

Purpose: To amend the rules and regulations for single family mortgage loans to persons and families of low and moderate income by redefining originating guide, deleting provisions relating to Farmers Home Administration Interest Assistance Program, deleting reference to the specific amount of the reservation fee, continuing to allow $100 of the reservation fee to be applied by the originating agent to its fee and requiring balance to be remitted to the Authority, and making minor clarifications and typographical corrections.

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendments to the Authority's Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income will:

1. Redefine "originating guide" to include both Parts I and II of the Rules and Regulations.

2. Delete provisions relating to the Farmers Home Administration Interest Assistance Program, in which the Authority will not be participating.

3. Delete reference to the specific amount of the reservation fee and continue to allow the Authority to set the amount from time to time.

4. Continue to allow $100 of the reservation fee to be applied by the originating agent to its fee and require the balance to be remitted to the Authority.

5. Make minor clarifications and typographical corrections.

Impact: The Authority does not expect that the amendments will have a significant impact on the number of persons served and does not expect that any significant costs will be incurred for the implementations of and compliance with the amendments.

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

Written comments may be submitted until April 15, 1992.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

April 9, 1992 - 10 a.m. – Open Meeting
1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ♿

A regular quarterly meeting.

Contact: Chuck Tyger, Chief Engineer, Systems and Software Management, Council on Information Management, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

May 13, 1992 - 9 a.m. – Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The Virginia Interagency Coordinating Council according to PL 102-119, Part H, early intervention program for disabled infants and toddlers and their families, is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Services as lead agency to develop and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Director, MR Children/Youth Services, Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

LIBRARY BOARD

† **May 13, 1992 - 9:30 a.m.** – Open Meeting
† **June 23, 1992 - 9:30 a.m.** – Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ♿

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

April 15, 1992 - 11 a.m. – Open Meeting
101 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ♿

A regular meeting subject to cancellation unless there are action items requiring the Council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Art Bowen, Senior Debt Analyst, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4929.

LONGWOOD COLLEGE

Board of Visitors

April 27, 1992 - 9:30 a.m. – Open Meeting
Longwood College, Virginia Room, Ruffner Building, Farmville, Virginia. ♿

A meeting to conduct routine business of the board.

Contact: William F. Dorrill, President, President's Office, 201 High Street, Longwood College, Farmville, VA 23909-1899, telephone (804) 395-2001.

MARINE RESOURCES COMMISSION

† **April 27, 1992 - 3 p.m.** – Public Hearing
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ♿ (Interpreter for deaf provided upon request)

The commission invites public comment on recommendations to restore the Virginia Oyster Industry. Management of public grounds and repletion strategies will be discussed. No decisions will be made at this meeting. For public input only.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088 or (804) 247-2292/TDD ☎

April 28, 1992 - 9:30 a.m. – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ♿ (Interpreter for deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications 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 and 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.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

April 10, 1992 – 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 Inpatient Hospital Settlement Agreement: VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates–Inpatient Hospital Care.** This regulation proposes to incorporate into the plan the provisions of the lawsuit final settlement agreement between the Commonwealth and the Virginia Hospital Association.

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

Written comments may be submitted until 4:30 p.m., April 10, 1992, to Wm. R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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April 10, 1992 – 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 Provider Disputes and Date of Acquisition. VR 460-03-4.1912. Dispute Resolution for State-Operated Providers; VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates–Other Types of Care; VR 460-03-4.1940:1. Nursing Home Payment System (PIRS).** These amendments establish an appeal mechanism for state-owned facilities which are Medicaid providers and also define a nursing facility's date of acquisition when it is sold.

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

Written comments may be submitted until 4:30 p.m., April 10, 1992, to Wm. R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 – 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 Inpatient Outlier Adjustments: VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates–Inpatient Hospital Care.** These regulations propose the same outlier policy for hospital reimbursement as was contained in an earlier emergency regulation.

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

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Wm. R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 – 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 Reimbursement Adjustment for Nonemergency ER Care. VR 460-02-4.1920. Methods and Standards Used for Establishing Payment Rates–Other Types of Care.** These amendments promulgate permanent regulations to supersede emergency regulations which provide for the same policy.

