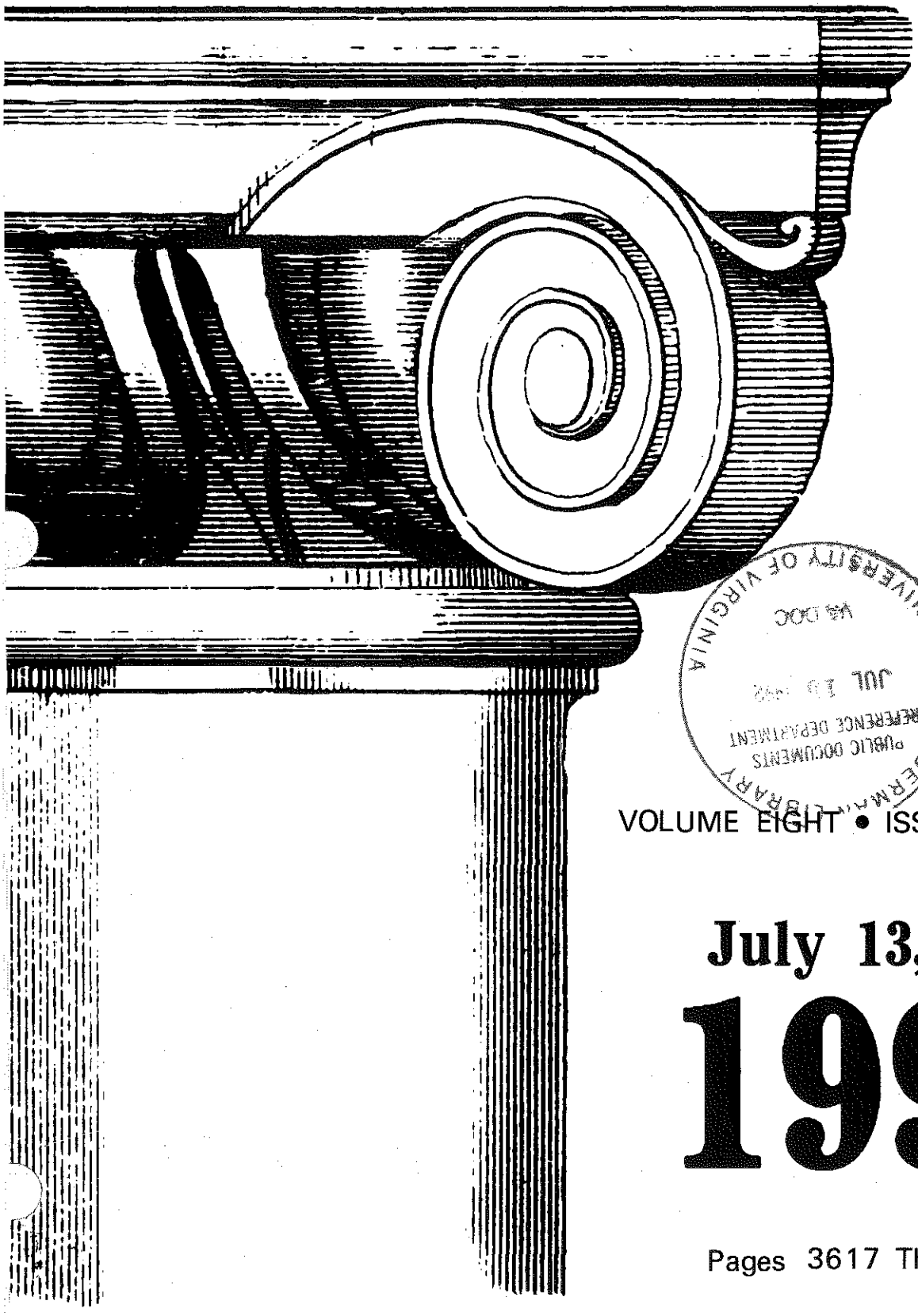
THE VIRGINIA REGISTER

OF REGULATIONS



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July 13, 1992

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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

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VIRGINIA REGISTER OF REGULATIONS

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March 1992 through June 1993

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Volume 8 - 1992	
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Apr. 29	May 18
May 13	June 1
May 27	June 15
June 10	June 29
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† Indicates entries since last publication of the Virginia Register

BOARD FOR ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider amending regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, and clarity in accordance with the board's Public Participation Guidelines.

Statutory Authority: §§ 54.1-201(5) and 54.1-2000 of the Code of Virginia.

Written comments may be submitted until July 15, 1992.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, Board for Accountancy, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-04. Rules and Regulations Governing the Operation of Livestock Markets.** The purpose of the proposed action is to review the regulation for effectiveness and continued need.

Statutory Authority: §§ 3.1-724, 3.1-730 and 3.1-757 of the Code of Virginia.

Written comments may be submitted until July 16, 1992.

Contact: Dr. W.M. Sims, Jr., State Veterinarian, P.O. Box 1163, 1100 Bank Street, Room 600, Richmond, VA 23219, telephone (804) 367-2481.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-05-01. Rules and Regulations Governing the Production, Processing and Sale of Grade "A" Pasteurized Market Milk and Grade "A" Pasteurized Market Milk Products and Certain Milk Products.** The purpose of the proposed action is to evaluate the regulation for effectiveness and continued need.

Statutory Authority: §§ 3.1-530.1 through 3.1-530.9 of the Code of Virginia.

Written comments may be submitted until July 17, 1992.

Contact: Mr. John A. Beers, Program Manager, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-1453.

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 amend the regulations concerning permits for new and expanding industry to address concerns relating to requirements for commercial medical waste incinerators.

Public meeting: A public meeting will be held on August 14, 1992, at 10 a.m. in House Room 1, State Capitol Building, Richmond, Virginia, to discuss the intended action.

Ad hoc advisory group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by close of business July 17, 1992, and provide your name, address, phone number and the organization you represent (if any). Facsimile copies will be accepted only if followed by receipt of the original within three business days. Notification of the composition of the ad hoc advisory group will be sent to all applicants by August 7, 1992. If you are selected to be on the group, you are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

Need and issues involved: The 1992 General Assembly of Virginia passed legislation to impose a moratorium on the issuance of permits for commercial medical waste incinerators (MWIs), and for the promulgation of regulations. The legislation was proposed in response to health concerns from commercial MWI emissions. Although the Virginia Waste Management Board has promulgated regulations regarding the storage, transportation, and incineration of infectious wastes, the Virginia Department of Air Pollution Control has not promulgated air pollution permit regulations specifically addressing MWIs. State and federal air quality regulations governing incineration in general and municipal waste combustors in particular do exist, but none specifically address MWIs.

The General Assembly passed legislation directly addressing MWIs for a number of reasons:

1. Currently, there is more than sufficient capacity at the state's sole commercial MWI to handle the state's medical waste. Concern has been expressed over the possibility that if more commercial MWIs are constructed, large quantities of medical waste will be imported from out of state.

2. Because medical waste has a higher plastics content than ordinary municipal solid waste, incineration of medical waste may generate unusual quantities of toxic or trace metals, dioxins and furans, acid gases and particulate matter. Excessive exposure to dioxin, for example, can cause severe dermatological, cardiovascular, respiratory, pancreatic, and urinary disorders; dioxins and furans are also suspected carcinogens.

3. Removal of pathogens that may cause disease is an issue directly related to incineration of infectious waste.

Regulatory alternatives: The alternatives are to either (i) amend the regulations to satisfy the provisions of the law and associated regulations and policies or (ii) take no action to amend the regulations.

Regulatory constraints: The legislation imposes a moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs). An MWI is considered "commercial" if more than 25 percent of the waste it burns is generated off-site. "Infectious waste" is defined as solid waste with the potential to cause infectious disease in humans. The law states, "No permits for the construction, reconstruction, or expansion of a commercial infectious waste incinerator shall be issued, reviewed, processed, or approved by the State Air Pollution Control Board or the Virginia Waste Management Board prior to (i) the effective date of the regulations required to be promulgated by the State Air Pollution Control Board and the Virginia Waste Management Board or (ii) September 1, 1993, whichever first occurs." Existing and proposed noncommercial MWIs, and existing commercial MWIs are not affected.

The law further states, "The State Air Pollution Control Board and the Virginia Waste Management Board shall each promulgate regulations with respect to the permitting of infectious waste incinerators no later than September 1, 1993." Factors to be considered by both boards include:

1. An assessment of the annual need for the disposal of infectious waste generated in Virginia;

2. Ways to reduce the volume of infectious waste;

3. The availability of disposal methods other than incineration;

4. Siting criteria;

5. Standards for assessing the economic feasibility of proposed commercial MWIs;

6. The propriety of establishing different criteria and procedures for permitting MWIs;

7. The economic demand for importation of infectious waste from out of state, and an estimate of the incinerator capacity to be allowed for such waste;

8. The impact of the Clean Air Act Amendments of 1990 on the incineration of infectious waste by hospitals; and

9. The impact of reports by EPA regarding the Medical Waste Tracking Act of 1988.

Applicable statutory provisions:

1. State. The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

2. Federal.

a. The legal basis for the regulation is § 110 of the federal Clean Air Act (42 USC 7401 et seq., 91 State 685).

b. The regulatory basis for the regulation is Subpart L and Section 51.281 of 40 CFR Part 51.

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

Written comments may be submitted until August 14, 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) 786-1624.

BOARD OF DENTISTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Dentistry intends to consider amending regulations entitled: **VR 255-01-1. Board of Dentistry Regulations.** The purpose of the proposed action is to implement changes effective July 1, 1992, to § 54.1-3408 which authorizes a dentist to cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent certified by the Board of Dentistry who has satisfactorily completed a training program for this purpose that is approved by the Board of Dentistry.

Statutory Authority: § 54.1-3408 of the Code of Virginia.

Written comments may be submitted until August 1, 1992.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9906.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider amending regulations entitled: **VR 270-01-0011. Regulations Governing Vocational Education.** The purpose of the proposed action is to fulfill the requirements of Title I, Part B, Section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act of 1990, which requires each state receiving funds to develop and implement a statewide system of core standards and measures of performance for vocational education. The proposed amendment sets forth the standards and measures upon which the system will be based.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until July 15, 1992.

Contact: Roy A. Carter, Associate, Vocational Education, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-3300 or toll-free 1-800-292-3820.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-05-22.1. Gas and Oil Regulations.** The purpose of the proposed action is to amend regulations governing gas and oil exploration, development and production to implement the provisions of HB 1146, passed by the 1992 General Assembly, relating to underground injection wells and groundwater supplies.

Statutory Authority: § 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until July 14, 1992.

Contact: B. Thomas Fulmer, State Gas and Oil Inspector, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Drive, Abingdon VA 24210, telephone (703) 628-8115 or toll-free 1-800-552-3831.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The purpose of the proposed action is to (i) promulgate regulations necessary to implement 1992 legislation concerning (a) mandatory continuing education for pharmacists, (b) relicensure and regulations of wholesalers, and (c) 30-day notification of pharmacy closing; and (ii) establish and amend related licensure fees.

1992 legislation established a requirement for mandatory continuing education for pharmacists. The Board of Pharmacy is promulgating regulations to implement this legislation with regard to approval of continuing education programs, conditions for granting of exemptions and extensions, proof of continuing education, record-keeping, establishment of an inactive licensure status, and establishment of related fees or amendment of existing fees.

1992 legislation established a requirement of posting a notice of pharmacy closing 30 days prior to actual closing date, unless exempted from this requirement by the board. The Board of Pharmacy is promulgating regulations establishing exemptions or conditions for an exemption to this requirement.

In response to a federal mandate requiring and establishing conditions for state licensure of wholesale distributors of prescription drugs, 1992 legislation repealed the Board of Pharmacy's current "wholesaler" category, and established three new categories of licensure. The Board of Pharmacy is promulgating regulations and amending existing regulations to implement this legislation with regard to storage, handling, and distribution of drugs, devices, and/or paraphernalia and the establishment and amendment of related fees.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until July 29, 1992.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **Aid to Dependent Children Program - Disqualification for Intentional Program Violation.** The purpose of the proposed action is to implement § 63.1-124.2 of the Code of Virginia and federal regulations at 445 CFR 235.112-113, to implement disqualification for intentional program violations and establish administrative disqualification hearings in the Aid to Dependent Children program.

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

Written comments may be submitted until July 15, 1992, to George Sheer, Bureau Chief, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699.

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

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: **VR 615-37-01. Regulation for Criminal Records Check for Homes for Adults and Adult Day Care Centers.** The purpose of the proposed action is to set forth requirements for criminal record reports for compensated employees of Homes for Adults and Adult Day Care Centers.

Statutory Authority: § 63.1-174 of the Code of Virginia.

Written comments may be submitted until July 29, 1992, to Cheryl Worrell, Program Development Supervisor, Department of Social Services, 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.

† 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: **VR 615-01-43. Aid to Dependent Children Program - Fifth Degree Specified Relative.** The purpose of the proposed action is to expand the definition of relative of specified degree to include relatives of fifth degree relationship to the dependent child, such as a first cousin once removed.

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

Written comments may be submitted until August 12, 1992, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699.

Contact: Peggy Friedenberg, Agency Regulatory Liaison, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

† 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: **VR 615-80-01. Human Subject Research.** The purpose of the proposed action is to develop rules and regulations to assure the protection of participants in human research. These rules will apply to human subject research coordinated or authorized by the Department of Social Services, local social service agencies and any agency or facility licensed by the department.

Statutory Authority: § 63.1-25.01 of the Code of Virginia.

Written comments may be submitted until August 14, 1992, to Barbara Cotter, Division of Management and Customer Services, Bureau of Research and Systems Support.

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

DEPARTMENT OF SOCIAL SERVICES (BOARD OF) AND THE CHILD DAY CARE COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services and the Child Day Care Council intend to consider repealing regulations entitled: **VR 175-04-01 and VR 615-32-02. Criminal Records Checks.** This regulation will be superseded by the proposed regulation entitled "Regulations for Criminal Record Checks for Child Welfare Agencies" which incorporated changes made by the 1992 General Assembly.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until July 29, 1992, to Cheryl Worrell, Program Development Supervisor,

Department of Social Services, 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.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services and the Child Day Care Council intend to consider promulgating regulations entitled: **VR 175-10-01 and VR 615-36-01. Regulations for Criminal Records Checks for Child Welfare Agencies.** The purpose of the proposed action is to supersede regulation entitled Criminal Record Checks VR 615-32-02 and VR 175-04-01. The proposed regulation will establish criminal record check procedures for child welfare programs and will incorporate the requirements of Senate Bill 226.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until July 29, 1992, to Cheryl Worrell, Program Development Supervisor, Department of Social Services, 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 WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-40-01. Infectious Waste Management Regulations.** The purpose of the proposed action is to (i) amend the regulations to correct errors; (ii) improve and update existing exemptions, standards and procedures; (iii) add methods for the review of alternate technologies and tracking waste shipments; and (iv) consider mail shipments, reusable container management and other issues. The department may form an advisory panel to help it consider these amendments. Persons or organizations interested in being a member of the panel, please notify the department.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Written comments may be submitted until August 26, 1992, to the Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, ATTN: Infectious Waste Regulations.

Contact: Robert G. Wickline, Director of Research, Office of Science Services, Department of Waste Management, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2321.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed action is to incorporate by reference changes that were made by U.S. DOT to Title 49, Code of Federal Regulations from July 1, 1991 to June 1, 1992.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until August 13, 1992.

Contact: C. Ronald Smith, Hazardous Waste Enforcement Chief, Department of Waste Management, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-4761.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-01-01. Fees for Permits and Certificates.** The purpose of the proposed action is to adopt a regulation which establishes, in regulation, a schedule of fees based on the time and complexity associated with processing various categories of permits within the maximum amounts specified in § 62.1-44.15:6 and specifies the method to be used to collect such fees.

All entities which apply for new permits or certificates, apply for reissuance of permits or certificates, or have permits modified at their request or by an action initiated by the Board will be subject fees in amounts not to exceed maximums specified in Chapter 621 of the 1992 Acts of the General Assembly. Specifically, these maximum amounts for the issuance or reissuance of a permit or certificate, or the modification of a permit or certificate at the request of the permit or certificate holder are as follows:

ISSUANCE/REISSUANCE

Type of Permit/Certificate Category V8 Maximum Amount

1. Virginia Pollutant Discharge Elimination System
   - Major $8,000
   - Minor $3,500

General ..... $ 400
2. Virginia Pollutant Abatement
Agriculture/Concentrated $1,000
Agriculture/Intensified ..... $ 500
Industrial/Wastewater $5,000
Industrial/Sludge $2,500
Municipal/Wastewater $5,000
Municipal/Sludge $2,500
Other ..... $ 250

3. 401 Certification/Virginia Water Protection
Individual $3,000
General ..... $ 400
Waiver ..... $ 400
4. Ground Water Withdrawal
Agricultural Withdrawals
Agricultural withdrawals not exceeding 150 million gallons in any single month ..... $ 250
Agricultural withdrawals greater than 150 million gallons but less than 300 million gallons in any single month ..... $ 400
Agricultural withdrawals of 300 million gallons or greater in any single month ..... $ 600
All Other Withdrawals $2,000

5. Surface Water Withdrawal
Agricultural Withdrawals
Agricultural withdrawals not exceeding 150 million gallons in any single month ..... $ 250
Agricultural withdrawals greater than 150 million gallons but less than 300 million gallons in any single month ..... $ 400
Agricultural withdrawals of 300 million gallons or greater in any single month ..... $ 600
All Other Withdrawals $4,000

The maximum fees for modification of a permit or certificate initiated by the board shall not exceed 75% of the maximum amount for issuance or reissuance of a permit or certificate, or modification of a permit or certificate at the request of the permit or certificate holder.

Payments to the Department of Game and Inland Fisheries and the Department of Conservation and Recreation for reviewing any permit application they are required to review pursuant to requirements of the Code of Virginia will be made from the maximum fee amounts specified above. These payments will be up to 25% of the total fee, but not more than $100.

All issues related to implementation of Chapter 621 of the 1992 Acts of the General Assembly will be considered. Of particular interest are proposals related to fees for modifications of permits and certificates and options for the collection of fees.

The board will hold public meetings regarding the Fees for Permits and Certificates regulation. See Calendar of Events Section.

Applicable laws and regulations include Chapter 621 of the 1992 Acts of the General Assembly, the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the Board's Pulbic Participation Guidelines.

Statutory Authority: § 62.-44.15:6 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5166.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the State Water Control Board intends to repeal regulations entitled: **VR 680-13-01. Rules of the Board and Standards for Water Wells.** The purpose of the proposed action is to repeal VR 680-13-01 Rules of the Board and Standards for Water Wells and promulgate VR 680-13-07 Ground Water Withdrawal Regulations pursuant to the Ground Water Management Act of 1992 (effective July 1, 1992).

Paragraph 2 of Chapter 812 of the 1992 Acts of the General Assembly repeals the Groundwater Act of 1973 (Code of Virginia Title 62.1, Chapter 3.4, § 62.1-44.83 through § 62.1-44.107; effective July 1, 1992). Legislative authority to promulgate VR 680-13-01 Rules of the Board and Standards for Water Wells was contained in Chapter 3.4 of Title 62.1 of the Code of Virginia. Concurrently with this action, the board is considering the adoption of VR 680-13-07 Ground Water Withdrawal Regulations in accordance with Paragraph 1 of Chapter 812 of the 1992 Acts of the General Assembly added Chapter 25 (§§ 62.1-254 through 62.1-270) to Title 62.1 of the Code of Virginia (effective July 1, 1992).

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Groundwater Act of 1973, The Ground Water Management Act of 1992 (Chapter 812 of the 1992 Acts of Assembly), Rules of the Board and Standards for Water Wells, and the Administrative Process Act.

Statutory Authority: § 62.1-44.15 (10) of the Code of

Virginia.

Written comments may be submitted until August 26, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to incorporate the amendments enacted by the 1992 General Assembly in Chapters 819 and 456 (House Bills 1172 and 1043), establish revised financial responsibility compliance dates for owners and operators of underground storage tanks and petroleum storage tank vendors, and delete requirements for the Virginia Underground Petroleum Storage Tank Fund which are to be established concurrently with this proposed regulatory action in a new regulation.

The General Assembly's establishment of a sliding scale for financial responsibility (effective July 1, 1992) will reduce the amount of financial responsibility required of many owners and operators of underground storage tanks and petroleum storage tank vendors. Therefore, there would be no negative financial impact imposed on the regulated community. Extension of compliance dates will benefit the regulated community by providing owners and operators and vendors with more time in which to comply with financial responsibility requirements.

An issue under consideration is the amount and type of documentation necessary to establish the amount of petroleum pumped on an annual basis. This is required in order to determine the level of financial responsibility required for owners and operators.

See Calendar of Events section for schedule of public meetings.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), and Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:8 (8) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-13-06. Virginia Petroleum Storage Tank Fund Requirements.** The pupose of the proposed action is to adopt a regulation describing the requirements for the Virginia Petroleum Storage Tank Fund.

The amendments to the State Water Control Law enacted by the 1992 General Assembly (effective July 1, 1992) increased the number of persons who have access to the Fund and reduced the amount of financial responsibility required to certain categories of regulated owners and operators. Therefore, there would be no negative financial impact imposed on the regulated community and a substantial benefit may be conferred upon certain persons who are not part of the regulated community.

Issues under consideration include (1) the criteria which must be met prior to the board initiating State-Lead corrective actions at a site where a release has occurred; (2) limitations on access to the Fund by operators of facilities with aboveground storage tanks (regulated and unregulated); and (3) access to the Fund for subsequent property owners who discover/purchase abandoned tanks located on the property.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), the Underground Storage Tanks; Technical Standards and Corrective Action Requirements (VR 680-13-02), and Chapter 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:8 (8) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-13-07. Ground Water Withdrawal Regulation.** The purpose of the proposed action is to adopt regulations which establish administrative procedures for the establishment of ground water management areas and the issuance of ground water withdrawal permits within designated areas. The regulations will also establish technical criteria to be used when evaluating an application for a ground water withdrawal permit as well as enforcement procedures to assure compliance with the regulations.

Paragraph 1 of Chapter 812 of the 1992 Acts of the General Assembly added Chapter 25 (§ 62.1-254 through § 62.1-270) to Title 62.1 of the Code of Virginia (effective July 1, 1992). Chapter 25 is titled the Ground Water Management Act of 1992. Section 62.1-256.8 specifically requires the Board to adopt regulations necessary to administer and enforce the provisions of Chapter 25.

All ground water users who hold existing permits or certificates of ground water right in existing ground water management areas will be required to apply for new permits with terms not to exceed 10 years. An unknown number of agricultural users who were exempt from the Groundwater Act of 1973 will be required to apply for a permit. Any person wishing to initiate a withdrawal in excess of 300,000 gallons per month or expand an existing permitted withdrawal within existing ground water management areas will be required to apply for a ground water withdrawal permit. The Ground Water Management Act of 1992 establishes criteria for the creation of additional ground water management areas within which any user of greater than 300,000 gallons per day would be required to apply for a permit.

All issues related to the implementation of the Ground Water Management Act of 1992 will be open for consideration. Staff of the Board is especially interested in input on methodologies to determine historic ground water withdrawals from wells that were not metered, methodologies to determine the amount of ground water needed annually for drought relief wells, information necessary to document water withdrawal savings achieved by water conservation, information necessary to document additional ground water needed (in addition to existing use) during the term of a permit, strategies to assure that the maximum amount of ground water is preserved and protected for future beneficial uses, strategies for prioritizing types of water use when evaluating withdrawal applications, and establishment of criteria for the issuance or denial of ground water withdrawal permits.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Groundwater Act of 1973, The Ground Water Management Act of 1992 (Chapter 812 of the 1992 Acts of Assembly), Rules of the Board and Standards for Water Wells, and the Administrative Process Act.

Statutory Authority: § 62.1-256.8 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-12. Aboveground Storage Tanks Registration Requirements.** The purpose of this proposed regulatory action is to adopt new regulations which will allow the board to compile an inventory of facilities with an aboveground storage capacity of greater than 1320 gallons of oil or individual aboveground storage tanks having a storage capacity of greater than 660 gallons of oil.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of aboveground storage tanks to register their facilities and tanks with the board. This will impose minimum additional requirements as many of these facilities will be subject to a similar registration program under federal statute and regulation.

An issue under consideration is ensuring that the regulations consider similar requirements under federal statute or regulation. The board will determine the adequacy of the federal requirements when drafting these regulations.

Another issue under consideration is the establishment of administrative fees. Section 62.1-44.34:19.1 authorizes the board, if the board determines that registration under federal law or regulations is inadequate for the purpose of compiling its inventory and that additional registration requirements are necessary, to assess a fee, according to a schedule based on the size and type of the facility or tank, not to exceed $100 per facility or $50 per tank, whichever is less. The board seeks comments on the appropriateness of establishing a fee schedule for registration or reregistration.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and Chapter 456 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:19.1 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-13. Aboveground Storage Tanks Prevention Standards and Operational Requirements.** The purpose of this proposed regulatory action is to adopt regulations necessary to prevent pollution of state waters, lands, or storm drain systems from the discharge of oil from new and existing aboveground storage tanks. Section 62.1-44.34:15.1 states that the regulations shall provide:

1. For existing aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control, testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the board) and formal tank inspections every five years in accordance with accepted industry practices and procedures approved by the board. Initial testing shall be on schedule approved by the board;

b. To prevent overfills, requirements for safe fill and shut down procedures, including an audible staged alarm with immediate and controlled shut down procedures, or equivalent measures established by the board;

c. To prevent leaks from piping, requirements for cathodic protection, and pressure testing to be conducted at least once every five years, or equivalent measures established by the board;

d. To prevent and identify leaks from any source, requirements (i) for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the board, performed by a person certified or trained by the operator in accordance with board requirements, (ii) for monthly gauging and inspection of all ground water monitoring wells located at the facility, and monitoring of the well head space for the presence of vapors indicating the presence of petroleum, and (iii) for quarterly sampling and laboratory analysis of the fluids present in each such monitoring well to determine the presence of petroleum or petroleum byproduct contamination; and

e. To ensure proper training of individuals conducting inspections, requirements for proper certification or training by operators relative to aboveground storage tanks.

2. For existing aboveground storage tanks at facilities with an aggregate capacity of less than one million gallons but more than 25,000 gallons:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control and testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the board). Initial testing shall be on a schedule approved by the board;

b. To prevent overfills, requirements for safe fill and shut down procedures;

c. To prevent leaks from piping, requirements for pressure testing to be conducted at least once every five years or equivalent measures established by the board; and

d. To prevent and identify leaks from any source, requirements for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the board, performed by a person certified or trained by the operator in accordance with board requirements developed in accordance with Item 1 above.

Further, the board shall establish performance standards for aboveground storage tanks installed, retrofitted or brought into use after the effective date of the regulations promulgated pursuant to this subsection that incorporate all technologies designed to prevent oil discharges that have been proved in accordance with accepted industry practices and shown to be cost-effective.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of aboveground storage tanks of oil to adhere to the prevention standards set by statute. These standards may require some upgrade and improvements to be made to facilities not already in substantial conformance with applicable federal statute and regulation. These regulations will also require additional operational procedures to be met.

An issue under consideration is ensuring that the regulations are in substantial conformance with the current codes and standards recommended by the National Fire

Protection Association as well as practices contained in applicable American Petroleum Institute publications and other accepted industry standards. The board will also consider those pollution prevention standards mandated under federal statute and regulation.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and Chapter 456 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:15.1 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

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† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-14. Aboveground Storage Tanks Financial Responsibility Requirements.** The purpose of this intended regulatory action is to adopt new regulations setting the amount of financial responsibility operators of facilities with aboveground storage tanks must demonstrate.

The amendments to the State Water Control Law enacted by General Assembly will require operators of aboveground storage tanks of oil to demonstrate financial responsibility based on the aggregate capacity of the facilities. This may require operators to obtain additional pollution insurance to meet the amount required by regulation. No governmental agency is required to comply with these regulations.

An issue under consideration is ensuring that the regulations consider those parameters established by statute prior to determining the amount of financial responsibility required to be demonstrated. In no instance will this amount exceed five cents per gallon of aboveground storage capacity or five million dollars for a pipeline.

Another issue under consideration is the establishment of administrative fees for acceptance of evidence of financial responsibility. Section 62.1-44.34:21 of the Code of Virginia authorizes the board to collect from any operator seeking acceptance of evidence of financial responsibility fees sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:16 as to an operator seeking acceptance of evidence of financial responsibility. The board seeks comments on the appropriateness of establishing a fee schedule for acceptance of evidence of financial responsibility.

Public meeting will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

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 AIR POLLUTION CONTROL BOARD

Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution. Public Participation Guidelines (Appendix E).**

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

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

The regulation amendments are summarized below and would amend the current regulatory public participation guidelines as follows:

1. Allow for supplemental public participation to gain additional input or to meet federal requirements.

2. Require the notice of intended regulatory action (NOIRA) to include (i) a statement as to the need for the regulatory action; (ii) a description of alternatives available, if any, to meet the need; (iii) a request for comments on the intended regulatory action, including ideas to assist in the formation of the regulation; and (iv) a request for comments on the costs and benefits of the alternatives or other alternatives.

3. Require an expanded notice of public comment (NOPC) to include (i) notice of the opportunity to comment on the proposal; (ii) a description of the provisions of the proposal which are more restrictive than applicable federal requirements and why; (iii) a request for comments on the costs and benefits on the proposal; (iv) a statement that a certain analysis has been conducted and is available for viewing by the public upon request.

4. Require an analysis of the following to be conducted: (i) a statement of purpose; (ii) a statement of estimated impact, including number and types of regulated entities or persons affected, projected cost to the department for implementation and enforcement, and beneficial impact the regulation is designed to produce; (iii) an explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation; (iv) an estimate of the impact of the proposed regulation upon small businesses; (v) a discussion of alternative approaches that were considered to meet the need and a statement as to why the proposed regulation is the alternative that places the least burden upon the regulated entities; and (vi) a schedule for evaluating the regulation within two years of the effective date.

5. Require that a summary or copies of the NOIRA and NOPC comments be submitted to the board.

APPENDIX E.
PUBLIC PARTICIPATION ~~GUIDELINES~~ *PROCEDURES .*

§ 1. General.

A. The procedures in ~~Section H~~ *§ 2* of this appendix shall be used for soliciting the input of interested ~~parties~~ *persons* in the *initial* formation and development *, amendment* or repeal of regulations ~~and any revision thereto~~ in accordance with the Administrative Process Act. ~~These procedures shall not only be utilized prior to the formation and drafting of regulations, but shall be utilized during the entire formation, promulgation and final adoption process.~~ *This appendix does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.*

B. At the discretion of the board or the department, the procedures in § 2 of this appendix may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these procedures shall not affect the validity of any regulation otherwise adopted in accordance with this appendix.

§ 2. Public participation procedures.

A. *The department shall* establish and maintain a ~~Regulation Development~~ list consisting of ~~parties~~ *persons* expressing an interest in the adoption, amendment or repeal of regulations.

~~B. Prepare Notice of Proposed Regulatory Action, which will include:~~

~~1. Subject of the proposed regulation.~~

~~2. Identification of the entities that will be affected.~~

~~3. Discussion of the need and purpose of the proposed regulation and the issues involved.~~

4. Regulatory alternatives.

5. Regulatory constraints.

6. Tentative determinations by the agency, if any.

7. Listing of applicable laws or regulations, and location where these documents can be reviewed or obtained.

8. Timetable for reaching a decision.

9. Request for comments from interested parties.

10. Request for volunteers to serve on ad hoc advisory group (whenever appropriate).

11. Notification of time and place of public meeting.

12. Name, address and telephone number of staff person to be contacted for further information.

C. Obtain Board approval of the notice.

D. Schedule a public meeting to receive views and comments and answer questions of the public. The meeting will be held no less than thirty days following publication of the notice and will normally be held in Richmond; but if the intended regulation will apply only to a particular area of the state, the meeting will be held in the area affected.

E. Disseminate notice to the public via:

1. Distribution by mail to parties on Regulation Development List.

2. Publication in the Virginia Register.

3. Press release to media.

F. Whenever the Board considers it appropriate form ad hoc advisory group to make recommendations on the proposed regulation. The ad hoc advisory group shall be formed so as to give a balanced representation of interested parties.

G. After consideration of public input, draft regulation (in consultation with ad hoc advisory group) and prepare documentation for the Governor's Office.

H. Present draft regulation to Board and request authority for public hearing.

I. Schedule a public hearing to receive public comments on draft regulation. The hearing shall be at the end of a 60 day public comment period. As a minimum, there shall be at least one hearing in the Richmond area; and additional hearings may be held throughout the state as Board policy may dictate. A Board member will be present at the hearing in the Richmond area if the Board expects the public testimony to be significant. draft regulation to advisory group and to all who attended the public meeting or submitted comments.

K. Submit regulation to a 60 day public hearing/comment period by forwarding the following documents to the Virginia Registrar of Regulations:

1. Notice of public hearing/comment period, which must contain the following:

a. The date, time and place of the hearing.

b. The subject, substance, issues, basis and purpose of the regulation.

c. The legal authority of the agency to act.

d. The name, address and telephone number of an individual to contact for further information.

2. Full text of regulation.

3. Summary of regulation.

4. Statement of basis, purpose and impact.

L. Concurrently with the preceding step, submit required documentation to the Governor's Office.

M. Registrar of Regulations publishes the hearing notice in Virginia Register and in Richmond area newspapers and in consultation with the Board publishes the hearing notice in newspapers in other regions of the state with the minimum requirement being that the notice be published in at least one major newspaper of general circulation in each Air Quality Control Region affected. Registrar of Regulations also publishes documents listed in subsection K 1 through 4 above in the Virginia Register.

N. During the public comment period, the regulation is reviewed by the following:

1. The public

2. The Governor

3. The Legislature

4. Cabinet Secretary

5. The Attorney General

O. Following the public hearing the remaining steps in the adoption process are carried out in accordance with the provisions of the Administrative Process Act.

B. Whenever the board so directs or upon its own initative, the department may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The department may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the department.

D. The department shall issue a notice of intended regulatory action whenever it considers the adoption, amendment or repeal of any regulation.

1. The notice of intended regulatory action shall include at least the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the notice of intended regulatory action.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The department shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the executive director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held, the notice of intended regulatory action shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for notices of intended regulatory action under this section shall be no less than 30 days after publication of the notice of intended regulatory action in the Virginia Register of Regulations.

E. The department shall disseminate the notice of intended regulatory action to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list established under subsection A of this section.

F. After consideration of public input, the department may prepare the draft proposed regulation and prepare the notice of public comment and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft proposed regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the notice of intended regulatory action shall be distributed to the ad hoc advisory group during the development of the draft proposed regulation. This summary or copies of the comments received in response to the notice of intended regulatory action shall also be distributed to the board.

G. Upon approval of the draft proposed regulation by the board, the department may, at its discretion, publish the notice of public comment and the proposal for public comment.

H. The notice of public comment shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the proposal may be obtained, and the name, address, and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the department and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the department is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the department for implementation and enforcement.

(4) Beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the department believes that the proposed regulation is the least burdensome alternative to the regulated entities.

f. A schedule setting forth when, within two years after the effective date of the regulation, the department will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Administrative Process Act to receive comments on the proposed regulation. (In those cases in which the department elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Administrative Process Act.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the department determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the notice of public comment in the Virginia Register.

J. The department shall disseminate the notice of public comment to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

2. Distribution by mail to persons on the list established under subsection A of this section.

K. The department shall prepare a summary of comments received in response to the notice of public comment and submit it or, if requested, submit the full comments to the board. Both the summary and the comments shall become a part of the department file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

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Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution - Definitions (Part I) and General Provisions (Part II).**

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

Public Hearing Date: September 2, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation amendments concern provisions covering general provisions and are summarized below:

1. Revise the provisions relating to making case decisions to:

a. Clarify the decision making process;

b. Clarify the statutory basis for the procedures for conducting associated hearings and proceedings; and

c. Clarify the process for appealing decisions.

2. Establish criteria for determining confidential information.

3. Update various provisions to conform to Code of Virginia changes.

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Definitions (Part I) and General Provisions (Part II).

PART I.
GENERAL DEFINITIONS.

§ 120-01-01. General.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in § 120-01-02.

B. Unless specifically defined in the Virginia Air Pollution Control Law or in these regulations, terms used shall have the meanings commonly ascribed to them by recognized authorities.

C. In addition to the definitions given in this part, some other major divisions (i.e. parts, rules, etc.) of these regulations have within them definitions for use with that specific major division.

§ 120-01-02. Terms defined.

"Actual emissions rate" means the actual rate of emissions of a pollutant from an emissions unit. In general acutual emissions shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the most recent two-year period or some other two-year period which is representative of normal source operation. If the board determines that no two-year period is representative of normal source operation, the board shall allow the use of an alternative period of time upon a determination by the board that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.

"Affected facility" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air quality" means the specific measurement in the ambient air of a particular air pollutant at any given time.

"Air quality control region" means any area designated as such in Appendix B.

"Air quality maintenance area" means any area which, due to current air quality or projected growth rate or both, may have the potential for exceeding any ambient air quality standard set forth in Part III within a subsequent 10-year period and designated as such in Appendix H.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Ambient air quality standard" means any primary or secondary standard designated as such in Part III.

"Board" means the State Air Pollution Control Board or its designated representative.

"Class I area" means any prevention of significant deterioration area designated as such in Appendix L.

"Class II area" means any prevention of significant deterioration area designated as such in Appendix L.

"Class III area" means any prevention of significant deterioration area designated as such in Appendix L.

"Confidential information" means secret formulae, secret processes, secret methods or other trade secrets which are proprietary information certified by the signature of the responsible party for the owner to meet the following critieria: (i) information for which the owner has been taking and will continue to take measures to protect confidentiality; (ii) information that has not been and is not presently reasonably obtainable without the owner's consent by private citizens or other firms through legitimate means other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding; (iii) information which is not publicly available from sources other than the owner; and (iv) information the disclosure of which would cause substantial harm to the owner.

"Consent agreement" means an agreement that the owner or any other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with these regulations, by mutual agreement of the owner or any other person and the board.

"Consent order" means a consent agreement issued as an order. Such orders may be issued without a hearing.

"Continuous monitoring system" means the total equipment used to sample and condition (if applicable), to analyze, and to provide a permanent continuous record of emissions or process parameters.

"Control program" means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

1. The date by which contracts for emission control system or process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.

2. The date by which the on-site construction or

installation of emission control equipment or process change is to be initiated.

3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.

4. The date by which final compliance is to be achieved.

"Criteria pollutant" means any pollutant for which an ambient air quality standard is established under Part III.

"Day" means a 24-hour period beginning at midnight.

"Delayed compliance order" means any order of the board issued after an appropriate hearing to an owner which postpones the date by which a stationary source is required to comply with any requirement contained in the applicable State Implementation Plan.

"Department" means any employee or other representative of the Virginia Department of Air Pollution Control, as designated by the executive director.

"Dispersion technique"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

a. Using that portion of a stack which exceeds good engineering practice stack height;

b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

2. The preceding sentence does not include:

a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

b. The merging of exhaust gas streams where:

(1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

c. Smoke management in agricultural or silvicultural prescribed burning programs;

d. Episodic restrictions on residential woodburning and open burning; or

e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

"Emergency special order" means any order of the board issued under the provisions of § 10.1-1309 B, after declaring a state of emergency and without a hearing, to owners who are permitting or causing air pollution, to cease such pollution. Such orders shall become invalid if an appropriate hearing is not held within 10 days after the effective date.

"Emission limitation" means any requirement established by the board which limits the quantity, rate, or concentration of continuous emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission reduction.

"Emission standard" means any provision of Parts IV, V or VI which prescribes an emission limitation, or other requirements that control air pollution emissions.

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

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the satisfaction of the board to have a consistent and quantitative relationship to the reference method under specified conditions.

"Excess emissions" means emissions of air pollutant in excess of an emission standard.

"Excessive concentration" is defined for the purpose of determining good engineering practice (GEP) stack height under subdivision 3 of the GEP definition and means:

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of § 120-08-02, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivision 2 of the GEP definition, either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subdivision 1 of this definition, except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the board; and

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Executive director" means the executive director of the Virginia Department of Air Pollution Control or his designated representative.

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

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC 7401 et seq., 91 Stat 685.

"Formal hearing" means board processes other than those informational or factual inquiries of an informal nature provided in §§ 9-6.14:7.1 and 9-6.14:11 of the Administrative Process Act and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 9-6.14:8 of the Administrative Process Act in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 9-6.14:12 of the Administrative Process Act in connection with case decisions.

"Good engineering practice" (GEP) stack height means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;

2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under Part VIII,

$$Hg = 2.5H,$$

provided the owner produces evidence that this equation was actually relied on in establishing an emission limitation;

b. For all other stacks,

Hg = H + 1.5L,

where:

Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s) provided that the board may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a field study approved by the board, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Locality" means a city, town, county or other public body created by or pursuant to state law.

"Malfunction" means any sudden failure of air pollution control equipment, of process equipment, or of a process to operate in a normal or usual manner, which failure is not due to intentional misconduct or negligent conduct on the part of the owner or other person.

"Metropolitan statistical area" means any area designated as such in Appendix G.

"Monitoring device" means the total equipment used to measure and record (if applicable) process parameters.