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

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Mike Jurgenson, Policy and Planning Supervisor, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 – 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 Community Mental Health/Mental Retardation Services: VR 460-03-3.1100, Narrative for the Amount, Duration and Scope of Services; VR 460-03-3.1102, Case Management Services; VR 460-03-3.1300, Standards Established and Methods Used to Assure High Quality Care; VR 460-02-4.1920, Methods and Standards for Establishing Payment Rates–Other Types of Care; and VR 460-04-8.1500, Community Mental Health and Mental Retardation Services: Amount, Duration and Scope of Services.** This proposed regulation provides for local community mental health/mental retardation services delivered through the Community Services Boards.

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

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Ann Cook, Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 – 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. Pediatric and Obstetric Services Maximum Payments.** This proposed regulation conforms the plan to federal requirements of OBRA '89 § 6402 and to the American Medical Association's new coding convention for procedure codes.

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

Written comments may be submitted until 4:30 p.m., May 8, 1992, to C. Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

Drug Utilization Review Board

April 9, 1992 - 3 p.m. – Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia.

A regular meeting to conduct routine business.

Contact: Carol B. Pugh, Pharm. D., DUR Program Consultant, Quality Care Assurance Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-3820.

BOARD OF MEDICINE

April 13, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-05-01. Regulations Governing the Practice of Physician's Assistants.** The proposed amendment (i) establishes procedures for maintaining records of approved invasive procedures performed by the assistant; (ii) provides reports to the board upon request of the number of procedures performed and complications resulting from such procedures; (iii) establishes unprofessional conduct for failure to maintain such records; (iv) establishes that the scope of practice shall be the specialty of the supervising physician; and (v) establishes that any acute or significant finding or change of a patient's clinical status by an assistant must be reported to the supervising physician within one hour of findings.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until April 13, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Credentials Committee

April 11, 1992 - 8 a.m. – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia, in open and executive session; and (iii) discuss any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Executive Committee

April 10, 1992 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) review closed cases; (ii) review cases/files requiring administrative action; (iii) adopt for final promulgation VR 465-03-01 Physical Therapy, VR 465-09-01 Optometry; (iv) review and approve for promulgation VR 465-11-01 Acupuncturists; (v) discuss and develop a position on liposuction and blood testing by dentists; and (vi) consider any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Informal Conference Committee

† **April 13, 1992 - 9 a.m.** – Open Meeting
Springfield Hilton, 6550 Loisdale Road, Springfield, Virginia.

† **April 16, 1992 - 9 a.m.** – Open Meeting
Sheraton Inn-Fredericksburg Conference Center, I-95 and Route 3, Fredericksburg, Virginia.

April 24, 1992 - 9 a.m. – Open Meeting
Fort Magruder Inn, I-64 to Route 199 to Route 60, Williamsburg, Virginia.

† **April 28, 1992 - 9 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

† **April 30, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia.

The Informal Conference Committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The Committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD

Advisory Board on Occupational Therapy

April 16, 1992 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) review the AOTA's possible change in the accreditation of OT educational programs; (ii) review the content outlines for the AOTCB certification examination; (iii) review the reference guide for the OT Code of Ethics; (iv) review the utilization of specific modalities relating to practice; and (v) discuss other items which may come before the advisory board. Public comments will be received at the pleasure of the chairperson.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Optometry

April 10, 1992 - 8:30 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) review public comments to proposed amendments to regulations VR 465-09-01; (ii) make recommendations to the Board of Medicine; and (iii) discuss other items which may come before the committee. The Advisory Committee will not entertain public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

April 10, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **VR 470-05-01. Certification of Case Management.** These

regulations establish requirements which facilities must meet in order to receive reimbursement from Medicaid for Case Management Services. The regulations require that case managers meet knowledge, skills and abilities set forth in the regulations and that facilities meet the standards established by the regulations.

Statutory Authority: §§ 37.1-10 and 37.1-179 et seq. of the Code of Virginia, and § I-92, Item 466.F.5 of the 1990-92 Appropriation Act.

Written comments may be submitted until April 10, 1992, to Ben Saunders, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229.

Contact: Rubyjean Gould, Director of Administrative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

† **April 22, 1992 - 10 a.m.** – Open Meeting
Catawba Hospital, Catawba, Virginia. &

A regular monthly meeting. The agenda will be published on April 15 and may be obtained by calling Jane V. Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 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 Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

April 14, 1992 - 4 p.m. – Public Hearing
Department of Social Services, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room C, Richmond, Virginia. & (Interpreter for deaf provided upon request)

April 14, 1992 - 4 p.m. – Public Hearing
Vinton Branch Library, 800 East Washington Avenue, Vinton, Virginia. & (Interpreter for deaf provided upon request)

A public hearing to obtain comments on Virginia's Extended Fourth Year Grant Application for Part H of the Individuals with Disabilities Education Act (IDEA), that provides early intervention services for infants and toddlers with disabilities and their families, ages birth through 2. Written testimony will be accepted by the department until May 1, 1992.