"Nearby" as used in the definition of good engineering practice (GEP) is defined for a specific structure or terrain feature and

1. For purposes of applying the formulae provided in subdivision 2 of the GEP definition means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed 2 miles if such feature achieves a height (Ht) 0.8 km from the stack that is at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in 40 CFR Part 60.

"Nonattainment area" means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant including, but not limited to, areas designated as such in Appendix K.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Order" means any decision or directive of the board, including special orders, emergency special orders and orders of all types, rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of these regulations. Unless specified otherwise in these regulations, orders shall only be issued after the appropriate hearing.

"Organic compound" means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic disulfide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

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

"Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable

reference method, or an equivalent or alternative method.

"Party" means any person named in the record who actively participates in the administrative proceeding and who has an interest that may be directly affected by the case decision resulting from the proceeding. The term "party" also means the department.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"Performance test" means a test for determining emissions from new or modified sources.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Prevention of significant deterioration area" means any area not designated as a nonattainment area in Appendix K for a particular pollutant and designated as such in Appendix L.

"Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"Public hearing" means, unless indicated otherwise, an informal proceeding, similar to that provided for in § 9-6.14:7.1 of the Administrative Process Act, held to afford persons an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in Part III: the applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been ~~cancelled~~ *canceled* in accordance with 40 CFR 53.11 or 40 CFR 53.16.

2. For emission standards in Parts IV and V: Appendix A of 40 CFR Part 60.

3. For emission standards in Part VI: Appendix B of 40 CFR Part 61.

"Regional director" means the regional director of an administrative region of the Department of Air Pollution Control or his designated representative.

"Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials, Standard D323-82, Test Method for Vapor Pressure of Petroleum Products (Reid Method) (see Appendix M).

"Run" means the net period of time during which an emission sampling is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

"Source" means any one or combination of the following: buildings, structures, facilities, installations, articles, machines, equipment, landcraft, watercraft, aircraft or other contrivances which contribute, or may contribute, either directly or indirectly to air pollution. Any activity by any person that contributes, or may contribute, either directly or indirectly to air pollution, including, but not limited to, open burning, generation of fugitive dust or emissions, and cleaning with abrasives or chemicals.

"Special order" means any order of the board issued:

1. Under the provisions of § 10.1-1309:

a. To owners who are permitting or causing air pollution to cease and desist from such pollution;

b. To owners who have failed to construct facilities in accordance with or have failed to comply with plans for the control of air pollution submitted by them to, and approved by the board, to construct such facilities in accordance with or otherwise comply with such approved plan;

c. To owners who have violated or failed to comply with the terms and provisions of any order or directive issued by the board to comply with such terms and provisions;

d. To owners who have contravened duly adopted and promulgated air quality standards and policies to cease and desist from such contravention and to comply with such air quality standards and policies; and

e. To require any owner to comply with the provisions of this chapter and any decision of the board; or

2. Under the provisions of § 10.1-1309.1 requiring that an owner file with the board a plan to abate, control, prevent, remove, or contain any substantial and imminent threat to public health or the environment that is reasonably likely to occur if such source ceases operations.

"Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct, but not including flares.

"Stack in existence" means that the owner had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or

2. Entered into binding agreements or contractual obligations, which could not be ~~cancelled~~ *canceled* or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard conditions" means a temperature of 20° C (68° F) and a pressure of 760 mm of Hg (29.92 in. of Hg).

"Standard of performance" means any provision of Part V which prescribes an emission limitation or other requirements that control air pollution emissions.

"Startup" means the setting in operation of an affected facility for any purpose.

"State Implementation Plan" means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under Section 110 of the federal Clean Air Act, and which implements the requirements of Section 110.

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

"Total suspended particulate (TSP)" means particulate matter as measured by the reference method described in Appendix B of 40 CFR Part 50.

"True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

"Urban area" means any area consisting of a core city with a population of 50,000 or more plus any surrounding localities with a population density of 80 persons per square mile and designated as such in Appendix C.

"Vapor pressure," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in API Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M).

"Variance" means the temporary exemption of an owner or other person from these regulations, or a temporary change in these regulations as they apply to an owner or other person.

"Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Virginia Register Act" means Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia.

"Volatile organic compound" means any organic compound which participates in atmospheric photochemical reactions and is measured by the applicable reference method. The following compounds are exempted from this definition:

1. Methane
2. Ethane
3. 1,1,1-trichloroethane (methyl chloroform)
4. Methylene chloride
5. Trichlorofluoromethane (CFC-11)
6. Dichlorodifluoromethane (CFC-12)
7. Chlorodifluoromethane (CFC-22)
8. Trifluoromethane (FC-23)
9. 1,1,2-trichlorotrifluoroethane (CFC-113)
10. 1,2-dichlorotetrafluoroethane (CFC-114)
11. Chloropentafluoroethane (CFC-115)
12. Dichlorotrifluoroethane (HCFC-123)
13. Tetrafluoroethane (HFC-134a)

14. Dichlorofluoroethane (HCFC-141b)

15. Chlorodifluoroethane (HCFC-142b)

Exclusion of the above compounds in this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and limitation of their use in accordance with requirements of the federal Clean Air Act.

"Welfare" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well being.

PART II.
GENERAL PROVISIONS.

§ 120-02-01. Applicability.

A. The provisions of these regulations, unless specified otherwise, shall apply throughout the Commonwealth of Virginia.

B. The provisions of these regulations, unless specified otherwise, shall apply to only those pollutants for which ambient air quality standards are set forth in Part III or for which emission standards are set forth in Parts IV, V and VI or both.

C. No provision of these regulations shall limit the power of the board to take such appropriate action as necessary to control and abate air pollution in emergency situations.

D. By the adoption of these regulations, the board confers upon the department the administrative, enforcement and decision making authority enumerated therein.

§ 120-02-02. Establishment of regulations and orders.

A. Regulations for the Control and Abatement of Air Pollution are established to implement the provisions of the Virginia Air Pollution Control Law and the federal Clean Air Act.

B. Regulations for the Control and Abatement of Air Pollution shall be adopted, amended or repealed in accordance with the provisions of § 10.1-1308 of the Virginia Air Pollution Control Law, Articles 1 and 2 of the Administrative Process Act and the Public Participation ~~Guidelines~~ *Procedures* in Appendix E.

C. Regulations, amendments and repeals shall become effective as provided in § 9-6.14:9.3 of the Administrative Process Act, except in no case shall the effective date be less than 60 days after adoption by the board.

D. If necessary in an emergency situation, the board may adopt, amend or stay a regulation as an exclusion under § ~~9-6.14:6~~ *9-6.14:4.1* of the Administrative Process Act, but such ~~rule or~~ regulation shall remain effective no longer than 60 days *one year* unless readopted following the requirements of subsection B of this section. The provisions of this subsection are not applicable to emergency special orders; such orders are subject to the provisions of subsection F of this section.

E. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.

2. Code of Virginia.

3. Code of Federal Regulations.

4. Federal Register.

5. Technical and scientific reference documents.

Additional information on the specific documents incorporated and their availability may be found in Appendix M.

F. Orders, special orders and emergency special orders may be issued pursuant to § 10.1-1307 D or § 10.1-1309 of the Virginia Air Pollution Control Law.

§ 120-02-03. Enforcement of regulations , *permits* and orders.

A. Whenever the executive director or his designated representative has reason to believe that a violation of any provision of these regulations or any *permit or* order has occurred, notice shall be served on the alleged violator or violators, citing the applicable provision of these regulations or the *permit or* order *or both* involved and the facts on which the violation is based. The executive director or his designated representative may act as the agent of the board to obtain compliance through ~~either~~ *one* of the following enforcement proceedings:

1. Administrative proceedings. The executive director or his designated representative may negotiate to obtain compliance through administrative means. Such means may be a variance, control program, consent agreement or any other mechanism that ~~mandates~~ *requires* compliance by a specific date. The means and the associated date shall be determined on a case-by-case basis and shall not allow an unreasonable

delay in compliance. In cases where the use of an administrative means is expected to result in compliance within 90 days or less, preferential consideration shall be given to the use of a consent agreement. Unless specified otherwise in these regulations, the administrative means shall be approved by the board.

2. Judicial proceedings. The executive director or his designated representative may obtain compliance through legal means pursuant to § 10.1-1316 or § 10.1-1320 of the Virginia Air Pollution Control Law.

B. Nothing in this section shall prevent the executive director or his designated representative from making efforts to obtain voluntary compliance through conference, warning or other appropriate means.

C. Orders, consent orders, delayed compliance orders, special orders and emergency special orders are considered administrative means, and the board reserves the right to use such means in lieu of or to provide a legal basis for the enforcement of any administrative means negotiated or approved by the executive director or his designated representative under subsection A of this section.

D. Any enforcement proceeding under this section may be used as a mechanism to ~~insure~~ *ensure* that the compliance status of any source is reasonably maintained by the owner.

E. Case decisions regarding the enforcement of regulations, orders and permits shall be made by the executive director or board. Case decisions of the executive director that are made pursuant to a formal hearing (i) may be regarded as a final decision of the board and appealed pursuant to subsection C of § 120-02-09; or (ii) may be directly considered by the board as provided in Section I B of Appendix F, with the review being on the record and not de novo with opportunity for oral argument. Case decisions of the executive director that are made pursuant to an informal proceeding (i) may be appealed to the board pursuant to subsection A of § 120-02-09 or (ii) may be directly considered by the board according to Section I B of Appendix F.

§ 120-02-04. Hearings and proceedings.

A. ~~Hearings and proceedings by the board may take any of the following forms~~ *The primary hearings and proceedings associated with the promulgation and enforcement of statutory provisions are as follows* :

1. The public hearing and informational proceeding required before considering regulations ~~or variances~~ , in accordance with § § ~~10.1-1307~~ ~~C~~ ~~and~~ 10.1-1308 of the Virginia Air Pollution Control Law. The procedure for a public hearing and informational proceeding shall conform to § ~~9-6.14:7~~ *9-6.14:7.1* of the Administrative Process Act, except as modified by § § 10.1-1307 ~~C~~ ~~and~~ F and 10.1-1308 of the Virginia Air Pollution Control Law , *and to the Public Participation Procedures in Appendix E .*

2. The public hearing required before considering variances and amendments to and revocation of variances, in accordance with § 10.1-1307 C of the Virginia Air Pollution Control Law. The procedure for a public hearing shall conform to § 10.1-1307 C of the Virginia Air Pollution Control Law and to the provisions of § 120-02-05.

~~2.~~ *3.* The informal ~~fact finding~~ proceeding ~~which, with all parties consenting, may be used to ascertain facts upon which decisions of the board are based, in accordance with § 9-6.14:11 of the Administrative Process Act~~ *used to make case decisions* . The procedure for an informal ~~fact finding~~ proceeding shall conform to § 9-6.14:11 of the Administrative Process Act.

~~3.~~ *4.* The formal hearing for ~~the determination of violations, and for~~ the enforcement or review of ~~its~~ orders *and permits* and *for the enforcement of* regulations, in accordance with § *§* 10.1-1307 D and F *and 10.1-1322 A* of the Virginia Air Pollution Control Law. The procedure for a formal hearing shall conform to § 9-6.14:12 of the Administrative Process Act, except as modified by § 10.1-1307 D and F of the Virginia Air Pollution Control Law.

~~4.~~ *5.* The special order hearing or emergency special order hearing for ~~the determination of violations, and for~~ the enforcement or review of ~~its~~ orders *and permits* and *for the enforcement of* regulations, in accordance with § 10.1-1309 of the Virginia Air Pollution Control Law. The procedures for the special order hearing or emergency special order hearing shall conform to § 9-6.14:12 of the Administrative Process Act, except as modified by § *§ 10.1-1307 F and* 10.1-1309 the Virginia Air Pollution Control Law.

B. The board may adopt policies and procedures to supplement the statutory procedural requirements for the various proceedings cited in subsection A of this section.

~~B.~~ *C.* Records of hearings ~~by the board~~ *and proceedings* may be kept in ~~either~~ *one* of the following forms:

1. Oral statements or testimony at any public hearing or informational proceeding will be stenographically or electronically recorded, and may be transcribed to written form.

2. Oral statements or testimony at any informal proceeding will be stenographically or electronically recorded, and may be transcribed to written form.

~~2.~~ *3.* Formal hearings and hearings for the issuance of special orders or emergency special orders will be recorded by a court reporter, or electronically

recorded for transcription to written form.

~~C.~~ *D.* Availability of ~~record~~ *records* of hearings ~~by the board.~~ *and proceedings shall be as follows:*

1. A copy of the transcript of a public hearing or informational proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of the cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.

2. A copy of the transcript of an informal proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.

~~2.~~ *3.* Any person desiring a copy of the transcript of a special order, emergency special order or formal hearing recorded by a court reporter may purchase the copy directly from the court reporter; if not transcribed, the additional cost of preparation will be paid by the person making the request.

§ 120-02-05. Variances.

A. General.

1. Pursuant to § 10.1-1307 C of the Virginia Air Pollution Control Law, the board ~~at~~ *may in* its discretion ~~may~~ grant *local* variances to any provision of these regulations after ~~a public hearing in accordance with § 120-02-04 A 1~~ *an investigation and public hearing. If a local variance is appropriate, the board shall issue an order to this effect. Such order shall be subject to amendment or revocation at any time .*

2. ~~Notices of public hearings on applications for variances shall be advertised in at least one major newspaper of general circulation in the affected air quality control region at least 30 days prior to the date of the hearing.~~ *The board shall adopt variances and amend or revoke variances if warranted only after conducting a public hearing pursuant to public advertisement in at least one major newspaper of general circulation in the affected air quality control region of the subject, date, time and place of the public hearing at least 30 days prior to the scheduled hearing. The hearing shall be conducted to give the public an opportunity to comment on the variance.*

B. Fuel variance.

1. Regardless of any other provision of this section, the executive director may grant *issue an order granting* a fuel variance for fuel burning equipment from applicable provisions of these regulations if, after a thorough investigation and public hearing, he finds that:

a. The owner, in good faith and prior to the request for the fuel variance, has attempted to comply with applicable provisions of these regulations.

b. The owner has substantial cause to believe he will be unable to obtain the fuel to operate the equipment in compliance with applicable provisions of these regulations.

c. The maximum particulate and sulfur dioxide emissions from fuels permitted in the fuel variance would be the lowest that the available fuels will permit.

d. The need for the requested fuel variance could not have been avoided by the owner.

e. The period of the fuel variance will not exceed the reasonably predicted shortage of fuel which would allow compliance with these regulations, or 120 days, whichever is less.

2. The owner requesting the fuel variance shall submit the following, where appropriate, to the executive director:

a. The requested commencement and termination dates of the fuel variance.

b. The type and quantity of fuel to be used under the requested fuel variance, along with the maximum ash and sulfur content, if any.

c. An affidavit stating why the owner is unable to, or has substantial cause to believe that he will be unable to, obtain fuel which would allow compliance with applicable provisions of these regulations.

d. An estimate of the amount of fuel to be conserved.

e. An estimate of the increased air pollutants that might cause violations of the ambient air quality standards.

f. An estimate, with reasons given, of the duration of the shortage of fuel which would allow compliance with applicable provisions of these regulations.

g. Such other information as the executive director may require to make his findings as provided in subdivision B 1 of this section.

3. Notice of public hearings on applications for fuel variances shall be advertised at least 10 days prior to the date of the hearing, in at least one major newspaper of general circulation in the air quality control region in which the affected source is located.

The notice shall contain the subject, date, time and place of the public hearing. The public hearing shall be conducted to give the public an opportunity to comment on the variance.

4. Fuel variances may be granted only for individual sources, and not for categories or classes.

5. No fuel variance shall be granted for more than 120 days. Any request for a variance for a period beyond 120 days shall be governed by the provisions of subsection A of this section, except that the board, where appropriate, may require compliance with any of the conditions and requirements herein.

6. Fuel variances may be amended or revoked in the manner provided for in § 120-02-05 A except that only a 10-day notice shall be required.

C. Nothing in this section shall be construed to limit, alter or otherwise affect the obligation of any person to comply with any provision of these regulations not specifically affected by this section.

§ 120-02-06. Local ordinances.

A. Establishment/approval.

1. Any local governing body proposing to adopt or amend an ordinance, relating to air pollution shall first obtain the approval of the board as to the provisions of the ordinance or amendment. The board in approving local ordinances will consider, but will not be limited to, the following criteria:

a. The local ordinance shall provide for intergovernmental cooperation and exchange of information.

b. Adequate local resources will be committed to enforcing the proposed local ordinance.

c. The provisions of the local ordinance shall be as strict as state regulations, except as provided for leaf burning in § 10.1-1308 of the Virginia Air Pollution Control Law.

2. Approval of any local ordinance shall be withdrawn if the board determines that the local ordinance is less strict than state regulations, or if the locality fails to enforce the ordinance.

3. If a local ordinance must be amended to conform to an amendment to state regulations, such local amendment will be made within six months.

B. Reports.

Local ordinances shall provide for reporting such information as may be required by the board to fulfill its responsibilities under the Virginia Air Pollution Control Law and the federal Clean Air Act. Such reports shall include, but are not limited to: monitoring data, surveillance programs, procedures for investigation of complaints, variance hearings and status of control programs and permits.

C. Relationship to state regulations.

Local ordinances are a supplement to state regulations. Any provisions of local ordinances which have been approved by the board and are more strict than state regulations shall take precedence over state regulations within the respective locality. It is the intention of the board to coordinate activities among the enforcement officers of the various localities in the enforcement of local ordinances and state regulations. The board will also provide technical and other assistance to local authorities in the development of ambient air quality or emission standards, in the investigation and study of air pollution problems, and in the enforcement of local ordinances and state regulations. The board emphasizes its intention to assist in the local enforcement of local ordinances. If a locality fails to enforce its own ordinance, the board reserves the right to enforce state regulations.

D. Variances.

A local governing body may grant a variance to any provision of its air pollution control ordinance(s) provided that:

1. A public hearing is held prior to granting the variance;

2. The public is notified of the application for a variance by advertisement in at least one major newspaper of general circulation in the affected locality at least 30 days prior to the date of the hearing; and

3. The variance does not permit any owner or other person to take action that would result in a violation of any provision of state regulations unless a variance is granted by the board. The public hearings required for the variances to the local ordinance and state regulations may be conducted jointly as one proceeding.

§ 120-02-07. Circumvention.

A. No owner or other person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air pollutants emitted, conceals or dilutes an emission of air pollutants which would otherwise violate these regulations. Such concealment includes, but is not limited to, either of the following:

1. The use of gaseous diluents to achieve compliance with a visible emissions standard or with a standard which is based on the concentration of a pollutant in

the gases discharged to the atmosphere.

2. The piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

B. This section does not prohibit the construction of a stack.

§ 120-02-08. Relationship of state regulations to federal regulations.

A. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of these regulations are required to be approved by the U.S. Environmental Protection Agency and when approved those provisions become federally enforceable.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing or specifically provide for decisions to be made by the board or department, it may be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) reviewed and confirmed as acceptable or approved by the U.S. Environmental Protection Agency in order to make them federally enforceable. Determination of which state actions require federal confirmation or approval and the administrative mechanism for making associated confirmation or approval decisions shall be made on a case-by-case basis in accordance with U.S. Environmental Protection Agency regulations and policy.

§ 120-02-09. Appeals.

A. Any owner or other ~~person aggrieved~~ *party significantly affected* by any action of the board taken without a formal hearing, or by inaction of the board, may ~~demand~~ *request* a formal hearing in accordance with § 9-6.14:12 of the Administrative Process Act, provided a petition requesting such hearing is filed with the board. In cases involving actions of the board, such petition shall be filed within 30 days after notice of such action is mailed or delivered to such owner ~~or other person~~ .

B. Prior to any formal hearing, ~~the board shall, provided all parties consent, ascertain the fact basis for its decision in accordance with § 9-6.14:11 of the Administrative Process Act~~ *an informal fact finding shall be held pursuant to § 9-6.14:11 of the Administrative Process Act, unless waived by the board.*

C. Any decision of the board resultant from a formal hearing shall constitute the final decision of the board.

D. Any owner ~~or other person~~ aggrieved by a final decision of the board may appeal such decision in accordance with § 10.1-1318 of the Virginia Air Pollution Control Law and § 9-6.14:16 of the Administrative Process Act. ~~Any petition for appeal shall be filed within 30 days after the date of such final decision.~~

E. Nothing in this section shall prevent disposition of any case by consent.

F. Any petition for a formal hearing or *any notice or petition* for an appeal by itself shall not constitute a stay of decision or action.

§ 120-02-10. Right of entry.

Whenever it is necessary for the purposes of these regulations, the board may at reasonable times enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigation as authorized by § 10.1-1315 of the Virginia Air Pollution Control Law.

§ 120-02-11. Conditions on approvals.