Contact: Michael Fehl, Ed. D., Director of Children/Youth Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

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† **June 5, 1992** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State of Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **VR 470-05-02. Regulations Governing Certification of Therapeutic Consultation and Residential Services.** These regulations establish the standards which must be met by individuals and facilities providing therapeutic consultation and residential support services under the Mental Retardation Waiver.

STATEMENT

Substance: These regulations establish standards which individuals and facilities must meet in order to provide therapeutic consultation and residential support services under the Mental Retardation Waiver. For therapeutic consultation the regulations require that psychologists, occupational therapists, physical therapists, speech therapists, and social workers be licensed or certified by the Department of Health Professions. Behavioral therapy consultation must be provided by individuals who meet the knowledge, skills and abilities established by DMHMRSAS. The requirements for residential support services are that the individual must pass an objective test approved by DMHMRSAS.

Issues: The Department of Medical Assistance Services (DMAS) with the assistance of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) has obtained approval for a home-based and community-based waiver under § 1915 (c) of the Social Security Act. This waiver is designed to provide community-based alternatives to persons who would otherwise require placement in a Skilled Nursing Facility (SNF), Intermediate Care Facility (ICF) or an Intermediate Care Facility for the Mentally Retarded (ICF/MR). The intent of the waiver is to reduce the need for institutional placement. A condition of obtaining the waiver is that the state assures that services are provided by individuals or facilities which are qualified to provide the services. In order to fulfill this condition, DHMRSAS is promulgating regulations which require individuals and facilities to meet certain standards.

Basis: §§ 37.1-10 and 37.1-179 of the Code of Virginia; Items 466.F.5 and 478.F.1 of the 1990 Appropriations Act.

Purpose: To establish minimum standards which providers of therapeutic consultation and residential support services must meet in order to provide services under the Mental Retardation Waiver.

Estimated Impact: The impact of these regulations is estimated to be minimal. Psychologists, occupational therapists, physical therapists, speech therapists, and social workers are currently licensed or certified by the Department of Health Professions.

The standards established for behavorial therapy and residential support services should have a minimal impact on persons desiring to provide these services.

Statutory Authority: §§ 37.1-10, 37.1-179 of the Code of Virginia, and Items 466.F.5 and 478.F.1 of the 1990 Appropriations Act.

Written comments may be submitted until June 5, 1992, to Ben Saunders, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229.

Contact: Rubyjean Gould, Director of Administrative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

Mental Retardation Advisory Council

† **April 16, 1992 - 10 a.m.** – Open Meeting
James Madison Building, 109 Governor Street, 8th Floor Conference Room, Richmond, Virginia. &

A quarterly meeting to conduct business relative to the Council's responsibility for advising the State Mental Health, Mental Retardation and Substance Abuse Services Board on issues pertaining to mental retardation. Agenda will be available March 18, 1992.

Contact: Stanley J. Butkus, Ph.D., Director, MR Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, Box 1797, 109 Governor Street, Richmond, VA 23214, telephone (804) 786-1746.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† **May 7, 1992 - 7 p.m.** – Open Meeting
502 South Main Street #4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before it 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 South Main Street #4, Culpeper, VA 22701, telephone (703) 825-4562.

MIGRANT AND SEASONAL FARMWORKERS BOARD

April 8, 1992 - 10 a.m. – Open Meeting
State Capitol Building, House Room 2, Richmond, Virginia. &

A regular meeting.

Contact: Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2385.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **May 15, 1992 - 8 a.m.** – Open Meeting
The Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia. &

A regular meeting of the VMI Board of Visitors to (i) consider committee reports; (ii) approve awards, distinctions and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

April 8, 1992 - 1 p.m. – Open Meeting
DMV, 2300 West Broad Street, Richmond, Virginia. &

A regular business meeting.