A. The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with these regulations. Except as specified herein, nothing in these regulations shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to such conditions, the board may automatically cancel such permit or approvals. Without limiting the generality of this section, this section shall apply to: approval of variances, approval of control programs, granting of new or modified source permits and granting of open burning permits.

B. An owner may consider any condition imposed by the board as a denial of the requested approval or permit, which shall entitle the applicant to appeal the decision of the board pursuant to § 120-02-09.

§ 120-02-12. *Policy and* procedural information and guidance.

A. The board may adopt detailed *policies and* procedures which:

1. Require data and information in addition to and in amplification of the provisions of these regulations;

2. ~~Are reasonably designed~~ *Specify the methods and means* to determine compliance with applicable provisions of these regulations; ~~and~~

3. Set forth the format by which all data and information shall be submitted ~~.~~ *; and*

4. Set forth how the regulatory programs shall be implemented.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing, the owner may request information and guidance concerning the proper procedures and methods and the board shall furnish in writing such information on a case-by-case basis.

§ 120-02-13. Delegation of authority.

In accordance with the Virginia Air Pollution Control Law and the Administrative Process Act, the board confers upon the executive director such administrative, enforcement and decision making powers as are set forth in Appendix F.

§ 120-02-14. Considerations for approval actions.

Pursuant to the provisions of § 10.1-1307 E of the Virginia Air Pollution Control Law, the board, in making regulations and in approving variances, control programs, or permits, shall consider facts and circumstances relevant to the reasonableness of the activity involved and the regulations proposed to control it, including:

A. The character and degree of injury to, or interference with safety, health or the reasonable use of property which is caused or threatened to be caused;

B. The social and economic value of the activity involved;

C. The suitability of the activity to the area in which it is located; and

D. The scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

§§ 120-02-15 through 120-02-29. Reserved.

§ 120-02-30. Availability of information.

A. Emission data ~~provided to, or otherwise obtained by,~~ *in the possession of* the board ~~in accordance with the provisions of these regulations~~ shall be available to the public *without exception* .

B. ~~Except as provided in subsection A of this section, any~~ *Any other* records, reports or information ~~provided to, or otherwise obtained by,~~ *in the possession of* the board ~~in accordance with provisions of these regulations~~ shall be available to the public ; ~~except that:~~ *with the following exception.*

~~1. Upon a showing satisfactory to the board by any owner that such records or information, or particular part thereof (other than emission data), if made public, would divulge methods or processes entitled to protection as trade secrets of such owner, the board shall consider such records, reports or information, or particular part thereof, confidential in accordance with the purposes of § 10.1-1314 of the Virginia Air Pollution Control Law except that such~~ *The board shall consider such records, reports or information, or particular part thereof, confidential in accordance with §§ 10.1-1314 and 10.1-1314.1 of the Virginia Air Pollution Control Law upon a showing satisfactory to the board by any owner that such records, reports or information, or particular part thereof, meet the criteria in subsection C of this section and the owner provides a certification to that effect signed by a responsible party for the owner. Such* reports or information, or particular part thereof, may be disclosed , *however,* to other officers, employees or authorized representatives of the Commonwealth of Virginia and the U.S. Environmental Protection Agency concerned with carrying out the provisions of the Virginia Air Pollution Control Law and the federal Clean Air Act ; ~~and~~ .

~~2. Information received by the board in accordance with § 120-02-31, § 120-02-32, Part VII and Part VIII of these regulations shall not be disclosed if it is identified by the owner as being a trade secret or commercial or financial information which such owner considers confidential.~~

C. In order to be exempt from disclosure to the public under subsection B of this section, the record, report or information must satisfy the following criteria:

1. Information for which the owner has been taking and will continue to take measures to protect confidentiality;

2. Information that has not been and is not presently reasonably obtainable without the owner's consent by private citizens or other firms through legitimate means other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding;

3. Information which is not publicly available from sources other than the owner; and

4. Information the disclosure of which would cause substantial harm to the owner.

D. The board shall have the right to substitute information received from sources which are not confidential for information claimed as confidential and to inquire as to the basis of the confidentiality claim. Information substituted shall be limited to that which would have the same substantive effect in analyses conducted by the board as the information for which the inquiry is made.

E. Any responsible party for an owner who files information as confidential which does not meet the criteria in subsection C of this section shall be in violation of the Virginia Air Pollution Control Law.

§ 120-02-31. Registration.

The owner of any stationary source to which permits are issued under Part VIII or for which emission standards are given in Parts IV, V or VI shall, upon request of the board, register such source operations with the board and update such registration information. The information required for registration shall be determined by the board and shall be provided in the manner,

specified by the board. Owners should review the emission standard for their respective source type to identify the exemption levels for purposes of this section.

§ 120-02-32. Control programs.

A. Under the provisions of § 120-02-03 A, the board may require an owner of a stationary source to submit a control program, in a form and manner satisfactory to the board, showing how compliance shall be achieved as quickly as possible.

B. The board shall act within 90 days of receiving an acceptable control program. A public hearing will be held within this period. The hearing shall be held only after reasonable notice, at least 30 days prior to the hearing date, which shall include:

1. Notice given to the public by advertisement in at least one major newspaper of general circulation in the affected air quality control region;

2. Availability of the information in the control program (exclusive of confidential information under the provisions of § 120-02-30) for public inspection in at least one location in the affected air quality control region; and

3. Notification to all local air pollution control agencies having State Implementation Plan responsibilities in the affected air quality control region, all states sharing the affected air quality control region, and the regional administrator of the U.S. Environmental Protection Agency.

C. When acting upon control programs, the board shall be guided by the provisions of the federal Clean Air Act.

D. The board may require owners submitting a control program to submit periodic progress reports in the form and manner acceptable to the board.

E. The board normally will take action on all control programs within 30 days after the date of the public hearing unless more information is required. The board shall notify the applicant in writing of its decision on the control program and shall set forth its reasons therefor.

F. The owner may appeal the decision pursuant to § 120-02-09.

§ 120-02-33. Reserved.

§ 120-02-34. Facility and control equipment maintenance or malfunction.

A. At all times, including periods of startup, shutdown and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment or monitoring equipment, in a manner consistent with good air pollution control practice of minimizing emissions.

B. In case of shutdown or bypassing, or both, of air pollution control equipment for necessary scheduled maintenance which results in excess emissions for more than one hour, the intent to shut down such equipment shall be reported to the board and local air pollution control agency, if any, at least 24 hours prior to the planned shutdown. Such prior notice shall include, but is not limited to, the following:

1. Identification of the specific facility to be taken out of service as well as its location and permit or registration number.

2. The expected length of time that the air pollution control equipment will be out of service.

3. The nature and quantity of emissions of air pollutants likely to occur during the shutdown period.

4. Measures that will be taken to minimize the length of the shutdown or to negate the effect of the outage of the air pollution control equipment.

C. In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than four daytime business hours, notify the board by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within two weeks provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. Owners subject to the requirements of §§ 120-04-05 C and 120-05-05 C are not required to provide the written statement prescribed in this paragraph for facilities subject to the monitoring requirements of §§ 120-04-04 and 120-05-04. When the condition causing the failure or malfunction has been corrected and the equipment is again in operation, the owner shall notify the board.

D. In the event that the breakdown period cited in subsection C of this section exists or is expected to exist for 30 days or more, the owner shall, within 30 days of the failure or malfunction and semi-monthly thereafter until the failure or malfunction is corrected, submit to the board a written report containing the following:

1. Identification of the specific facility that is affected as well as its location and permit or registration number.

2. The expected length of time that the air pollution control equipment will be out of service.

3. The nature and quantity of air pollutant emissions likely to occur during the breakdown period.

4. Measures to be taken to reduce emissions to the lowest amount practicable during the breakdown

period.

5. A statement as to why the owner was unable to obtain repair parts or perform repairs which would allow compliance with the provisions of these regulations within 30 days of the malfunction or failure.

6. An estimate, with reasons given, of the duration of the shortage of repairs or repair parts which would allow compliance with the provisions of these regulations.

7. Any other pertinent information as may be requested by the board.

E. The procedural requirements of subsection D of this section shall not apply beyond three months of the date of the malfunction or failure. Should the breakdown period exist past the three-month period, the owner may apply for a variance in accordance with § 120-02-05 A.

F. The following special provisions govern facilities which are subject to the provisions of Rule 4-3, Rule 5-3 or Rule 6-1:

1. Nothing in this section shall be understood to allow any such facility to operate in violation of applicable emission standards, except that all such facilities shall be subject to the reporting and notification procedures in this section.

2. Any facility which is subject to the provisions of Rule 6-1 shall shut down immediately if it is unable to meet the applicable emission standards, and it shall not return to operation until it is able to operate in compliance with the applicable emission standards.

3. Regardless of any other provision of this section, any facility which is subject to the provisions of Rule 4-3 or 5-3 shall shut down immediately upon request of the board if its emissions increase in any amount because of a bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment; and such facility shall not return to operation until it and the associated air pollution control equipment are able to operate in a proper manner.

G. No violation of applicable emission standards or monitoring requirements shall be judged to have taken place if the excess emissions or cessation of monitoring activities is due to a malfunction, provided that:

1. The procedural requirements of this section are met or the owner has submitted an acceptable application for a variance, which is subsequently granted;

2. The owner has taken expedient and reasonable measures to minimize emissions during the breakdown period;

3. The owner has taken expedient and reasonable measures to correct the malfunction and return the facility to a normal operation; and

4. The source is in compliance at least 90% of the operating time over the most recent 12-month period.

H. Nothing in this section shall be construed as giving an owner the right to increase temporarily the emission of pollutants or to circumvent the emission standards or monitoring requirements otherwise provided in these regulations.

I. Regardless of any other provision of this section, the owner of any facility subject to the provisions of these regulations shall, upon request of the board, reduce the level of operation at the facility if the board determines that this is necessary to prevent a violation of any primary ambient air quality standard. Under worst case conditions, the board may order that the owner shut down the facility, if there is no other method of operation to avoid a violation of the primary ambient air quality standard. The board reserves the right to prescribe the method of determining if a facility will cause such a violation. In such cases, the facility shall not be returned to operation until it and the associated air pollution control equipment are able to operate without violation of any primary ambient air quality standard.

J. Any owner of an affected facility subject to the provisions of this section shall maintain records of the occurrence and duration of any bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment that results in excess emissions for more than one hour. The records shall be maintained in a form suitable for inspection and maintained for at least two years following the date of the occurrence.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: **VR 173-01-00. Public Participation Procedures. REPEALED.**

Title of Regulation: **VR 173-01-00:1. Public Participation Guidelines.**

Statutory Authority: §§ 9-6.14:7.1, 10.1-2102 and 10.1-2107 Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be

utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to repeal VR 173-01-00, Public Participation Guidelines and adopt VR 173-01-00:1, Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Chesapeake Bay Local Assistance Board, and (iii) require the performance of certain analyses.

VR 173-01-00:1 Public Participation Guidelines.

§ 1. Definitions.

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

"Act" means the Chesapeake Bay Preservation Act, §§ 10.1-2100 through 10.1-2115 of the Code of Virginia.

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Chesapeake Bay Local Assistance Department established pursuant to the Chesapeake Bay Preservation Act.

"Board" means the Chesapeake Bay Local Assistance Board established pursuant to the Chesapeake Bay Preservation Act.

"Director" means the director of the Chesapeake Bay Local Assistance Department or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

Unless specifically defined in the Chesapeake Bay Preservation Act or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the board or the agency, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the board so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include at least the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held,

the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register of Regulations, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency may, at its discretion, publish the NOPC and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice will be held in accordance with § 9-6.14:8.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register of Regulations.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the approving authority. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

DEPARTMENT OF COMMERCE

Title of Regulation: **VR 190-01-1. Regulations Governing Employment Agencies. REPEALED.**

Title of Regulation: **VR 190-01-1:1. Regulations Governing Employment Agencies.**

Statutory Authority: § 54.1-1302 of the Code of Virginia.

Public Hearing Date: August 5, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation requires the licensure of employment agencies and the restriction of individuals who act as employment counselors at those businesses. This regulation applies to approximately 42 licensed employment agencies and approximately 200 employment counselors. The proposed regulation separates entry, renewal and reinstatement requirements. It also separates standards of conduct from standards of practice. The regulation has been completely rewritten and reorganized. Certain requirements for receipts, records and contracts deleted from the statute are included in the proposed regulation. Fees throughout the regulation have been adjusted in order to conform with the requirements of § 54.1-113 of the Code of Virginia to assure that the expenses of this program are adequately covered by revenues generated from the regulants.

VR 190-01-1:1. Regulations Governing Employment Agencies.

PART I.
GENERAL.

§ 1.1. Definitions.

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

"Licensee" means any person holding a license issued by the department to act as an employment agency as defined in § 54.1-1300 of the Code of Virginia.

"Registrant" means any person holding a registration issued by the department to act as an employment counselor as defined in § 54.1-1300 of the Code of Virginia.

PART II.
ENTRY.

§ 2.1. Requirement for licensure of employment agency.

Every person seeking a license as an employment agency shall file an application on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of $150 and, if an individual, shall be at least 18 years of age.

§ 2.2. Bond.

Every applicant for an employment agency license shall submit to the department evidence that the applicant has secured a surety bond in the panel sum of $10,000 for each license.

§ 2.3. Controlling person.

A. Every applicant for an employment agency license shall designate a controlling person at the time of application on a form furnished by the department. This controlling person shall be responsible for the employment agency's compliance with the provisions of Chapter 13 (§ 54.1-1300 et seq.) of Title 54.1 of the Code of Virginia and this regulation.

B. Any person acting as a controlling person on June 30, 1992, shall be deemed designated as such with the department upon the department's receipt of notification on a form furnished by the department, accompanied by a nonrefundable application fee of $25. This notification and fee must be received by the department no later than December 31, 1992.

§ 2.4. Change of controlling person.

Each employment agency shall notify the department of a change in its controlling person. The employment agency shall designate the new controlling person in writing within 30 days after the change on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of $25.

§ 2.5. Requirements for registration of employment counselors.

A. Every individual seeking registration as an employment counselor shall file an application on a form

furnished by the department, accompanied by a nonrefundable application fee in the amount of $45, and shall be at least 18 years of age.

B. Any individual seeking registration as an employment counselor may request from the department at the time the application is received a written statement of conditional registration authorizing the individual to be employed as an employment counselor for no more than 30 days while the department determines if the applicant is eligible for registration. Such letter of conditional registration shall be valid for the shorter period of 30 days, or until registration is granted or denied.

C. Any person acting as an employment counselor on June 30, 1992, shall be deemed registered with the department upon the department's receipt of his application for registration on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of $45. This notification and fee must be received by the department no later than December 31, 1992.

§ 2.6. Good standing.

All applicants for licensure as an employment agency or registration as an employment counselor shall be in good standing in every jurisdiction where licensed or registered to perform these activities. The department may deny the application of any person who has had a license or registration suspended, revoked or surrendered in conjunction with any disciplinary action as an employment agency or employment counselor.

§ 2.7. Criminal conviction.

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

PART III.
RENEWAL.

§ 3.1. Renewal required.

Licenses and registrations issued under these regulations shall expire on January 31 of each year.

§ 3.2. Procedures for renewal.

A. The department shall mail a renewal application to the licensee or registrant at the last known address. The notice shall outline the procedure for renewal. Failure to receive a renewal notice shall not relieve the licensee or registrant of the obligation to renew. If the licensee or registrant fails to receive the renewal notice, a copy of the license or registration may be submitted with the required fee as an application for renewal.

B. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring renewal of a license or registration shall return to the department the renewal application forms and the appropriate fee as outlined in § 3.3 of these regulations. The date of receipt of the renewal application and fee by the department or its agent is the date which will be used to determine if receipt is timely.

§ 3.3. Renewal fees.

All fees for renewal are nonrefundable and are as follows:

Employment agency	*$100*
Employment counselor	*$ 25*

§ 3.4. Denial of renewal.

The department may deny renewal of a license or registration for the same reasons as it may refuse initial licensure or registration or discipline a licensee or registrant.

PART IV.
REINSTATEMENT.

§ 4.1. Failure to renew - reinstatement required.

A. Any licensee or registrant failing to apply for renewal of a license or registration within 30 days following the expiration date printed on the license or registration shall be required to reinstate the license or registration.

B. Applicants for reinstatement shall meet the requirements of Part III of these regulations. An applicant for reinstatement of a license shall submit a reinstatement application fee of $200. An applicant for reinstatement of registration shall submit a reinstatement application fee of $50. Reinstatement fees are nonrefundable.

C. No license or registration shall be reinstated when the application and fee are received by the department more than six months after the expiration date printed on the license or registration. After that date the applicant shall meet the then current entry requirements and apply for a new license or registration. The date on which the application and fee are received by the department or its agent is the date which will be used to determine if receipt is timely.

§ 4.2. Denial of reinstatement.

The department may deny reinstatement of a license or registration for the same reasons as it may refuse initial licensure or registration or discipline a licensee o

registrant.

PART V.
STANDARDS OF PRACTICE.

§ 5.1. Transfer of license or registration prohibited.

A. Each license shall be issued to the legal business entity named on the application, whether it is a sole proprietorship, partnership, corporation, association or other legal entity, and shall be valid only for the legal entity named on the license. No license shall be transferred or otherwise assigned to another legal entity.

B. Each registration shall be issued to the individual named on the application and shall be valid only for the individual named on the registration. No registration shall be transferred or otherwise assigned to another individual.

§ 5.2. Change of name or address.

A. Each licensee shall upon application and at all times keep the department informed of its physical address and shall report in writing to the department any change in its name or physical address no later than 15 days after the effective date of that change. Name change reports shall be accompanied by certified true copies of the documents which establish the name change. A post office box is not a physical address.

B. Each registrant shall upon application and at all times keep the department informed of his physical address and shall report in writing to the department any change in his name or physical address no later than 15 days after the effective date of that change. A post office box is not a physical address.

§ 5.3. Change of ownership or entity.

A. Each licensee shall report in writing to the department any change in its ownership or changes in the officers of a corporation with do not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change.

B. A new license is required whenever there is any change in the ownership or manner of organization of the license which results in the creation of a new legal entity.

§ 5.4. Employment agency office.

A. Each employment agency shall maintain an office located in the Commonwealth which meets the requirements established by § 54.1-1303 C of the Code of Virginia.

B. Any license issued to an employment agency and any registration issued to an employment counselor shall be displayed in a conspicuous place in the employment agency.

§ 5.5. Contracts.

A. Each contract between an employment agency and a client shall be in writing and an executed copy of each contract shall be provided to the client.

B. Each contract must include the name, address and telephone number of the department.

C. Each contract shall include the following statement: "If you sign this contract, you may be responsible for the payment of fees to the employment agency, even if you do not obtain lasting employment and even if you do not like the job. This contract contains our entire agreement with you and any oral representations made by your employment counselor or anyone else that are not contained in this contract may not be relied upon. Read this contract and be certain that you understand all provisions before you sign it." This statement shall be enclosed in a conspicuous border and shall be placed immediately above the signature line of the contract.

D. Each initial contract shall state in bold letters enclosed in a conspicuous border the gross amount of any fee charged the client and the duration of time upon which the fee is based. Each initial contract shall also state the name and address of the employment agency, the time when the fee will first be due, how the fee is to be paid, and the period of time over which the fee is to be paid. Each initial contract shall disclose to the client the total cost to the client and if the agency uses a fee schedule, it shall be set out in the initial contract.

E. Each position acceptance contract shall disclose that the employment agency may not provide or offer to provide to any employer the placement fee paid by the client, or any portion of that fee, for the agency's services in obtaining employment for the client. Each position acceptance contract shall also disclose that no person or any member of his immediate family who has any interest in the employment agency shall refer any client to any lending institution in which the person or any member of his immediate family has a financial interest.

F. Each position acceptance contract shall state the wage or salary of the position accepted and shall contain a job description of the position accepted by the client. The minimum elements of the job description shall include, but are not limited to:

1. Job title;

2. Name of the employer;

3. Address of the employer;

4. Location of the employment if different from the address of the employer;

5. Wage or salary;

6. Benefits;

7. Days and hours of work;

8. Paid holidays;

9. Duties and tasks to be performed; and

10. Training and promotional opportunities.

§ 5.6. Refunds.

A. If the employment is terminated within 12 weeks from the initial date of employment, and the client is due a refund, the employment agency shall refund to the client a portion of the fee equal to one-twelfth of that fee for each week or portion of a week that the client was not employed.

B. Circumstances where the client is due a refund as stated above include, but are not limited to:

1. When employment is terminated by the employer through no fault of the client;

2. When the client voluntarily terminates the employment because the job was not as represented by the employment agency.

C. Circumstances that are deemed no fault of the client include, but are not limited to:

1. When the employer goes out of business;

2. When the client receives from the employer a payroll check which is not honored by the bank upon which it is drawn;

3. When the client is laid off;

4. When a change in the nature of the job occurs;

5. When the client is unable to perform the tasks and duties of the job; and

6. When the employment agency caused to be published false or misleading advertising material.

D. A client shall not be due a refund if the client misrepresented his qualifications for the employment.

E. Any refund due to a client from an employment agency shall be made within 30 days from the date it becomes due.

§ 5.7. Receipts.

Every transaction involving the making of a payment to an employment agency by a client shall require a numbered receipt. A copy of the receipt shall be provided to the client and one copy shall be maintained by the employment agency. Every receipt shall contain the following:

1. Name of applicant;

2. Date and amount of payment;

3. Purpose of payment;

4. Name and address of employment agency; and

5. Name and signature of person receiving the payment.

§ 5.8. Records.

The following records shall be maintained by the employment agency for a period of two years:

1. All initial and position acceptance contracts.

2. All receipts as required by § 54.1-1304 F of the Code of Virginia and § 4.4 of this regulation.

3. The name and address of every client from whom a fee is received or to whom a fee is charged;

4. The amount of the fee actually received or charged;

5. The amount and date of any refunds made;

6. The name and address of the employer of each client;

7. The rate of compensation of every client;

8. All requests for client referrals by employers, each of which shall reflect the date of the request, the name and address of the employer, the rate of compensation, and the position description; and

9. Copies of all job advertisements identified by date and publication.

PART VI.
STANDARDS OF CONDUCT.

§ 6.1. Grounds for disciplinary action.

The department has the power to fine any licensee or registrant, and to suspend or revoke any license or registration issued under the provisions of Chapter 13 of Title 54.1 of the Code of Virginia and the regulations of the department, where the license or registrant has been found to have violated or cooperated with others in violating any provision of Chapter 13 of Title 54.1 of the Code of Virginia or any regulation of the department.

§ 6.2. Advertising.

A. All advertising shall include the name and address of the employment agency placing the advertisements.

B. All advertising shall be truthful and contain no false or misleading statements with respect to the type of employment or salary available.

C. No employment agency shall advertise its services as free if the client is to assume any liability or contingent liability for any fees.

§ 6.3. Inspection of records.

All licensees shall produce during regular business hours to the department or any of its agents for inspection and copying any records required to be kept by the Code of Virginia or this regulation.

DEPARTMENT OF CONSERVATION AND RECREATION

Board of Conservation and Recreation

Title of Regulation: **VR 215-00-00. Regulatory Public Participation Procedures.**

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to adopt VR 215-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 215-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

VR 215-00-00. Regulatory Public Participation Procedures.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Department of Conservation and Recreation, including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the Board of Conservation and Recreation, the collegial body (board), established pursuant to Virginia law as the legal authority to adopt regulations.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Virginia law" means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director, or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in Virginia law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the approving authority or the director, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists

consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon the director's initative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register of Regulations.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency may, at its discretion, publish the NOPC and the proposal for public comment.

H. The NOPC shall include, at least, the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed

regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the approving authority. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

DEPARTMENT OF CONSERVATION AND RECREATION

Title of Regulation: **VR 215-01-00. Public Participation Guidelines. REPEALED.**

Title of Regulation: **VR 217-00-00. Regulatory Public Participation Procedures.**

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to repeal VR 215-01-00. Public Participation Guidelines and adopt VR 217-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 217-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the department, and require the performance of certain analyses.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Department of Conservation and Recreation including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the Director of the Department of Conservation and Recreation established pursuant to Virginia law as the legal authority to adopt regulations.

"Director" means the Director of the Department of

Conservation and Recreation or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Virginia law" means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director, or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in Virginia law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the approving authority, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency may, at its discretion, publish the NOPC and the proposal for public comment.

H. The NOPC shall include, at least, the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and

telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice will be held in accordance with 9-6.14:8.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the approving authority. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

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Virginia Soil and Water Conservation Board

Title of Regulation: **VR 625-00-00. Public Participation Guidelines. REPEALED.**

Title of Regulation: **VR 625-00-00:1. Regulatory Public Participation Procedures.**

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-603.18. 10.1-605 and 10.1-637 of the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development

of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of proposed regulations, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to repeal VR 625-00-00. Public Participation Guidelines and adopt VR 625-00-00:1. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 625-00-00:1. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

VR 625-00-00:1. Regulatory Public Participation Procedures.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Department of Conservation and Recreation, including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the Virginia Soil and Water Conservation Board, the collegial body (board), established pursuant to Virginia law as the legal authority to adopt regulations.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Virginia law" means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director, or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in Virginia law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the approving authority or the director, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon the director's initative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting

when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency may, at its discretion, publish the NOPC and the proposal for public comment.

H. The NOPC shall include, at least, the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice will be held in accordance with § 9-6.14:8.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the approving authority. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: **VR ~~355-39-01~~ *355-39-100* . Regulations Governing Eligibility Standards and Charges for ~~Medical~~ *Health* Care Services** *to Individuals* **.**

Statutory Authority: § 32.1-12 of the Code of Virginia.

Public Hearing Dates:
August 10, 1992 - 1 p.m.
August 11, 1992 - 1 p.m.
August 14, 1992 - 1 p.m.
August 18, 1992
(See Calendar of Events section for additional information)

Summary:

The Regulations Governing Eligibility Standards and Charges for Medical Care Services establish the basis for the Department of Health's charges and eligibility process. The proposed amendments are being made to (i) reflect changes in the Code of Virginia, (ii) change the basis for the department's charges, (iii) bring eligibility guidelines closer to those used for Medicaid determination, (iv) change the waiver process, and (v) clarify the roles of the Board of Health, Commissioner, and District Directors in determining the scope of services provided by the department.

VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Applicant" means the person requesting ~~medical~~ *health* care services for themselves or on *whose* behalf ~~of a dependent family member or foster child~~ *a request is made* .

"Automatic eligibility" ~~means applicants who are recipients of public assistance programs~~ *is given to applicants who currently receive any of the following public assistance programs* :

~~Aid to Dependent Children~~ (ADC)

General Relief

Title XIX - MEDICAID

Food Stamp Benefits

~~Dental services for children who qualify for the national school lunch program or its equivalent.~~

National School Lunch Program for children receiving school meals at no cost - for child dental services only

~~Identifying information shall be collected on these persons in order to make the above determinations.~~

Such applicants will be considered medically indigent.

"Board" means the State Board of Health. *The Board of Health is the governing body of the State Department of Health.*

"Charges for services" means the reasonable charges established by the board for ~~medical~~ *health* care services. ~~In calculating service charges consideration will be given to (i) patient caseloads, (ii) manpower requirements, and (iii) the cost of support services, supplies and equipment. These charges shall be based on the state average cost for providing the services. The charges may be further adjusted when cost changes occur~~ *The department may prescribe a scale of discounts for certain health services. Charges will be based on current Medicaid reimbursement for services rendered* .

"Child" means ~~a~~ *any* biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by these regulations.

"Commissioner" means the Commissioner of Health. *The Commissioner is the Chief Executive Officer of the State Department of Health. The Commissioner has the authority to act for the Board of Health when it is not in session.*

"Department" means the State Department of Health and includes central office, ~~regional offices and~~ , health

districts, and local health departments.

~~"Disabled" means any person crippled or otherwise incapacitated from earning a living. Incapacity must be supported by a physician's determination.~~

~~Adult disabled children (persons) may or may not be included in the family unit depending on the support received from the parents. If the adult disabled child operates as a separate economic unit, he will be excluded even though he shares the parent's residence.~~

"Eligibility determination" means the process of obtaining required information regarding family size, income, and other related data in order to establish charges to the applicant.

"Family" or "family unit" means ~~the economic unit which may include the patient, the spouse of the patient, the parent or parents of a patient who is an unemancipated minor, the parents of a patient who has been declared by a physician to be disabled, and any other person actually and properly dependent upon or contributing to the family's income for subsistence~~ *the applicant and other such household members who together constitute one economic unit. The economic unit shall include the constellation of persons among whom legal responsibilities of support exist; or an individual, even if otherwise within such a constellation, if he independently receives subsistence funds in his own right. The economic unit shall count in its income any contributions to the unit from persons not necessarily living with the constellation .*

Parent includes a biological, adoptive, or step parent ~~; or a cohabiting partner included in the family unit~~ .

A woman who is pregnant may be counted as a multiple beneficiary when the pregnancy has been verified by a physician or a nurse practitioner working under the supervision of a physician.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support shall be considered separate family units.

~~The family unit which is based on cohabitation is considered to be a separate family unit for determining eligibility for services. The cohabitating partners and any children shall be considered a family unit. (§ 63.1-90.1 of the Code of Virginia.)~~

~~Eligible Medicaid children shall be considered a separate family unit.~~

"Flat rate charges" means charges for services which are to be charged to all patients regardless of income and with no eligibility determination.

~~*"Free services"* means services which the Health Department provides to all persons without charge as mandated by the Code of Virginia (see Part IV).~~

~~The department may also provide certain free services to all citizens, i.e., hypertension check-ups, pregnancy testing, etc., which are not necessarily required by the Code of Virginia.~~

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm after deductions for business or farm expenses *income) plus any depreciation shown on income tax forms* . They include regular payments ~~from public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, emergency assistance money payments and federally funded General Assistance or General Relief money payments)~~ , social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or trusts, ~~college or university scholarships, grants, fellowships, assistantships~~ *lump sum settlements* , and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, WIC checks, fuel assistance *payments* , housing assistance, money borrowed, tax refunds, gifts, ~~lump sum settlements, inheritances or one-time insurance payments or compensation for injury,~~ withdrawal of bank deposits *from earned income* , earnings of minor children, money received from the sale of property *, general relief from the Department of Social Services, or college or university scholarships, grants, fellowships, and assistantships* .

"Income scales" means scales based on individual or family gross income ~~which shall be established:~~ *. They shall be based on the official poverty guidelines updated annually by the U.S. Department of Health and Human Services in accordance with §§ 652 and 6763(2) of the Omnibus Reconciliation Act of 1981 (Public Law 97-35). There shall be two income scales:* one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - will be set ~~at~~ *up to* 100% of the poverty income guidelines, except for Northern Virginia where the Income Level A will be set ~~at~~ *up to* 110% of the poverty income guidelines.

Income Level B - ~~will be set at 110% of the poverty income guidelines~~ *those clients with incomes above*

100% and no more than 110% of the poverty guidelines will qualify as Income Level B clients , except for Northern Virginia where the Income Level B will be ~~set at~~ *between 110% and* 133.3% of the *federal* poverty income guidelines.

Income Level C - ~~will be set at 133.3% of the poverty income guidelines~~ *those clients with incomes above 110% and no more than 133.3% of the poverty income guidelines will qualify as Income Level C clients* , except Northern Virginia where the Income Level C will be ~~set at~~ *between 133.3% and* 166.6% of the *federal* poverty income guidelines.

Income Level D - ~~will be set at 166.6% of the poverty income guidelines~~ *those clients with incomes above 133.3% and no more than 166.6% of the poverty income guidelines will qualify as Income Level D clients* , except *for* Northern Virginia where the Income Level D will be ~~set at~~ *between 166.6% and* 200% of the *federal* poverty income guidelines.

Income Level E - ~~will be set at 200% of the poverty income guidelines~~ *those clients with incomes above 166.6% and no more than 200% of the poverty income guidelines will qualify as Income Level E clients* , except *for* Northern Virginia where the Income Level E will be ~~set at~~ *between 200% and* 233.3% of *federal* poverty income guidelines.

Income Level F - ~~will be set at 233.3% of the poverty income guidelines~~ *those clients with incomes equal to or above 200% of the poverty level guidelines will qualify as Income Level F clients* , except *for* Northern Virginia where the Income Level F will be set at ~~266.6%~~ *for all clients with incomes equal to or above 233.3%* of *federal* poverty income guidelines.

"Legally responsible" means the biological or adoptive parent(s), or those parents whose parentage has been admitted by affidavit or by order of the court.

"Medically indigent" means applicants whose family gross income is defined at Income Level A ~~and below~~ .

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be considered a separate family unit when married, ~~or when 16 years of age and over~~ and not living with any relatives or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious and contagious disease which the State Board of Health requires to be reported.

2. Medical and health services required in case of birth control, pregnancy, or family planning except for the purposes of sexual sterilization.

"Nonchargeable services" means health services which the department has determined will be provided without charge and without an eligibility determination to all citizens regardless of income. WIC services are nonchargeable, but do require an eligibility determination.

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

~~*"Students"* means individuals, regardless of their residence, who are supported by their parents or others related by birth, marriage, or adoption are considered to be residing with those who support them.~~

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Section 32.1-12 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a ~~regional,~~ district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe and scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section."

§ 2.2. Purpose of regulations.

The board has promulgated these regulations to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive ~~medical~~ *health* care services of the department without charge; ~~and~~ (ii) to establish income scales and ~~charges~~ *a mechanism* for ~~services for medical~~ *determining charges for health* care provided by the department to individuals who are not medically indigent, based upon their ability to pay , *(iii) a mechanism for handling appeals and waivers, and (iv) establish continuity of eligibility among state agencies* . The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.

§ 2.3. Administration of regulations.

These regulations are administered by the ~~following:~~ *commissioner.*

A. ~~State Board of Health. The Board of Health is the governing body of the State Department of Health.~~ *The commissioner shall assure uniformity and consistency by interpreting and implementing the rules by the department for health care services*

B. ~~State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session.~~ The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for ~~medical~~ *health* care services of the department. ~~The income levels shall be based on the official poverty guidelines updated annually by the Department of Health and Human Services in accordance with §§ 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (P. L. 97-35).~~

§ 2.4. Recipients of services.

These regulations shall apply to all persons seeking ~~laboratory and preventive, curative and restorative services including medical and dental clinic~~ *health care* services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

~~§ 2.5. Effective date of regulations.~~

~~These regulations will be effective July 10, 1989.~~

§ ~~2.6.~~ *2.5.* Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act govern the adoption of these regulations and any subsequent amendments.

§ ~~2.7.~~ *2.6.* Powers and procedures of regulations not exclusive.

The board reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 32.1-12 of the Code of Virginia.

PART III.
~~CHARGES FOR SERVICES~~ *APPLICATION AND CHARGES* .

§ 3.1. ~~Income levels~~ *Application process* .

~~A. Applicants for medical care services, who are found to be medically indigent as defined by Part I of these regulations shall be provided care at no charge to the pplicant.~~ *Upon request for health services by an applicant (excepting those services described in § 4.1 of these regulations, the department will require information as to the family size, financial status and other related data as described on the Application for Health Care. The applicant shall be informed during the interviewing process of the provisions as described in this section of the regulations.*

An application date is established when the applicant completes and signs the application for health care services.

When an applicant is in need of emergency medical services, the district director, or his designee, shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

It is the applicant's responsibility to furnish the department with the proof of the financial data in order to be appropriately classified according to income level and determine eligibility for discounts for health care services.

Any individual who is acting on behalf of an applicant will be responsible for the accuracy of all financial data provided to the department.

§ 3.2. Flat rate fees.

A. The department may determine that charges for certain health care services which are not essential for public health protection may be made at a flat fee not subject to discounting.

B. All patients 21 years of age and older who receive dental services will be charged $10 per visit or the amount calculated via the sliding fee scale whichever is greater.

§ 3.3. Income levels for charges.

The department shall annually publish specific income levels expressed in dollar amounts for determining eligibility for discounts to the charges for health care services.

The charge made to the applicant shall be subject to 100% discounting for those who are found to be medically indigent as defined in Part I.

B. Applicants for ~~medical~~ *health* care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a ~~fee~~ *charge* as follows:

1. Income Level A - ~~No charge for service~~ *100% discount for the service* .

2. Income Level B - ~~10%~~ *90% discount* of the established charge for the service.

3. Income Level C - ~~25%~~ *75% discount* of the established charge for the service.

4. Income Level D - 50% *discount* of the established charge for the service.

5. Income Level E - ~~75%~~ *25% discount* of the established charge for the service.

6. Income Level F - ~~100% of the established charge for the service~~ *No discount will be given .*

§ 3.4. Prior to services being rendered, an explanation of the charges, applicable discounts, and expected payment shall be provided to the applicant.

§ 3.5. A person's financial eligibility to receive chargeable health care services shall be redetermined at least every 12 months, except when (i) the family income levels change, (ii) the department has reason to believe an applicant's financial or family status has changed sooner or (iii) when laws or regulations dictate otherwise.

PART IV.
~~FREE~~ *NONCHARGEABLE* SERVICES.

§ 4.1. The following services are provided ~~without~~ *at no* charge ~~and without an eligibility determination to all citizens regardless of income as required by the Code of Virginia~~ .

1. ~~Immunization of children against diphtheria, tetanus, whooping cough, poliomyelitis, measles (rubeola), german measles (rubella) and mumps~~ *Those immunizations for children* as required by § 32.1-46 of the Code of Virginia, and of persons up to the age of 21 when the person lacks evidence of complete and appropriate immunizations for these diseases.

2. Examination of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.

3. Examination, testing and treatment of persons for venereal disease as required by § 32.1-57 of the Code of Virginia.

4. ~~Screening of persons for the disease of sickle cell anemia or the sickle cell trait as required by § 32.1-68 of the Code of Virginia~~ *Anonymous testing for human immunodeficiency virus as required by § 32.1-55.1 of the Code of Virginia* .

~~5. Screening for phenylketonuria, hypothyroidism homocystinuria, galactosemia and Maple Syrup Urine Disease as required by §§ 32.1-65 and 32.1-67 of the Code of Virginia.~~

§ 4.2. The department may provide immunization services free of charge to all individuals in the event of an epidemic or when declared necessary by the commissioner to protect the public health of all citizens of the Commonwealth.

§ 4.3. The department may elect to provide other ~~medical~~ *health* services at no charge to all citizens of the Commonwealth when directed by the *board or the* commissioner.

~~PART V.~~
~~CHARGEABLE SERVICES.~~

~~§ 5.1. Chargeable services.~~

~~The department may prescribe charges for certain medical services to be paid by persons who are not deemed to be medically indigent and may within the limitations of available funds prescribe a scale of such charges based upon ability to pay.~~

PART ~~VI~~ *V* .
EXCEPTIONS.

§ ~~6.1.~~ *5.1.* Exceptions.

~~A.~~ A continuing exception to the above standard principles for assessing charges ~~/fees~~ for clinic services will exist for patients determined to be eligible for services *provided* under ~~the Handicapped Children's Services Program, the Special Supplemental Food Program for Women, Infants and Children (WIC), the Child Development Clinic Network, and to recipients of treatment and medical food products under the Phenylketonuria (PKU) Program. The conditions under which each of these programs is operated consitute unusual circumstances which dictate the following special principles for determining the charges to be made as reimbursement for those programs' services~~ *those programs of the department specified in the Code of Virginia or published in separate state plans* .

~~B. The Handicapped Children's Services Program shall charge the annual patient fee for those persons determined to be above Income Level A. Charges shall be imposed in accordance with regulations as stated in the latest State Plan for Provision of Crippled Children's Services approved by the Board of Health.~~

~~C. The Phenylketonuria (PKU) Program shall impose no charges for screening, clinic, or laboratory services which are necessary to establish a diagnosis or to recommend treatment of PKU. Charges for specific medical food products will not be made to families in Income Level A nor will charges for these products be made to persons financially eligible for the services authorized under the Women, Infants and Children (WIC) Program.~~

~~D. Specific medical food products which from time to time may be required by recipients of other programs offered by the department, and which may be provided by the department will be supplied in the same manner as provided in subsection C of § 6.1 of these regulations.~~

E. The Child Development Clinic Network shall impose no charges for services provided children from families in Income Level A.

§ 6.2. § 5.2. When necessary, the health or medical program director can deny certain medical services to full-paying patients (Income Levels F and above). Such denial is appropriate when the following situations exist: *The district director or medical program director can limit the provision of certain health services based on an assessment of public need and available department resources.*

1. The demand is great for providing services to lower income patients or when local restrictions apply to giving certain services; and

2. The same services are available in the community by the private sector.

§ 5.3. The district director or medical program director may establish policies to limit the provision of certain health services provided by the department based on legal residence and visa status except where federally funded and appropriated.

§ 5.4. The district director, with department approval, may establish appropriate charges for services that are provided in the district and for which no statewide charges are identified.

PART VII.
ELIGIBILITY DETERMINATION.

§ 7.1. Upon request for medical services by an individual, the department will require information as to the family size, financial status and other related data as described on the application for health care (CHS-1). The applicant shall be informed during the interviewing process of the provisions as described in this section of the regulations. This process does not apply to services described in § 4.1 of these regulations.

A. An application date is established when the applicant, his authorized representative, or other persons acting in his behalf, completes and signs the application for medical care services.

1. For the Special Supplemental Food Program for Women, Infants and Children (WIC), the application date is established when an individual visits the health department during office hours to make an oral or written request for WIC Program benefits.