Contact: Karen Ruby, Manager, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-0481.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† **May 2, 1992 - 9 a.m.** – Open Meeting
Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia. &

This meeting will include reports from the executive, finance, education & exhibits, marketing, personnel, planning/facilities, and research & collections committees. Public comment will be received following approval of the minutes of the January meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue,

Martinsville, VA 24112, telephone (703) 666-8616, SCATS 857-6950/857-6951 or (703) 666-8638/TDD ☎

BOARD OF NURSING

Special Conference Committee

† **April 10, 1992 - 8:30 a.m.** – Open Meeting
† **April 13, 1992 - 8:30 a.m.** – Open Meeting
† **April 23, 1992 - 8:30 a.m.** – Open Meeting
† **April 24, 1992 - 8:30 a.m.** – Open Meeting
Department of Health Professions, Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A special conference committee, comprised of three members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing.

Public comment will be not be received.

Contact: Corinne F. Dorsey, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARDS OF NURSING AND MEDICINE

Special Committee to Develop Regulations

† **April 28, 1992 - 12:30 p.m.** – Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The Committee of the Joint Boards of Nursing and Medicine will conduct business related to the regulation of nurse practitioners. The Special Committee of the two Boards appointed to assist with the development of regulations for prescriptive authority for nurse practitioners will review comments received on proposed regulations, develop responses and prepare recommendations for consideration by the Boards of Nursing and Medicine. While no further public comment on regulations will be received, other public comment may be presented at 1:30 p.m.

Contact: Corinne F. Dorsey, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

DEPARTMENT OF STATE POLICE

May 8, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to amend regulations entitled: **VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations.** The proposed amendment permits colored or tinted vent visors to be installed on motor vehicles, provided they do not extend more than two inches from the forward door post into the driver's viewing area.

Statutory Authority: §§ 46.2-1002, 46.2-1163 and 46.2-1165 of the Code of Virginia.

Written comments may be submitted until May 8, 1992.

Contact: Captain J. P. Henries, Safety Officer, P.O. Box C-32008, Richmond, VA 23261, telephone (804) 674-2017.

BOARD OF PSYCHOLOGY

† **April 9, 1992 - 11 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia.

Members of the Board of Psychology will participate in a conversation hour at the spring convention of the Virginia Psychological Association.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

Examination Committee

† **May 11, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

A meeting to discuss and prepare examinations. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

REAL ESTATE APPRAISER BOARD

April 23, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

April 17, 1992 - 8:30 a.m. – Open Meeting
May 15, 1992 - 8:30 a.m. – Open Meeting
June 19, 1992 - 8:30 a.m. – Open Meeting
Office of the Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ♿

A regular meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

RICHMOND METROPOLITAN AUTHORITY

† **April 21, 1992 - 12:30 p.m.** – Open Meeting
The Federal Reserve Bank of Virginia, 23rd Floor, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A monthly Board of Directors meeting.

Contact: Janet Tuero-Lopez, Administrative Assistant, 701 Byrd Street, Richmond, VA 23219, telephone (804) 649-8494.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

Protection and Advocacy for Individuals with Mental Illness Advisory Council

† **April 16, 1992 - 9:30 a.m.** – Open Meeting
VHDA, Conference Room 3, 601 South Belvidere, Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A regular bi-monthly meeting. Time is provided for public comment.

Contact: Rebecca Currin, Department for Rights of Virginians with Disabilities, Monroe Building, 17th Floor, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 552-3962 or (804) 225-2042/TDD ☎

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **April 15, 1992 - 10 a.m.** – Open Meeting
Richmond Marriott Hotel, 500 East Broad Street, Richmond, Virginia. ♿

The board shall hear all administrative appeals of denials on onsite sewage disposal system permits and render its decision on any such appeal, which decision shall be the final administrative decision.

Contact: Deborah G. Pegram, Division of Sanitation Services, Main Street Station, Virginia Department of Health, Suite 144, Richmond, VA 23219, telephone (804) 786-3559.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

April 10, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-70-17. Child Support Enforcement Program.** The proposed amendments address four areas: (i) administrative deviation from the child support guideline/multiple family situations; (ii) default obligations; (iii) release of information to the public; and (iv) technical items.

Statutory Authority: §§ 63.1-25 and 63.1-249 through 63.1-274.10 of the Code of Virginia.

Written comments may be submitted until April 10, 1992, to Penelope Boyd Pellow, Division of Child Support Enforcement, 8007 Discovery Drive, Richmond, VA 23229-8699.