B. When an applicant is in need of emergency medical care services, the district director, or his designee shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

C. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for medical care services. The applicant shall be required to provide written verification of financial income such as check stubs, written letter from an employer, W-2 or W-4 forms, etc., in order to provide documentation for the application.

D. Any individual who is acting on behalf of a minor will be held responsible for the accuracy of all financial data provided the department.

§ 7.2. If the patient's family gross income is such that a partial or full charge for service is determined to be required, an explanation of the charges shall be provided to the patient prior to services being rendered.

§ 7.3. A person's financial eligibility to receive chargeable medical care services shall be redetermined every 12 months, except when the department has reason to believe an applicant's financial or family status has changed sooner or when laws or regulations dictate otherwise.

§ 7.4. The department's policy is to require that a reasonable effort shall be made to collect any fees due for chargeable services.

The department should request payment for a chargeable service at the time the service is given.

When payments are not made at the time of service, the department will present to the patient, guardian or other authorized person, a bill each 30, 60, 90 and 120 calendar days.

If the payment is not made within 120 calendar days of the date of service, additional chargeable services will be discontinued to individuals whose income levels have been determined Income Levels B through F, until arrangements for payment have been made.

A written notice, including the development of a payment plan, on overdue payments, shall be presented to the patient at least 30 days prior to the effective date on which additional chargeable services will be refused because of payment deliquency.

The notice shall describe how a temporary waiver can be obtained in order for the individual to have a fair opportunity to settle on an overdue account.

If a waiver is denied, the department will continue to bill the patient, guardian, or the authorized person according to the above criteria.

§ 7.5. The individual, family unit, or other authorized person, may seek relief from the application of the above provisions by using Parts VIII and IX of these regulations.

PART VIII *VI*.
WAIVER OF PAYMENTS.

~~§ 8.1.~~ *§ 6.1.* When an unusual family or individual health problem or financial hardships are demonstrated to exist, and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of ~~payment for chargeable services~~ *charges* for up to 90 calendar days. A waiver ~~may~~ *shall* be requested ~~orally or~~ in writing to the *program or district* health ~~Department~~ *director* . ~~A new eligibility determination will be completed on the patient at this time. If the new eligibility determination places the patient in a lower payment plan, the amount of service payments incurred before the new eligibility determination and subsequent to the bona fide change in circumstances will be considered for possible discharge by the department or for payment at a level consistent with the newly determined income level. If complete waiver is allowed, during the waiver period the patient will not be charged for continued medical care. If partial waiver is allowed in the form of reduced payments, during the waiver period the patient will be charged at the reduced rate. Once the waiver period has elapsed, or earlier if the reason for the waiver no longer exists, if the patient's eligibility determination status has returned to its previous status or has improved to a higher payment level, the patient will be required to make payments on future medical care at the original or other appropriate level.~~

~~If the new eligibility determination made in response to the waiver request reveals no change in income level status, extraordinary circumstances may be taken into account to allow complete or partial waiver for up to 60 days, at which time the continuation of the extraordinary circumstances will be reassessed and the waiver terminated or extended for an additional period up to 30 days, with a repeat reassessment at the end of that time. Extraordinary circumstances will include but not necessarily be limited to natural disasters, uninsured real or personal property damage or legal liability to another for the same, obligatory and unavoidable expenditures for close relatives outside the family unit. Waivers shall not be accorded in the absence of a finding of hardship.~~

~~If the new eligibility determination proves that the patient's income level status has not changed, the department will continue to charge the patient at the appropriate level for medical care. At this time, the department will work with the patient, guardian, or other authorized person to assure that a reasonable payment plan for services received is established as described in subsection D of § 7.1. Documentation shall be made in the patient's medical file that proper procedures have been taken to assist the patient.~~

Once the waiver request is submitted, the commissioner or his designee, on a case-by-case basis, will decide whether to provide a temporary waiver of payment. If the waiver request is approved, the patient will not be charged for continued health care. If the waiver request is denied, the charges will continue as before.

~~§ 8.2.~~ *§ 6.2.* The Commissioner of Health is designated to act for the Board of Health to grant or deny requested waivers *and may delegate the authority to the program or district directors who may then designate the authority to individuals under their supervision to grant or deny the waiver* .

~~§ 8.3. At his discretion, the commissioner may delegate the authority to grant or deny waivers to medical directors in the central, regional and district offices.~~

~~§ 8.4. Medical directors may designate other individuals within their supervision to grant or deny waivers of patient payments in accordance with § 8.1.~~

~~§ 8.5.~~ *§ 6.3.* In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part ~~IX~~ *VII* .

~~§ 8.6. At the time of request in a waiver, the applicant should provide information regarding the length of time he anticipates the waiver may be in force, with a justification for that estimate. The medical director or his designee will then determine and specify a reasonable time period based on the facts and circumstances of the particular case. The time specified should serve only as a guide; in operation the waiver should apply only for the duration of the change in the applicant's circumstances. Prior to the expiration date of the waivers, each case will be reviewed by the medical director or his designee for further determination. A waiver may be requested orally or in writing to the Health Department. No waiver can be extended beyond a six-month period without review.~~

~~After the waiver period has elapsed, a new eligibility determination will be performed to determine the patient's new income level status, or whether another waiver needs to be extended for continued care.~~

~~Services to patients shall continue pending a final decision on a request for a waiver.~~

§ 6.4. Waivers will not be continued past 90 days. Additional waivers can be granted, but the applicant will have to reapply at least every 90 days.

§ 6.5. No person believed to be eligible for Medicaid and having failed to complete a Medicaid application will be eligible for a waiver.

PART ~~IX~~ *VII* .
APPEAL PROCESS.

~~§ 9.1.~~ *§ 7.1.* If applicant for or recipient of ~~medical~~ *health* care services as defined in these regulations is denied such services, has services terminated, or is denied a waiver as defined in Part ~~VIII~~ *VI* of these regulations, the applicant/recipient is entitled to appeal that action as set forth under this part. There are no further rights of appeal except as set forth in this part.

A. The applicant/recipient has the right to be informed

in writing of the appeal process, including time limits; and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The person has the right to confront any witnesses who may have testified against him.

B. An individual or his representative may make a written or oral appeal to the district health director or program medical director within 30 days of the denial of service.

C. Upon receipt of the appeal, the district health director shall review and make written recommendations to the regional medical director and commissioner within 15 days. The regional medical director shall submit his recommendations to the commissioner within 15 days of the receipt of the local health director's recommendations. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

D. Upon receipt of the appeal, the program medical director shall review and make written recommendations to the division director and the commissioner within 15 days. The division director shall submit his recommendations to the commissioner within 15 days of the receipt of the division director's recommendation. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

E. Services to applicants/recipients shall continue during an appeal process.

PART ~~X~~ *VIII* .
FRAUD.

§ ~~10.1.~~ *§ 8.1.* If the district health director finds a pattern of abuse of services such as willful misrepresentation, withholding or falsification of information in an attempt to obtain ~~medical~~ services free or at a reduced rate, he may discontinue services to the affected person 30 days after notification to the person of the intended discontinuation. Such recipient is entitled to the appeal process set forth in Part ~~IX~~ *VII* of these regulations.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.**

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until September 11, 1992.
(See Calendar of Events section for additional information)

Summary:

The Commission on Health Care for All Virginians proposed that legislation be introduced to the 1992 Session of the Virginia General Assembly effectuating a number of significant changes regarding the operations of the Virginia Health Services Cost Review Council.

The proposed regulation requires the submission of Form 990s by each not-for-profit health care institution that reports to the council, a controlling corporation, and each affiliate of the health care institution or controlling corporation. Form 990s are already required by the Internal Revenue Services to be available as a public record and contain, among other things, the salary information of the corporation's five highest paid employees. These forms will be solicited from all hospitals and nursing homes that submit filings with the council and will be collected at the same time that the CDS forms are returned to the council.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;

3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without

deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carryforwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

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

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III.
COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV.
VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2 B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V.
CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI.
FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each individual health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia. The annual report and the certified audited financial statement shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times for the annual report or the certified audited financial statement may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. The requirement for the filing of an annual report and a certified audited financial statement may be waived if a health care institution can show that an extenuating circumstance exists. Examples of an extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy

proceeding, closure of the institution, or the institution is a new facility that has recently opened.

Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.

§ 6.2. Each individual health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year. An institution's budget for a given fiscal year will not be accepted for review unless the institution has already filed its annual report and certified audited financial statement for the previous fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year or within 15 days of being notified by the council of its approval of the charges, whichever is later.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. An institution's proposed amendment or modification to its annually filed schedule of charges shall not be accepted for review unless the institution has complied with all prior filing requirements contained in §§ 6.1 and 6.2 for previous fiscal years. Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

§ 6.3:1. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year.

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

§ 6.3:2. Each ~~hospital~~ *health care institution* or any corporation that controls a ~~hospital~~ *health care institution* shall respond to a survey conducted by the council to determine the extent of commercial diversification by such ~~hospitals~~ *health care institutions* in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request ~~the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof,~~ the information specified in ~~subdivision~~ *subdivisions* a through ~~i~~ *j* below for each affiliate of such ~~hospital~~ *health care institution* or corporation, if any:

a. The name and principal activity;

b. The date of the affiliation;

c. The nature of the affiliation;

d. The method by which each affiliate was acquired or created;

e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;

f. The total assets;

g. The total revenues;

h. The net profit after taxes, or if not-for-profit, its excess revenues; ~~and~~

i. The net quality, or if not-for-profit, its fund balance ~~.~~ *; and*

j. Information regarding related party transactions.

§ 6.3:3. The information specified in § 6.3:2 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted. *The response to the survey shall include the*

required information for all affiliates in which the health care institution or any corporation which controls a health care institution has a 25% or greater interest. Information regarding affiliates or organizations that do not have corporate headquarters in Virginia and that do no business in Virginia need not be provided.

§ 6.3:4. *For fiscal years ending on or before June 30, 1992,* each ~~hospital~~ *health care institution* or any corporation that controls a ~~hospital~~ *health care institution* and that is required to respond to the survey specified in § 6.3:2 shall complete and return the survey to the council by the 31st day of August of ~~each calendar year or 120 days after the hospital's fiscal year end, whichever is later, in which the survey is required to be submitted~~ *1992* .

§ 6.3:5. *For fiscal years ending on or before June 30, 1992,* each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

For fiscal years ending on or before June 30, 1992, each nursing home that reports to the council or any corporation which controls a nursing home that reports to the council shall submit either a certified audited financial statement or an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

The filings required by this section shall be submitted to the council by the 31st day of August of 1992 or 120 days after the health care institution's fiscal year end, whichever is later.

§ 6.3:6. For fiscal years beginning on or after July 1, 1992, each health care institution that reports to the council or any corporation which controls a health care institution that reports to the council shall submit audited consolidated financial statements and consolidating financial schedules to the council which include its total assets, liabilities, revenues, expenses, and net worth.

§ 6.3:7. For fiscal years beginning on or after July 1, 1992, the information required in §§ 6.3:2, 6.3:3, and 6.3:6 shall be due 120 days after the end of the health care institution's fiscal year end.

§ 6.3:8. Each health care institution that reports to the council, any corporation controlling any such health care institution, and each affiliate of the health care institution or corporation shall submit the health care institution, corporation, or affiliate as an organization exempt from taxes pursuant to § 501(C)(3) of the Internal Revenue Code, a copy of the most recent federal information return (Form 990) which was filed on behalf of the institution, corporation, or affiliate together with all accompanying schedules that are required to be made available to the public by the Internal Revenue Service. Information regarding not-for-profit and for-profit affiliates which do no business in Virginia need not be submitted.

§ 6.3:9. For fiscal years beginning on or after July 1, 1992, the information required in § 6.3:8 shall be due 120 days after the completion of the health care institutions fiscal year end.

§ 6.4. All filings prescribed in §§ 6.1, 6.2 and 6.3:2 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

§ 6.7. A late charge of $10 per working day shall be paid to the council by a health care institution that files its budget, annual report or its certified audited financial statement past the due date. The late charge may be waived if a health care institution can show that an extenuating circumstance exists. Examples of extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

§ 6.8. A late charge of $50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of $25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:2 or file the audited consolidated financial statement required by § 6.3:5 or both.

§ 6.10. A late charge of $25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

§ 6.11. A late charge of $25 per working day shall be paid to the council by the reporting entity required to submit the Form 990s as provided in §§ 6.3:8 and 6.3:9.

PART VII.
WORK FLOW AND ANALYSIS.

§ 7.1. The annual report data filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. Hospitals that are part of a hospital system will be analyzed on a systemwide basis. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall received a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Hospitals that are part of a hospital chain may have their filings reviewed on a consolidated basis. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII.
PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.3:1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care

institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurors, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

Virginia Health Services Cost Review Council
Commercial Diversification Survey
1992

REGISTRAR OF REGULATIONS
92 JUN 24 AM 10: 29

Section I

For each entity in your organizational structure as of July 1, 1992, provide the following:

1. Name: _____
2. Address: _____ City/Town _____
   State _____ Zip Code _____ Telephone ( )
3. Principal Activity (please define):
4. Date of last fiscal year end:
5. Total revenues for the last fiscal year (gross patient service revenue plus all other revenue):
6. Net profit after taxes, or if tax exempt, excess of revenues over expenses for the last fiscal year:
7. Total assets at the end of the last fiscal year:
8. Net equity or fund balance at the end of the last fiscal year:
9. Name of controlling corporation:
10. Date of Affiliation:
11. Nature of affiliation:
    A. Type of business structure (check):
       for-profit corporation ☐
       non-profit corporation ☐
       other (specify) ☐
    B. Type of control (check):
       stock ownership ☐
       member ☐
       other (specify) ☐
    C. Current percentage of ownership interest: _____
12. Method of affiliation:
    A. Created _____ Acquired _____
       If acquired, date of the affiliate's initial incorporation:
    B. Amount of initial capital contribution:
    C. Share of initial capital contribution:
    D. Source of funds used in the creation or acquisition:
       equity or internal funds ☐
       equity of another subsidiary ☐
       tax-exempt debt ☐
       taxable debt ☐
       other (specify) _____
13. If this corporation is tax-exempt, give the Internal Revenue Code section permitting tax-exempt status: Section 501 (_____) (_____)

Virginia Health Services Cost Review Council
Commercial Diversification Survey
1992

REGISTRAR OF REGULATIONS
92 JUN 24 AM 10: 29

Section II—Related Party Transactions

For each entity in your organizational structure as of July 1, 1992, provide the following:

Name: _____

A. Total purchases and/or sales between related parties:

Purchases from or Sales to:	Description of Purchases or Sales:	Total Amount by Cost or Revenue Center:

B. Lump sum transfers of capital:

Transferred To/From:	Description of Transfer:	Total Amount:

C. Transfers of assets:

Transferred To/From:	Description of Assets:	Total Amount:

D. Other related party transactions (describe):

Transferred To/From:	Description:	Total Amount:

Use additional space as needed.

Virginia Health Services Cost Review Council
Commercial Diversification Survey
1992

Section III—Check List

Reporting requirements for the Commercial Diversification Survey include Sections I, II, and III as well as the following documents:

	CHECK
Consolidated audit:	
facilities with August 31, 1992 due date:	☐
facilities with September 30, 1992 due date:	☐
facilities with October 31, 1992 due date:	☐
Copy of the latest Form 990 filed with the Internal Revenue Service:	☐

Submitted by _____

Signature of Administrator/CEO _____

Date _____

A late charge of $25.00 per working day will be assessed for survey forms not received by the VHSCRC by August 31, 1992.

BOARD OF SOCIAL WORK

Title of Regulation: **VR 620-01-2. Regulations Governing the Practice of Social Work.**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Hearing Date: July 20 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations (i) delete the requirement for oral examinations as part of the licensure process; (ii) strengthen the requirements for supervision to include supervision under a licensed clinical social worker with five years post-master's experience; and (iii) require that client records be maintained for no less than five years after therapy has been terminated.

VR 620-01-2. Regulations Governing the Practice of Social Work.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Accredited school of social work" ~~is defined as~~ *means* a school of social work accredited by the Council on Social Work Education.

"Applicant" ~~is defined as~~ *means* a person who has submitted a completed application for licensure as a social worker with the appropriate fees.

"Board" ~~is defined as~~ *means* the Virginia Board of Social Work.

"Candidate for licensure" ~~is defined as~~ *means* a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

"Clinical course of study" ~~is defined as~~ *means* graduate course work which includes courses in human behavior and social environment, social policy, research, clinical practice with individuals, families, groups and a clinical practicum which focuses on diagnostic, prevention and treatment services.

"Exemption from requirements of licensure" is defined in § 54.1-3701 of the Code of Virginia.

"Supervision" ~~is defined as~~ *means* the relationship between a supervisor and supervisee which is designed to promote the development of responsibility and skill in the provision of social work services. Supervision is the inspection, critical evaluation, and direction over the services of the supervisee. Supervision shall include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.

~~§ 1.2. Public participation guidelines.~~

~~A. Mailing list.~~

~~The Board of Social Work will maintain a list of persons and organizations who will be mailed the following documents as they become available.~~

~~1. "Notice of intent" to promulgate regulations.~~

~~2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulations.~~

~~3. Final regulation adopted.~~

~~B. Being placed on list.~~

~~Any person or organization wishing to be placed on the mailing list may be added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons and organizations on the list will be provided all information stated in subsection A of these guidelines. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.~~

~~C. Notice of intent.~~

~~At least 30 days prior to publication of the notice of intent to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person or organization to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register.~~

~~D. Information proceedings or public hearings for existing rules.~~

~~At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceedings will be to~~

~~solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceedings will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.~~

~~E. Petition for rulemaking.~~

~~Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.~~

~~F. Notice of formulation and adoption.~~

~~After any meeting of the board or any subcommittee or advisory committee where the formulation or adoption of regulations occurs, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.~~

~~G. Advisory committees.~~

~~The board may appoint committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.~~

§ ~~1.3.~~ *§ 1.2.* Fees.

A. The board has established fees for the following:

1. Registration of supervision $25

2. Annual renewal of supervision 25

3. Application processing 65

4. Examinations and reexaminations:

Written 90

~~Oral~~ ..... ~~75~~

5. Initial license: .....prorated portion of .....biennial license fee for ..... unexpired part of biennium

6. Biennial license

a. Registered social worker 35

b. Associate social worker 35

c. Licensed social worker 125

d. Licensed clinical social worker 125

7. *Penalty for* late renewal ~~fee~~ 10

8. Endorsement to another jurisdiction 10

9. Additional or replacement licenses 10

~~9.~~ *10.* Additional or replacement wall certificates 15

~~10.~~ *11.* Returned check 15

B. Examination fees shall be paid as follows:

~~1.~~ Written examination fee shall be mailed directly to the examination service no later than 60 days prior to the examination administration.

~~2. Oral examination fee shall be mailed to the board office with the work sample. Check is to be made payable to the Treasurer of Virginia.~~

PART II.
REQUIREMENTS FOR LICENSURE.

§ 2.1. General requirements.

A. No person shall practice as a social worker or clinical social worker in the Commonwealth of Virginia except as provided for in the Code of Virginia or these regulations.

B. The individual obtaining the two years of required experience shall not call himself a licensed clinical social worker, solicit clients, bill for his services, or in any way represent himself as a clinical social worker until such time that a license has been issued.

~~B.~~ *C.* Licensure by this board to practice as a social worker or clinical social worker shall be determined by examination.

~~C.~~ *D.* Every applicant for examination for licensure by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 *or § 2.3* of these regulations for the category of practice in which licensure is sought.

2. Have official transcripts documenting required academic coursework and degrees attained submitted directly from the appropriate institutions of higher education to the board not less than 90 days prior to the date of the written examination.

3. Submit to the board, not less than 90 days prior to the date of the written examination:

a. A completed application, on forms provided by the board;

b. ~~Documented evidence of having fulfilled the experience requirements of § 2.2;~~ *Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of § 2.*

or § 2.3; and

c. The application fee prescribed in § ~~1.3~~ *1.2* of these regulations.

§ ~~2.2.~~ ~~Education and experience requirements.~~

~~A. For a licensed social worker:~~

~~1. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work, documented as prescribed in § 2.1 C 2. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.~~

~~2. Experience. Applicants shall meet applicable requirements for experience depending on their educational background, as provided in subdivisions a and b of this subdivision.~~

~~a. Bachelor's degree applicants shall have had two years of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board.~~

~~(1) Full-time experience in casework management and supportive services is defined as a total of 3000 hours of work experience acquired in no less than two years.~~

~~(2) Part-time equivalent experience in casework management and supportive services is defined as at least 3000 hours of work experience acquired in no less than four years.~~

~~b. Master's degree applicants are not required to have professional experience in the field.~~

~~c. Registration of supervised post-bachelor's degree experience shall be required as provided in subdivision (1) of this subdivision.~~

~~(1) An individual who proposes to obtain supervised post-bachelor's degree experience in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience:~~

~~(a) Be registered on a form provided by the board and completed by the supervisor and supervised individual; and~~

~~(b) Pay the annual registration of supervision fee as prescribed by the board.~~

~~(2) The supervisor providing supervision under this subsection shall:~~

~~(a) Be a licensed social worker with a Master's degree; or~~

~~(b) Be a licensed clinical social worker; or~~

~~(c) Be an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed social worker or a licensed clinical social worker constitutes an undue burden on the applicant; and~~

~~(d) Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board.~~

~~(3) Applicants must document successful completion of their supervised experience on appropriate forms at the time of application. Supervised experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.~~

~~(4) The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.~~

~~(5) Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.~~

~~(6) The individual acting as supervisor:~~

~~(a) Shall be knowledgeable about the diagnostic assessment and treatment plan of cases assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision;~~

~~(b) Shall not provide supervision of activities for which the applicant has not had appropriate education;~~

~~(c) Shall not provide supervision for activities for which the supervisor is not qualified; and~~

~~(d) Shall, on an annual basis, provide to the board documentation of the hours attained by the supervisee of social work practice for which the supervisor has been responsible. On the same form on which this information is recorded, the supervisor shall list the number of hours of face-to-face supervision received during the reporting period as well as evaluate the supervisee in the areas of professional ethics and professional competency.~~

~~(7) At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors, or, if a supervisor is unavailable, shall provide a satisfactory~~

explanation of such circumstances to the board:

(a) Applicants whose former supervisor is deceased or whose whereabouts is unknown shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation, or partnership in which the applicant was supervised; and

(b) The affidavit shall specify dates of employment, job responsibilities, the supervisor's name (and last known address), and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

(8) Individuals may obtain the required supervised experience without registration provided such experience:

(a) Is obtained in an exempt setting; and

(b) Meets all other requirements of the board for supervised experience as set forth in this subsection.

B. For a licensed clinical social worker:

1. Education. The applicant shall hold a minimum of a master's degree from an accredited school of social work, documented as prescribed in § 2.1 C 2. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

a. The degree program shall have included a graduate clinical course of study; or

b. The applicant shall provide documentation of having completed specialized experience, coursework or training acceptable to the board as equivalent to such sequence of courses.

2. Experience. The applicant shall have had two years of full-time post-master's degree experience in the delivery of clinical services as prescribed in subdivision a of this subdivision, or the equivalent in part-time experience. The post-master's experience, whether full- or part-time, shall be under supervision satisfactory to the board as prescribed in § 2.2 B 2 c.

a. Full-time experience in the delivery of clinical services is defined as a total of 3,000 hours of work experience required in no less than two years.

(1) Of these 3,000 hours, 15 hours per week shall be spent in face-to-face client contact, for a total of 1,380 hours in the two-year period.

(2) The remaining hours may be spent in activities supporting the delivery of clinical services.

b. Part-time equivalent experience in the delivery of clinical services is a total of 3,000 hours of work experience acquired in no more than four years. Of the 3,000 hours, 1,380 hours shall be spent in face-to-face client contact.

c. Except as provided in § 2.2 B 2 e below, an individual who proposes to obtain supervised post-graduate experience in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience:

(1) Be registered on a form provided by the board and completed by the supervisor and the supervised individual; and

(2) Pay the annual registration-of-supervision fee prescribed by the board.

d. The supervisor providing supervision under subdivision c above shall:

(1) Be a licensed clinical social worker; or

(2) Be an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is licensed clinical social worker constitutes an undue burden on the applicant; and

(3) Be responsible for the clinical activities of the prospective applicant once the supervisory arrangement is accepted by the board.

e. Applicants must document successful completion of their supervised experience on appropriate forms at the time of application. Supervised experience obtained prior to the effective date of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

f. An individual who does not become a candidate for licensure after four years of supervised training in a nonexempt setting shall submit evidence to the board showing why the training should be allowed to continue.

g. The experience shall include at least 100 hours of face-to-face supervision during the two-year period. A minimum of one hour of individual face-to-face supervision per week shall be provided for the two years.

h. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

i. The individual obtaining the two years of required experience shall not call himself a licensed clinical

~~social worker, solicit clients, bill for his services, or in any way represent himself as a clinical social worker until such a license has been issued.~~

~~j. The licensed clinical social worker acting as supervisor shall:~~

~~(1) Be knowledgeable about the diagnostic assessment and treatment plans for clients assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision;~~

~~(2) Provide supervision only for those activities for which the applicant has had appropriate education;~~

~~(3) Provide supervision only for those activities for which the supervisor is qualified; and~~

~~(4) Provide, on an annual basis, to the board, documentation of the supervisee's direct client contact and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee in the areas of professional ethics, knowledge of theory base, and professional competency, noting any limitations observed regarding the supervisee's skills and practice.~~

~~k. Applicants shall provide to the board documentation of the supervised experience from all supervisors, or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board:~~

~~(1) Applicants for licensure who have worked full-time for a minimum of two years in the delivery of clinical social work services need document only their full-time employment as long as the requirement in § 2.2 B 2 a (1) has been met;~~

~~(2) Applicants for licensure who have worked part-time in the delivery of clinical services will need to document the experience prescribed in both subdivisions (1) and (2) of § 2.2 B 2 a, covering a period not more than four years;~~

~~(3) Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised; and~~

~~(4) The affidavit shall specify dates of employment, job responsibilities, supervisor's name (and last address, if known), and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.~~

~~l. Individuals may obtain the required supervised experience without registration or reporting of supervision provided such experience:~~

~~(1) Is obtained in an exempt setting; and~~

~~(2) Meets all other requirements of the board for supervised experience as set forth in § 2.2 B 2.~~

§ 2.2. Education and experience requirements for licensed clinical social worker.

A. Education.

The applicant shall hold a minimum of a master's degree from an accredited school of social work, documented as prescribed in § 2.1 D 2. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council of Social Work Education.

1. The degree program shall have included a graduate clinical course of study; or

2. The applicant shall provide documentation of having completed specialized experience, coursework or training acceptable to the board as equivalent to a clinical course of study.

B. Experience.

The applicant shall have had two years of full-time post-master's degree experience in the delivery of clinical services or the equivalent in part-time experience. The post-master's degree experience, whether full- or part-time, shall be under supervision satisfactory to the board as prescribed in these regulations.

1. Full-time experience in the delivery of clinical services is defined as a total of 3,000 hours of work experience acquired in no less than two years.

a. Of these 3,000 hours, 15 hours per week shall be spent in face-to-face client contact, for a total of 1,380 hours in the two-year period.

b. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

2. Part-time equivalent experience in the delivery of clinical services for a total of 3,000 hours of work experience.

a. Of the 3,000 hours, 1,380 hours shall be spent in face-to-face client contact.

b. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

3. Supervision and experience obtained prior to the

effective date of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

4. An individual who does not become a candidate for licensure after four years of supervised training in a nonexempt setting shall submit evidence to the board showing why the training should be allowed to continue.

C. Supervision requirement for applicants in nonexempt settings.

1. An individual who proposes to obtain supervised post-graduate experience in a nonexempt setting in Virginia shall, prior to the onset of such supervision and annually thereafter for each succeeding years of experience:

a. Be registered on a form provided by the board and completed by the supervisor and the supervised individual; and

b. Pay the annual registration-of-supervision fee prescribed by the board.

2. The supervisor providing supervision under subdivision 1 of this subsection shall be:

a. A licensed clinical social worker with at least five years post-MSW clinical experience, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed clinical social worker with at least five years post-MSW clinical experience constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to licensed clinical social worker supervision; and

b. Be responsible for the clinical activities of the prospective applicant once the supervisory arrangement is accepted.

3. The experience shall include at least 100 hours of face-to-face supervision during the two-year period. A minimum of one hour of individual face-to-face supervision per week shall be provided for the two years.

4. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

D. The licensed clinical social worker acting as supervisor shall:

1. Be knowledgeable about the diagnostic assessment and treatment plan for clients assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision.

2. Provide supervision only for those activities for which the applicant has had appropriate education.

3. Provide supervision only for those activities for which the supervisor is qualified.

4. Provide, to the board, on an annual basis, documentation of the supervisee's direct client contact and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee's knowledge in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of eminent danger, and implementing a professional and ethical relationship with clients.

5. Provide documentation, on forms provided by the board, that the supervisee is at least minimally competent in the areas listed in subdivision 4 of this subsection before the supervisee will be eligible to take the written examination.

E. Documentation of supervised experience.

At the time of application for licensure, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.

1. Applicants for licensure who have worked full time for a minimum of two years in the delivery of clinical social work services need document only their full-time employment provided the experience requirement has been met.

2. Applicants for licensure who have worked part time in the delivery of clinical services will need to document the experience as prescribed in § 2.2 B 2.

3. Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised.

4. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

F. Supervision requirements for applicants in exempt settings.

Individuals may obtain the required supervision and experience without registration of supervision provided

such experience:

1. Is obtained in an exempt setting.

2. Meets all other requirements of the board for supervised experience as set forth in these regulations.

§ 2.3. Education and experience requirements for licensed social worker.

A. Education.

The applicant shall hold a bachelor's or a master's degree from an accredited school of social work, documented as prescribed in § 2.1 D 2. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

B. Experience - master's degree applicants.

Master's degree applicants are not required to have professional experience in the field.

C. Experience - bachelor's degree applicants.

Bachelor's degree applicants shall have had two years of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board.

1. Full-time experience in casework management and supportive services is defined as a total of 3,000 hours of work experience acquired in no less than two years.

2. Part-time equivalent experience in casework management and supportive services is defined as at least 3,000 hours of work experience acquired in no less than four years.

D. Supervision requirement for bachelor's degree applicant in nonexempt settings.

1. An individual who proposes to obtain supervised post-bachelor's degree experience in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience:

a. Be registered on a form provided by the board and completed by the supervisor and supervised individual; and

b. Pay the annual registration-of-supervision fee as prescribed by the board.

2. The supervisor providing supervision shall be:

a. A licensed social worker with a master's degree, or a licensed clinical social worker, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed social worker with a master's degree or a licensed clinical social worker constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to supervision listed above; and

b. Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board.

3. Supervision and experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

4. The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.

5. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

E. The individual acting as supervisor shall:

1. Be knowledgeable about the diagnostic assessment and treatment plan of cases assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision.

2. Provide supervision only for those activities for which the applicant has had appropriate education.

3. Provide supervision only for those activities for which the supervisor is qualified.

4. Provide to the board, on an annual basis, documentation of the supervisee's social work practice and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee in the areas of professional ethics and professional competency.

F. Documentation of supervised experience.

1. At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.

2. Applicants whose former supervisor is deceased or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive office of the agency, corporation, or partnership in which the applicant was supervised.

3. The affidavit shall specify dates of employment, job responsibilities, the supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

G. Supervision requirements for applicant in exempt setting.

Individuals may obtain the required supervised experience without registration of supervision provided such experience:

1. Is obtained in an exempt setting.

2. Meets all other requirements of the board for supervised experience as set forth in these regulations.

PART III.
EXAMINATIONS.

§ 3.1. General examination requirements.

A. The board may waive the written examination if the applicant has been certified or licensed in another jurisdiction by standards and procedures equivalent to those of the board.

B. An applicant for licensure by the board as a social worker *or clinical social worker* shall pass a written examination ~~and an applicant for licensure as a clinical social worker shall pass a written and oral examination~~ at times prescribed by the board.

C. Examination schedules.

A written examination ~~and an oral examination~~ shall be administered at least twice each year. The board may schedule such additional examinations as it deems necessary.

1. The executive director of the board shall notify all candidates in writing of the time and place of the examinations for which they have been approved to sit, and of the fees for these examinations.

2. The candidate shall submit the applicable fees following the instructions under § ~~1.3~~ *1.2* B.

~~3. If the candidate fails to appear for the examination without providing written notice at least two weeks before the examination, the examination fee shall be forfeited.~~

§ 3.2. Written examination.

A. The written examination comprises an examination consisting of standardized multiple-choice questions. These questions may cover all or some of the following areas: human growth and development, social work practice with individuals, families, couples and groups, supervision, social policy, administration, social work research, community organization and planning, and ethical principles of social work practice in addition to other areas deemed relevant to the board.

B. The board will establish passing scores on the written examination.

§ ~~3.3. Oral examination: clinical social worker candidates only.~~

~~Successful completion of the written examination requirements shall be a prerequisite to taking the oral examination for the clinical social worker license.~~

~~A. Candidates who sit for the clinical social worker written licensure examination shall submit to the board office a work sample prepared in accordance with the requirements outlined in subsection D of this section.~~

~~B. Candidates who pass the written examination will be notified by the board of the time and place of the oral examination.~~

~~C. The oral examination shall consist of a face-to-face interview by the board or its designees of the candidate for the purpose of determining the minimal competence of the candidate:~~

~~1. Evaluating the applicant's professional competence and~~

~~2. Determining the candidate's clinical skills as demonstrated in a work sample or through another examination format as prescribed by the board.~~

~~D. The work sample of a candidate for examination for licensure as a clinical social worker shall conform to the following requirements:~~

~~1. The work sample shall:~~

~~a. Present material drawn from the candidate's practice within the last 12 months immediately preceding the date of the oral examination;~~

~~b. Be typical of the practice area in which the candidate intends to engage as a clinical social worker.~~

~~2. The work sample shall be typed, double-spaced, on one side of the paper only, and within an absolute limit of six pages in length. Six clearly readable copies of the work sample shall be submitted to the board.~~

~~3. The work sample shall present an orderly, sequential treatment based on the candidate's understanding of the problem described. The work sample shall:~~

a. State dates of treatment, including the frequency of the sessions;

b. Provide a clear statement of the problem in such a way as to demonstrate the client's description of the problem and to substantiate the candidate's assessment of the problem;

c. Substantiate the diagnostic assessment made;

d. Show clearly the flow of the treatment process based upon the candidate's conceptual understanding of the problem and the diagnosis; and

e. Demonstrate the role played by the candidate in facilitating the treatment process and the client's progress; the theory base and the social work principles utilized with the client.

4. Candidates who submit a work sample but do not take the next scheduled oral examination may use this sample for the subsequent oral examination period only.

5. Failure to meet the criteria above may result in the applicant being denied permission to take the oral examination.

E. A majority decision of the board will determine whether a candidate has passed the oral examination.

F. Reexamination will be required on the failed oral examination. After paying the reexamination fee, a candidate may be reexamined only once within a 12-month period.

PART IV.
LICENSURE RENEWAL; REINSTATEMENT.
ADDITIONAL DOCUMENTATION OF COMPETENCE.

§ 4.1. Candidates who took and failed the oral examination.

Candidates who have previously taken and failed an oral examination administered by the Board of Social Work must reapply and submit a letter from their supervisor stating that the candidate meets the minimum competency levels in the six skill areas as follows:

1. Skill in the application of an identified theory base.

2. Skill in the application of a differential diagnosis.

3. Skill in establishing and monitoring a treatment plan.

4. Skill in the development and appropriate use of the professional relationship.

5. Skill in assessing the client for risk of eminent danger and taking appropriate and necessary action to protect the safety of the client, the public, and the social worker when necessary.

6. Skill in implementing a professional and ethical relationship with clients.

PART V.
LICENSURE RENEWAL; REINSTATEMENT.

§ 4.1. *§ 5.1.* Biennial renewal of licensure.

A. All licensees shall renew their licenses on or before June 30 of each odd-numbered year and pay the renewal fee prescribed by the board.

B. Failure to receive a renewal notice from the board shall not relieve the licensee from the renewal requirement.

§ 4.2. *§ 5.2.* Late renewal.

A social worker or clinical social worker whose license has expired may renew that license within four years after its expiration date by:

1. Providing evidence of having met all applicable requirements.

2. Paying:

a. The late renewal fee prescribed by the board; and

b. The renewal fee prescribed by the board for each renewal period during which the license was expired.

§ 4.3. *§ 5.3.* Reinstatement.

A social worker or clinical social worker who fails to renew the license for four years or more and who wishes to resume practice shall reapply and be reexamined for licensure.

§ 4.4. *§ 5.4.* Renewal of registration for associate social workers and registered social workers.

The registration of every associate social worker and registered social worker with the former Virginia Board of Registration of Social Workers under former § 54-775.4 of the Code of Virginia shall expire on June 30 of each odd-numbered year.

1. Each registrant shall return the completed application before the expiration date, accompanied by the payment of the renewal fee prescribed by the board.

2. Failure to receive the renewal notice shall not relieve the registrant from the renewal requirement.

PART ~~V.~~ *VI.*
COMMITTEES.

§ ~~5.1.~~ *§ 6.1.* Examining and advisory committees.

The board may establish advisory and examining committees to assist it in carrying out statutory responsibilities.

1. The committees may assist in evaluating the professional qualifications of applicants and candidates for licensure and renewal of licenses and in other matters the board deems necessary.

2. The committees may assist in the evaluation of the mental or emotional competency, or both, of any licensee or applicant for licensure when such competence is an issue before the board.

PART ~~VI.~~ *VII.*
STANDARDS OF PRACTICE.

§ ~~6.1.~~ *§ 7.1.* Professional conduct.

Persons whose activities are regulated by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.

2. Be able to justify all service rendered to clients as necessary for diagnostic or therapeutic purposes.

3. Practice only within the competency areas for which they are qualified by training or experience, or both.

4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.

5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.

6. Ensure that clients are aware of fees and billing arrangements before rendering services.

7. Keep confidential their counseling relationships with clients, with the following exceptions: (i) when the client is a danger to self or others; and (ii) when the social worker is under court order to disclose information.

8. Disclose therapy records to others only with the written consent of the client.

9. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.

10. Not engage in dual relationships with clients that might compromise the client's well-being or impair the social worker's objectivity and professional judgment (to include such activities as counseling close friends or relatives, engaging in sexual intimacies with a client).

11. Maintain clinical records on each client. The record shall include identifying information to substantiate diagnosis and treatment plan, client progress, and termination. The clinical record shall be preserved for at least five years post termination.

§ ~~6.2.~~ *§ 7.2.* Grounds for denial, revocation, suspension, or denial of renewal of license.

Action by the board to deny, revoke, suspend or decline to renew a license shall be in accordance with the following:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;

2. Procurement of license by fraud or misrepresentation;

3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of ~~the following~~ *continuing education in one or more of the following categories* as a demonstration of effort to maintain minimum competence to engage in practice:

~~a. Evidence of continuing education in one or more of the following categories:~~

~~(1)~~ *a.* Academic social work courses taken for credit or audited.

~~(2)~~ *b.* Continuing education offered by accredited social work education programs, other accredited educational programs, and other providers, including professional associations, agencies and private entrepreneurs:

~~(a)~~ *(1)* Seminars, institutes, workshops, or mini-courses oriented to the enhancement of social work practice, values, skills and knowledge; and

~~(b)~~ *(2)* Cross-disciplinary offering from medicine, law, and the behavioral sciences if they are clearly related to the enhancement of social work practice, values, skills and knowledge.

~~(3)~~ *c.* Planned self-directed study in collaboration with other professionals;

~~(a)~~ *(1)* Independent study in a social work curriculum area or a closely related field. Example

include a planned reading program, individual supervision or consultation; and

~~(b)~~ *(2)* The content and plan of instruction developed by the licensee.

~~(4)~~ *d.* Publication of books, papers, or presentations given for the first time at a professional meeting;

~~(5)~~ *e.* Other professional activities, including:

~~(a)~~ *(1)* Preparation for the first time of an academic social work course, in-service training workshop or seminar, or other professional seminar; and

~~(b)~~ *(2)* Research not resulting in publication.

~~(6)~~ *f.* Social work-related academic courses such as mental health, health and social work research, psychology, human growth and development, and child and family development.

4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;

5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of § ~~6.1~~ *7.1* , standards of practice;

6. Performing functions outside the board-licensed area of competency;

7. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of these regulations.

§ ~~6.3.~~ *§ 7.3.* Reinstatement following disciplinary action.

Any person whose license has been suspended, revoked, or denied renewal by the board under the provisions of § ~~6.2~~ *7.2* may, in order to be eligible for reinstatement, (i) submit a new application to the board for a license, (ii) pay the appropriate application fee, and (iii) submit any other credentials as prescribed by the board.

The board, at its discretion, may, after a hearing, grant the reinstatement.

The applicant for reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.