Contact: Margaret J. Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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May 22, 1992 – 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 repeal regulations entitled: **VR 615-32-01. Administrative Procedures for Child Development Associate Scholarship Program.** This regulation addresses eligibility requirements and procedures to be used in applying for scholarships awarded through the federal Child Development Associate Scholarship Program, and is being repealed to allow for promulgation of new regulations which will address the availability of additional federal and state funding streams and different eligibility requirements for scholarship recipients. This current regulation is outdated.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF PROFESSIONAL SOIL SCIENTISTS

April 6, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

April 9, 1992 - 10 a.m. – Open Meeting
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.

A quarterly board meeting to (i) review budget reductions for 1991-1992; (ii) approve contracts and grant allocations for 1992-1993 master plan policies/procedures status report; and (iii) review other items of interest.

Contact: Gina Schraudt, Administrative Assistant to the VPTB, 110 South Seventh Street, 1st Floor, Richmond, VA 23219, telephone (804) 344-5522.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

NOTE: CHANGE IN DATE
April 7, 1992 - 10 a.m. – Public Hearing
Lynchburg District Office, Route 501, Lynchburg, Virginia. ♿ (Interpreter for deaf provided upon request)

NOTE: CHANGE IN DATE
April 8, 1992 - 10 a.m. – Public Hearing
Richmond District Office, Pine Forest Drive off Route 1, Colonial Heights, Virginia. ♿ (Interpreter for deaf provided upon request)

A public hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems.

Contact: Mr. Albert W. Coates, Jr., Assistant Commissioner, Virginia Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-9950.

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April 13, 1992 - 9:30 a.m. – Public Hearing
Front Auditorium, Old Highway Building, 1221 East Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to amend regulations entitled: **VR 385-01-09. Public Participation Guidelines.** The Administrative Process Act (§ 9-6.14:1 et seq.) of the Code of Virginia requires the Department of Transportation to establish guidelines under which input from the public can be gathered during the adoption of regulations subject to the Act. The amendments to the Public Participation Guidelines update references in the text which are no longer correct.

The amendments also change the requirement that a 60-day time period must elapse between notice of the public hearing and a public hearing. As proposed, the 60-day period would extend from the date of public notice to the last date given in the notice for submission of any written comment, which is the requirement of the Act itself. This change was made to reduce the amount of time before a regulation becomes effective, thereby streamlining the process.

Statutory Authority: §§ 33.1-12 and 9.6-14:1 et seq. of the Code of Virginia.

Written comments may be submitted until April 20, 1992, to Larry D. Jones, Management Services Division, Room 712, Highway Annex, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Contact: David L. Roberts, Management Lead Analyst, Management Services Division, Room 712, Highway Annex, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-3620.

April 15, 1992 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

Work session of the Commonwealth Transportation Board and the Department of Transportation staff.

April 16, 1992 - 10 a.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A monthly meeting 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, 1491 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

† **June 11, 1992 - 9 a.m.** – Public Hearing
Salem District Office, Harrison Avenue, North of Main Street and East of VA 311, Salem, Virginia. ♿ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Bristol, Salem, Lynchburg, and Staunton Districts, as well as public transit.

† **June 18, 1992 - 9 a.m.** – Public Hearing
Virginia Department of Transportation, Auditorium, 1221 East Broad Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Richmond, Fredericksburg, Suffolk, Culpeper, and Northern Virginia Districts, as well as public transit.

Contact: Mr. Albert W. Coates, Jr., Assistant Commissioner, Virginia Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-9950.

DEPARTMENT OF THE TREASURY (STATE TREASURER AND TREASURY BOARD)

April 15, 1992 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd floor, Treasury Board Conference Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

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May 8, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Treasurer intends to adopt regulations entitled: **VR 640-04-1. Regulations Governing Escheats.** The proposed regulations address the annual reporting requirements for local government treasurers and escheators and outline the escheator's responsibilities for the disclosures to be made at escheat auctions, the collection and remittance of sale proceeds, and the notifications to be made to defaulting purchasers. In addition, the regulations stipulate the required bonding for escheators, specify the commission basis for escheators and auctioneers as well as the reimbursable expenses of auctioneers, and outline department charges for requests for information under the Freedom of Information Act.

Statutory Authority: § 55-200.1 of the Code of Virginia.

Written comments may be submitted until May 8, 1992.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-3131.

BOARD OF VETERANS AFFAIRS

April 10, 1992 - 2 p.m. – Open Meeting
DAV Post Home, 2381 Roanoke Boulevard, Salem, Virginia. ♿

Topics of discussion will include the state veterans home and other items of interest to Virginia's veterans.

The public is invited to speak on items of interest to veteran community; however, presentations should be limited to fifteen minutes. Speakers are requested to register with the aide present at the meeting and should leave a copy of their remarks for the record. Service organizations should select one person to speak on behalf of the entire organization in order to give ample time to accommodate all who may wish to speak.

Contact: Beth Tonn, Secretary for the Board, Department of Veteran's Affairs, P.O. Box 809, Roanoke, VA 24004, telephone (703) 857-7104 or (703) 857-7102/TDD ☎

VIRGINIA RESOURCES AUTHORITY

April 14, 1992 - 9 a.m. – Open Meeting
May 12, 1992 - 9 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 its previous meeting; (ii) review the Authority's operations for the prior months; and (iii) consider other matters and take other actions as it 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: Mr. Shockley D. Gardner, Jr., 909 East Main Street, Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109.

VIRGINIA VOLUNTARY FORMULARY BOARD

May 7, 1992 - 10:30 a.m. – Open Meeting
1100 Bank Street, Washington Building, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, VA 23219, telephone (804) 786-4236.

DEPARTMENT OF WASTE MANAGEMENT

April 9, 1992 - 10 a.m. – Open Meeting
State Water Control Board, 4900 Cox Road, Glen Allen, Virginia. ♿

A general business meeting. Staff will seek final adoption of the Solid Waste Management Facility Permit Application Fees Regulation and final adoption of the Hazardous Materials Transportation Regulations. The department will give a status report on the amendments to the Hazardous Waste Management Regulations and the amendments to the Solid Waste Management Regulations.

April 10, 1992 - 9 a.m. – Open Meeting
The Airfield Conference Center, Wakefield, Virginia. ♿

This will be a working session only. No formal action will be taken during this session. The public is welcome to attend. The agenda items are: Coal Ash Management, Ex Parte Communication, Status of State Agency Recycling, Review of 1992 Legislation/Budget, Status of Solid Waste Management Plans, and a report on the State Hazardous Waste Capacity Assurance Plan.

Contact: Loraine Williams, Secretary, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-2667 or (804) 371-8737/TDD ☎

April 22, 1992 - 7 p.m. – Public Hearing
Pepper's Ferry Conference Room, Route 1200 off Route 114, Radford, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the Department of Waste Management will hold a public hearing on the draft permit proposed by New River Resource Authority concerning the New River Resource Authority Yard Waste Composting Facility.

The public comment period will extend until May 4, 1992. A copy of the proposed draft permit amendments may be obtained from Russell McAvoy Jr., Department of Waste Management, Sixth Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219.

Contact: Brian McReynolds, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0515 or (804) 371-8737/TDD ☎

April 27, 1992 - 7 p.m. – Public Hearing
Ivor Town Hall, Bell Avenue, Ivor, Virginia.

Pursuant to the requirements of Part VII, Permitting of Solid Waste Management Facilities, of the Virginia Solid Waste Management Regulations, the Department of Waste Management will hold a public hearing on the draft permit proposed by Southeastern Public Service Authority for a Transfer Station which shall be located in Southampton County.

The draft permit public comment period will extend until May 7, 1992. A copy of the proposed draft permit may be obtained from Debra Miller, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219.

Contact: Debra A. Miller, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-6983 or (804) 371-8737/TDD ☎

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

April 17, 1992 - 8 a.m. – Open Meeting
Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad Street, Richmond, Virginia 23234, telephone (804) 367-8595.

STATE WATER CONTROL BOARD

† **April 13, 1992 - 7 p.m.** – Public Hearing
Circuit Court of Alleghany County, 266 Main Street,

Covington, Virginia.

A public hearing to consider whether to initiate modification of the recent permit amendment dated January 29, 1991, to the VPDES Permit No. VA0003646 issued to Westvaco Corporation. The facility is located at Riverside Street, Covington, Virginia 24426 in Alleghany County and is an existing industrial discharge. The purpose of the informal public hearing will be to consider whether or not to initiate modification of the recent amendment based on the Environmental Defense Fund's (EDF) objections to the amendment.

Contact: Lori Freeman, Hearings Reporter, State Water Control Board, Office of Policy Analysis, P.O. Box 11143, Richmond, Virginia 23230-1143, telephone (804) 527-5163.

THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA

Board of Visitors

† **April 10, 1992 - 7:30 a.m.** – Open Meeting
Blow Memorial Hall, Richmond Road, Williamsburg, Virginia.

A regularly scheduled meeting to (i) approve the budgets and fees of the College and Richard Bland College; (ii) receive reports from several committees of the board; and (iii) 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 and organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795, telephone (804) 221-1005.

VIRGINIA DEPARTMENT OF
YOUTH & FAMILY SERVICES
Youth Begins With You.

BOARD OF YOUTH AND FAMILY SERVICES

April 8, 1992 - 4 p.m. – Public Hearing
Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, 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 adopt regulations entitled: **VR 690-15-001. Regulations for State Reimbursement of Local Juvenile Residential Facility Construction.** The proposed regulation establishes Board of Youth and Family Services Standards for reimbursement of local juvenile residential facility construction costs.

Statutory Authority: §§ 16.1-313, 16.1-322.5 through 16.1-322.7 and 66-10 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

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† **May 13, 1992 - 4 p.m.** – Public Hearing
Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, 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 adopt regulations entitled: **VR 690-10-001. Regulations Governing the Certification Process.** This proposed regulation establishes the board's procedures for the review and certification of facilities and programs which are under the regulatory authority of the board. It is a revision and update of similar standards issued by the Board of Corrections as VR 230-01-003.

STATEMENT

Basis: Sections 16.1-233, 16.1-234, 16.1-311, 16.1-312 and 66-10 of the Code of Virginia authorize the Board of Youth and Family Services to prescribe standards for the operation of youth and family service facilities and programs, and prescribe regulations for certifying that facilities and programs comply with applicable standards.

Purpose: This is a new regulation issued by the Board of Youth an Family Services to prescribe procedures governing the certification of facilities and programs which are under the regulatory authority of the Board.

Substance: This regulation (i) prescribes the procedures for auditing and certifying facilities and programs; (ii) lists the actions the Board and the Department of Youth and Family Services may take regarding certification; and (iii) specifies the procedures for appealing board actions regarding certification.

Issues: This regulation was promulgated by the Board of Youth and Family Services to carry out the provisions of the Code of Virginia listed above. This is a new regulation promulgated by the Board which commenced operation on July 1, 1990. The regulation governs the process for the certification of facilities and programs which are under the regulatory authority of the board.

Impact: All facilities and programs subject to the

regulatory authority of the board are affected by this regulation.

Statutory Authority: §§ 16.1-233, 16.1-234, 16.1-311, 16.1-312 and 66-10 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

April 9, 1992 - 10 a.m. – Open Meeting
May 14, 1992 - 10 a.m. – Open Meeting
Site to be announced. Richmond, Virginia.

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208-1108, telephone (804) 371-0692.

LEGISLATIVE

VIRGINIA CODE COMMISSIOIN

† **April 14, 1992 - 2 p.m.** – Open Meeting
General Assembly Building, Speaker's Conference Room 6th Floor, 910 Capitol Street, Richmond, Virginia. [S]

A general business meeting.

Contact: Joan Smith, Registrar of Regulations, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

April 6
Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board

Dentistry, Board of
Funeral Directors and Embalmers, Board of
Soil Scientists, Board for Professional

April 7
Dentistry, Board of
Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council

April 8
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

Environment, Council on the
- Virginia Coastal Resources Management Program

Funeral Directors and Embalmers, Board of
Migrant and Seasonal Farmworkers Board
Motor Vehicles, Department of
- Medical Advisory Board

April 9
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Architects

† Child Day-Care Council
Information Management, Council on
Medical Assistance Services, Department of
- Drug Utilization Review (DUR) Board

† Psychology, Board of
Telecommunications Board, Virginia Public
Waste Management Board, Virginia
Youth and Family Services, Board of

April 10
† Health Professions, Department of
- Compliance and Discipline Committee
- Committee on Professional Education and Public Affairs
- Regulatory Research Committee

Medicine, Board of
- Executive Committee
- Advisory Committee on Optometry

† Nursing, Board of
- Special Conference Committee

Veterans Affairs, Board of
Waste Management Board, Virginia
† William and Mary in Virginia, The College of
- Board of Visitors

April 11
Dentistry, Board of
Medicine, Board of
- Credentials Committee

April 12
Health, State Board of

April 13
† Barbers, Board for
† Cosmetology, Board for
Health, State Board of
† Medicine, Board of
- Informal Conference Committee

† Nursing, Board of
- Special Conference Committee

April 14
† Code Commission, Virginia
† Cosmetology, Board for
† Emergency Planning Committee, Local - Hanover County
Funeral Directors and Embalmers, Board of
Health, State Board of
Higher Education for Virginia, State Council of
Virginia Resources Authority

April 15

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Corrections, Board of
Dentistry, Board of
† Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
Local Debt, State Council on
† Sewage Handling and Disposal Appeals Review Board
Transportation Board, Commonwealth
Treasury Board

April 16
Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Air Pollution Control, Department of
Branch Pilots, Board for
† Medicine, Board of
- Advisory Board of Occupational Therapy
- Informal Conference Committee
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Mental Retardation Advisory Council
Transportation Board, Commonwealth

April 17
Agriculture and Consumer Services, Department of
- Pesticide Control Board
Children, Interdepartmental Regulation of Residential Facilities for
- Coordinating Committee
† Coordinating Prevention, Virginia Council on
Waste Management Facility Operators, Board for

April 20
† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Medicine, Board of
- Informal Conference Committee

April 21
† Accountancy, Board for
Dentistry, Board of
Education, Board of
† Historic Resources, Department of
- State Review Board
† Housing Development Authority, Virginia
† Richmond Metropolitan Authority

April 22
† Accountancy, Board for
† Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group
Education, Board of
Emergency Planning Committee, Local - Gloucester
† Historic Resources, Department of
- Virginia Historic Landmarks Board
† Mental Health, Mental Retardation and Substance Abuse Services Board, State

April 23
Education, Board of
† Environment, Council on the
† Fire Services Board, Virginia
- Fire/EMS Training and Education Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
† Nursing, Board of
- Special Conference Committee
Real Estate Appraiser Board

April 24
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Interior Designers
† Fire Services Board, Virginia
Medicine, Board of
- Informal Conference Committee
† Nursing, Board of
- Special Conference Committee

April 25
Dentistry, Board of

April 27
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Longwood College
- Board of Visitors

April 28
Health Services Cost Review Council, Virginia
Marine Resources Commission
† Medicine, Board of
- Informal Conference Committee
† Nursing and Medicine, Boards of
- Special Committee to Develop Regulations

April 30
† Medicine, Board of
- Informal Conference Committee

May 2
† Museum of Natural History, Virginia
- Board of Trustees

May 4
Commerce, Board of

May 5
Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council

May 6
† Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Dentistry, Board of
Funeral Directors and Embalmers, Board of

May 7
Emergency Planning Committee, Local - Chesterfield

County
† Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board.
Voluntary Formulary Board, Virginia

May 8
† Aging, Department for the
- Long-Term Care Council

May 9
Dentistry, Board of

May 11
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Psychology, Board of
- Examination Committee

May 12
Virginia Resources Authority

May 13
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Corrections, Board of
Interagency Coordinating Council on Early Intervention, Virginia
† Library Board

May 14
Corrections, Board of
- Liaison Committee
† Game and Inland Fisheries, Board of
Youth and Family Services, Board of

May 15
† Game and Inland Fisheries, Board of
Interdepartmental Regulation of Residential Facilities for Children
- Coordinating Committee
† Military Institute, Virginia
- Board of Visitors

May 16
† Game and Inland Fisheries, Board of

May 18
† Agricultual Council, Virginia

May 19
† Agricultual Council, Virginia

May 20
† Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group

May 27
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

June 3
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

June 4
Emergency Planning Committee, Local - Chesterfield County

June 8
Chesapeake Bay Local Assistance Board
- Central Area Review Committee

June 10
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

June 17
† Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group

June 19
Interdepartmental Regulation of Residential Facilities for Children
- Coordinating Committee

June 20
Dentistry, Board of

June 22
Chesapeake Bay Local Assistance Board
- Central Area Review Committee

June 23
† Library Board

June 24
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

PUBLIC HEARINGS

April 6
Education, Board of

April 7
Transportation, Department of

April 8
Transportation, Department of
Youth and Family Services, Board of

April 9
Education, Board of

April 13
Transportation, Department of
† Water Control Board, State

Calendar of Events

April 14
Education, Board of
Mental Health, Mental Retardation and Substance Abuse Services, Department of

April 22
Waste Management, Department of

April 27
† Marine Resources Commission
Waste Management, Department of

May 13
† Youth and Family Services, Board of

May 18
† Health, Department of

May 19
† Education Assistance Authority, State
† Health, Department of

May 20
† Health, Department of

May 21
† Health, Department of

May 27
† Health, Department of

June 11
† Transportation, Department of

June 18
† Transportation, Department of