REGISTRAR OF REGULATIONS
92 JUN 24 AM 11: 16

COMMONWEALTH OF VIRGINIA
BOARD OF SOCIAL WORK

DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF SOCIAL WORK
1601 ROLLING HILLS DRIVE
RICHMOND, VIRGINIA 23229-5005
(804) 662-9914

APPLICATION FOR EXAMINATION AND LICENSURE

APPLICATION FOR LICENSURE AS A:
CLINICAL SOCIAL WORKER

APPLICATION FEE:
☐ $65.00 Casework

MAKE ALL CHECKS AND MONEY ORDERS PAYABLE TO THE TREASURER OF VIRGINIA

SECTION A—PERSONAL

1. Name in full _____ (FIRST / MIDDLE / LAST) Social Security Number _____
2. Residence Address _____ (NO. / STREET / CITY/COUNTY / STATE / ZIP) (AREA) _____ Telephone No.
3. Business name and address _____ (NAME / NO. / STREET) ( ) _____ Telephone No.
   _____ (CITY/COUNTY / STATE / ZIP)
4. Birth date _____ Birth place _____

SECTION B—GENERAL INFORMATION

1. Are you licensed or certified in any state as a Social Worker? Yes ☐ No ☐
   Name of state _____ Date _____ License or certificate number _____

ANSWER THE FOLLOWING QUESTIONS:	YES	NO
1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where. _____	☐	☐
2. Have you ever had any disciplinary action taken against an occupational license to practice or is any such action pending? If yes, explain in detail. _____	☐	☐
3. Have you ever been convicted of a violation of/or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor (excluding traffic violations, except convictions for driving under the influence)? If yes, explain in detail. _____	☐	☐
4. Have you ever been physically or emotionally dependent upon the use of alcohol or drugs or been treated by, consulted with, or under the care of a professional for substance abuse? If yes, please provide a letter from the treating professional stating the diagnosis, treatment, and prognosis.	☐	☐
5. Have you been unable to practice social work by reason of illness, excessive use of alcohol, drugs, chemicals or any other type of material or as a result of any mental or physical condition? If yes, please provide a letter of explanation.	☐	☐
6. Have you ever been censored, warned, or requested to withdraw or your employment terminated from any health care facility, agency, or practice? If yes, explain in detail. _____	☐	☐

REV 2/92

SECTION C—COMPETENCIES

The Standards of Practice limit your practice to your demonstrated areas of competence. List concisely your competencies. If you feel it is necessary, you also may attach a more elaborate explanation.

Client Population	Skills To Be Used

SECTION D—EDUCATION

1. List in chronological order the name and location of each school or other institution, beyond high school, that you have attended.

INSTITUTION	DATES OF ATTENDANCE From	DATES OF ATTENDANCE To	MAJOR AND/OR CONCENTRATION	DEGREE RECEIVED	DATE DEGREE CONFERRED

2. List in chronological order the field instruction you have had.

INSTITUTION	DATES (MO./YR.) From	DATES (MO./YR.) To	HOURS PER WEEK	DUTIES (Types of learning experiences as related to specialty area of practice)

3. Did you take the required number of clinical courses to satisfy your graduate institution's requirements for a clinical social work concentration? ☐ Yes ☐ No.

SECTION E—SUPERVISED CLINICAL SOCIAL WORK EXPERIENCE

INDICATE BELOW PERSONS DESIGNATED AS YOUR SUPERVISORS OF CLINICAL SOCIAL WORK SUPERVISED EXPERIENCE TO WHOM VERIFICATION FORM(S) WILL BE SENT.

92 JUN 24 AM 11: 16

SUPERVISOR'S NAME

INSTITUTION OR BUSINESS NAME & ADDRESS

SUPERVISOR'S PROFESSIONAL LICENSE | LICENSE NUMBER | STATE WHERE LICENSED

DATES APPLICANT WAS SUPERVISED FROM TO | HRS PER WEEK SUPERVISION RENDERED | TOTAL HOURS OF FACE-TO-FACE SUPERVISION

DESCRIPTION OF SUPERVISION

DESCRIPTION OF APPLICANT'S PROFESSIONAL WORK DURING THE SUPERVISION

SUPERVISOR'S NAME

INSTITUTION OR BUSINESS NAME & ADDRESS

SUPERVISOR'S PROFESSIONAL LICENSE | LICENSE NUMBER | STATE WHERE LICENSED

DATES APPLICANT WAS SUPERVISED FROM TO | HRS PER WEEK SUPERVISION RENDERED | TOTAL HOURS OF FACE-TO-FACE SUPERVISION

DESCRIPTION OF SUPERVISION

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SUPERVISOR'S NAME

INSTITUTION OR BUSINESS NAME & ADDRESS

SUPERVISOR'S PROFESSIONAL LICENSE | LICENSE NUMBER | STATE WHERE LICENSED

DATES APPLICANT WAS SUPERVISED FROM TO | HRS PER WEEK SUPERVISION RENDERED | TOTAL HOURS OF FACE-TO-FACE SUPERVISION

DESCRIPTION OF SUPERVISION

DESCRIPTION OF APPLICANT'S PROFESSIONAL WORK DURING THE SUPERVISION

1. Total number of years of post master's degree clinical social work experience ______
2. Total number of hours of post master's degree clinical social work supervision (face-to-face) ______
3. Have you had two (2) years of postgraduate supervision with a minimum of 100 hours of face-to-face consultation with your supervisor(s)?

☐ Yes ☐ No Total hours ______

SECTION F—PROFESSIONAL EMPLOYMENT EXPERIENCE

List in chronological order the entire professional employment experience you have had after receiving your undergraduate degree (if you are a B.S.W. applicant) or your graduate degree (if you are a M.S.W. applicant).

DATES OF EMPLOYMENT		EMPLOYER	ADDRESS	HOURS PER WEEK	SUPERVISOR	DUTIES
From	To					

SECTION G—AFFIDAVIT

Have this AFFIDAVIT completed by a Notary Public.

State of ______

County or City of ______

The undersigned, being duly sworn, deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit. The undersigned also certifies that he has read and that he understands the regulations of the Board of Social Work governing the practice of social work in Virginia.

Signature of applicant: ______ Signature of Notary Public ______

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

My commission expires: ______

COMMONWEALTH OF VIRGINIA
BOARD OF SOCIAL WORK

REGISTRAR OF REGULATIONS
92 JUN 24 AM 11:16

DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF SOCIAL WORK
1601 ROLLING HILLS DRIVE
RICHMOND, VIRGINIA 23229-5005
(804) 662-9914

APPLICATION FOR EXAMINATION AND LICENSURE

APPLICATION FOR LICENSURE AS A:	APPLICATION FEE:	MAKE ALL CHECKS AND MONEY ORDERS
SOCIAL WORKER	☐ $65.00	PAYABLE TO THE TREASURER OF VIRGINIA

SECTION A—PERSONAL

1. Name in full _____ (FIRST / MIDDLE / LAST) Social Security Number _____
2. Residence Address _____ (NO. / STREET / CITY/COUNTY / STATE / ZIP) ( ) _____ (AREA / Telephone No.)
3. Business name and address _____ (NAME / NO. / STREET) ( ) _____ (AREA / Telephone No.)
   _____ (CITY/COUNTY / STATE / ZIP)
4. Birth date _____ Birth place _____

SECTION B—GENERAL INFORMATION

1. Are you licensed or certified in any state as a Social Worker? Yes ☐ No ☐
   Name of state _____ Date _____ License or certificate number _____

ANSWER THE FOLLOWING QUESTIONS:	YES	NO
1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where. _____	☐	☐
2. Have you ever had any disciplinary action taken against an occupational license to practice or is any such action pending? If yes, explain in detail. _____	☐	☐
3. Have you ever been convicted of a violation of/or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor (excluding traffic violations, except convictions for driving under the influence)? If yes, explain in detail. _____	☐	☐
4. Have you ever been physically or emotionally dependent upon the use of alcohol or drugs or been treated by, consulted with, or under the care of a professional for substance abuse? If yes, please provide a letter from the treating professional stating the diagnosis, treatment, and prognosis.	☐	☐
5. Have you been unable to practice social work by reason of illness, excessive use of alcohol, drugs, chemicals or any other type of material or as a result of any mental or physical condition? If yes, please provide a letter of explanation.	☐	☐
6. Have you ever been censored, warned, or requested to withdraw or your employment terminated from any health care facility, agency, or practice? If yes, explain in detail. _____	☐	☐

REV. 11/90

SECTION C—COMPETENCIES

The Standards of Practice limit your practice to your demonstrated areas of competence. List concisely your competencies. If you feel it is necessary, you also may attach a more elaborate explanation.

Client Population	Skills To Be Used

SECTION D—EDUCATION

1. List in chronological order the name and location of each school or other institution, beyond high school, that you have attended.

INSTITUTION	DATES OF ATTENDANCE From	DATES OF ATTENDANCE To	MAJOR AND/OR CONCENTRATION	DEGREE RECEIVED	DATE DEGREE CONFERRED

2. List in chronological order the field instruction you have had.

INSTITUTION	DATES (MO./YR.) From	DATES (MO./YR.) To	HOURS PER WEEK	DUTIES (Types of learning experiences as related to specialty area of practice)

SECTION E—SUPERVISED SOCIAL WORK EXPERIENCE

(To be completed by Bachelor of Social Work Applicants Only)

INDICATE BELOW PERSONS DESIGNATED AS YOUR SUPERVISORS OF SOCIAL WORK SUPERVISED EXPERIENCE TO WHOM VERIFICATION FORM(S) WILL BE SENT.

SUPERVISOR'S NAME

INSTITUTION OR BUSINESS NAME & ADDRESS

SUPERVISOR'S PROFESSIONAL LICENSE | LICENSE NUMBER | STATE WHERE LICENSED

DATES APPLICANT WAS SUPERVISED FROM TO | HRS. PER WEEK SUPERVISION RENDERED | TOTAL HOURS OF FACE-TO-FACE SUPERVISION CASEWORK

DESCRIPTION OF SUPERVISION

DESCRIPTION OF APPLICANT'S PROFESSIONAL WORK DURING THE SUPERVISION

SUPERVISOR'S NAME

INSTITUTION OR BUSINESS NAME & ADDRESS

SUPERVISOR'S PROFESSIONAL LICENSE | LICENSE NUMBER | STATE WHERE LICENSED

DATES APPLICANT WAS SUPERVISED FROM TO | HRS. PER WEEK SUPERVISION RENDERED | TOTAL HOURS OF FACE-TO-FACE SUPERVISION CASEWORK

DESCRIPTION OF SUPERVISION

DESCRIPTION OF APPLICANT'S PROFESSIONAL WORK DURING THE SUPERVISION

SUPERVISOR'S NAME

INSTITUTION OR BUSINESS NAME & ADDRESS

SUPERVISOR'S PROFESSIONAL LICENSE | LICENSE NUMBER | STATE WHERE LICENSED

DATES APPLICANT WAS SUPERVISED FROM TO | HRS. PER WEEK SUPERVISION RENDERED | TOTAL HOURS OF FACE-TO-FACE SUPERVISION CASEWORK

DESCRIPTION OF SUPERVISION

DESCRIPTION OF APPLICANT'S PROFESSIONAL WORK DURING THE SUPERVISION

1. Total number of years of post bachelor's degree social work experience ______
2. Total number of hours of face-to-face supervision ______
3. Total number of hours of group supervision ______

SECTION F—PROFESSIONAL EMPLOYMENT EXPERIENCE

List in chronological order the entire professional employment experience you have had after receiving your undergraduate degree (if you are a B.S.W. applicant) or your graduate degree (if you are a M.S.W. applicant).

DATES OF EMPLOYMENT		EMPLOYER	ADDRESS	HOURS PER WEEK	SUPERVISOR	DUTIES
From	To					

SECTION G—AFFIDAVIT

Have this AFFIDAVIT completed by a Notary Public.

State of ______

County or City of ______

The undersigned, being duly sworn, deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit. The undersigned also certifies that he has read and that he understands the regulations of the Board of Social Work governing the practice of social work in Virginia.

Signature of applicant: ______ Signature of Notary Public ______

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

My commission expires: ______

FEE: $25

DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF SOCIAL WORK
1601 ROLLING HILLS DRIVE
RICHMOND, VIRGINIA 23229-5005
(804) 662-9914

REGISTRAR OF REGULATIONS
92 JUN 24 AM 11: 16

REGISTRATION OF SUPERVISION

An individual who intends to apply for licensure as a clinical social worker must have completed two years of post-master's degree experience in the delivery of clinical social work services under the supervision of a licensed clinical social worker.

This form is to be completed for the purpose of registering that experience with the Board. Board approval must be granted before the clinical experience begins. Prospective trainees are encouraged to submit this form at least 30 days before the beginning of the supervised training experience.

SECTION A—PERSONAL

1. Name in full _____ (FIRST / MIDDLE / LAST) Social Security Number _____ (AREA)
2. Residence Address _____ (NO. / STREET / CITY/COUNTY / STATE / ZIP) ( ) _____ Telephone no.
3. Business name and address _____ (NAME / NO. / STREET) ( ) _____ Telephone no.
   _____ (CITY/COUNTY / STATE / ZIP)
4. Birth date _____ Birth place _____

SECTION B—EDUCATION

1. List in chronological order the name and location of each school or other institution, beyond high school, that you have attended.

INSTITUTION	DATES OF ATTENDANCE		MAJOR AND/OR CONCENTRATION	DEGREE RECEIVED	DATE DEGREE CONFERRED
	From	To			

2. List in chronological order the field instruction you have had.

INSTITUTION	DATES (MO./YR.)		HOURS PER WEEK	DUTIES (Types of learning experiences as related to specialty area of practice)
	From	To		

3. Did you take the required number of clinical courses to satisfy your graduate institution's requirements for a clinical social work concentration? ☐ Yes ☐ No
   List the graduate clinical courses that you have completed.
   _____
   _____
   _____
   _____
   _____

Trainees are required to have their MSW transcripts sent directly to the Board office from the graduate school.

SECTION C—NATURE OF SUPERVISION

Description of the nature of services to be rendered by the trainee:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Trainee's previous or concurrent social work supervision:

Dates: From _____ (MO./DAY/YR.) To: _____ (MO./DAY/YR.) By Whom: _____
Supervisor's Profession and License Number if Licensed:
_____

Dates: From _____ (MO./DAY/YR.) To: _____ (MO./DAY/YR.) By Whom: _____
Supervisor's Profession and License Number if Licensed:
_____

SECTION D—SUPERVISOR INFORMATION

Name _____ (FIRST / MIDDLE / LAST)

Business Address _____
_____

Professional License _____ License No. _____ State _____

If the supervisor is not licensed in the Commonwealth of Virginia, the following material is required: (1) a copy of the Supervisor's license, and (2) a copy of the Supervisor's resume.

Number of persons currently under supervisor's supervision:

Name _____ Name _____
Name _____ Name _____
Name _____ Name _____
Name _____ Name _____

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: **VR 672-01-1. Public Participation Guidelines. REPEALED.**

Title of Regulation: **VR 672-01-1:1. Public Participation Guidelines.**

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to repeal existing Public Participation Guidelines and adopt new Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

VR 672-01-1:1 Public Participation Guidelines.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Virginia Department of Waste Management

"Approving authority" means the Virginia Waste Management Board.

"Director" means the director of the Department of Waste Management or his designee.

"Environmental Protection Law" means the provisions found in the Code of Virginia authorizing the approving authority or agency, or both, to make regulations or decide cases or containing procedural requirements thereof.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

Unless specifically defined in the Environmental Protection Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the approving authority, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency may, at its discretion, publish the NOPC and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the

Code of Virginia to receive comments on the proposed regulation. In those cases where the agency elects to conduct an evidential hearing, the notice will be held in accordance with § 9-6.14:8 of the Code of Virginia. The hearings may be held at any time during the public comment period. The hearings may be held in such locations as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the lists established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the approving authority. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-14-11. Corrective Action Plan (CAP) General Permit.**

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.34:9 of the Code of Virginia.

Public Hearing Dates:
August 18, 1992 - 3 p.m.
August 20, 1992 - 3 p.m.
August 24, 1992 - 3 p.m.
(See Calendar of Events section for additional information)

Summary:

This general permit regulation will authorize remediation activities at leaking underground storage tank (UST) sites. The general permit incorporates the requirements of the Corrective Action Plan (CAP) permit, the Virginia Pollution Abatement (VPA) permit and the Virginia Pollutant Discharge Elimination System (VPDES) permit that might be issued for cleanup of sites contaminated with petroleum products. It requires monitoring of any effluent discharged to surface waters as well as monitoring of free product, ground water, soil and soil vapors, depending on the situation at the site. All of the limits for discharges to surface waters are designed to protect aquatic life and human health regardless of the dilution in the receiving waters.

The site specific Corrective Action Plan developed for each individual UST cleanup includes the end points for the remediation work at that site. This plan will be incorporated into the CAP general permit by reference and no CAP general permit may be issued until the Corrective Action Plan for a site has been reviewed and approved.

No facility may be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances. Coverage under the CAP general permit would not be allowed where regulations require the issuance of an individual permit. The general permit would not be issued to facilities proposing to discharge to state waters where such discharges are prohibited by other board regulations or policies nor where central wastewater treatment is reasonably available.

The CAP general permit will provide a number of benefits to the regulated community, as well as to the board staff. There is a considerable amount of flexibility built into the draft general permit which should allow the board to apply specific limits or monitoring requirements based on the activities that are approved for a particular site. The expense and time required to file for coverage under the general permit should be considerably less than those incurred in applying for an individual VPDES, VPA or CAP permit. The staff turnaround time in issuing the permit should be much shorter than for an individual permit, thus reducing the manpower needed for permitting these activities. This shorter turnaround time should also expedite the initiation of ground water remediation efforts.

VR 680-14-11. Corrective Action Plan (CAP) General Permit.

§ 1. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law, VR 680-14-01 (Permit Regulation) and VR 680-13-02 (Underground Storage Tanks; Technical Standards and Corrective Action Requirements) unless the context clearly indicates otherwise.

§ 2. Purpose.

This General Permit regulation governs the cleanup of ground water and soils contaminated by petroleum products at underground storage tank sites.

§ 3. Authority for regulation.

The authority for this regulation is pursuant to the State Water Control Law §§ 62.1-44.15, 62-44.16, 62.1-44.17, 62.1.44.20, 62.1-44.21, 62.1-44.34:9 of the Code of Virginia and 33 USC 1251 et seq. and § 6.2 of the Permit Regulation (VR 680-14-01) and § 6.7 of the Underground Storage Tanks; Technical Standards and Corrective Action Requirements (VR 680-13-02).

§ 4. Delegation of authority.

The executive director, or his designee, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

§ 5. Effective date of the permit.

This General Permit will become effective upon filing with the Registrar of Regulations and completion of public notice. This General Permit will expire five years from the effective date. This General Permit is effective as to any covered owner/operator upon compliance with all the provisions of § 6 and the receipt of this CAP General Permit.

§ 6. Authorization to cleanup contaminated underground storage tank sites.

Any owner/operator governed by this General Permit is hereby authorized to cleanup a contaminated underground storage tank site within the Commonwealth of Virginia provided that the owner/operator files the Registration Statement of § 7, complies with the effluent limitations and other requirements of § 8, and provided that:

1. Individual permit. The owner/operator shall not have been required to obtain an individual permit as may be required in § 6.2 B of the Permit Regulation.

2. Prohibited discharge locations. The owner/operator shall not be authorized by this General Permit to discharge to state waters where other board regulations or policies prohibit such discharges.

3. Central wastewater treatment facilities. The owner/operator shall not be authorized by this General Permit to discharge to surface waters where there are central wastewater treatment facilities reasonably available, as determined by the Board.

4. Local government notification. The owner/operator of any proposed facility, or any facility which has not previously been issued a valid permit by the board shall obtain notification from the governing body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq.) of Title 15.1 of the Code of Virginia.

5. Corrective action plan (CAP). The owner/operator shall have submitted a corrective action plan to the board and the board shall have approved the plan after ensuring that implementation of the plan will adequately protect human health, safety and the environment.

Receipt of this CAP General Permit does not relieve any owner/operator of the responsibility to comply with any other statute or regulation adopted pursuant to the Code of Virginia.

§ 7. Registration statement.

The owner/operator shall file a complete CAP General Permit registration statement. The required registration statement shall be in the following form:

CORRECTIVE ACTION PLAN GENERAL PERMIT REGISTRATION STATEMENT FOR CLEANUP OF GROUND WATER AND SOILS AT CONTAMINATED UNDERGROUND STORAGE TANK (UST) SITES

1. Legal Name of Facility

2. Location of Facility (Address and Telephone Number)

3. Facility Owner/Operator
Last Name First Name M.I.

4. Address of Owner/Operator

Street

City State Zip

5. Phone
Home Work

6. Type of petroleum product(s) or regulated substance causing or that caused contamination.

7. Has the corrective action plan for this site been submitted to the State Water Control Board, in accordance with § 6.6 of VR 680-13-02? Yes .... No ....

8. Will the cleanup result in a point source discharge to surface waters? Yes .... No ....

9. If yes, identify the waterbody into which the discharge will occur.

If no, identify the procedures that will be utilized to prevent a point source discharge to surface waters.

10. Attach a topographic or other map which indicates the

UST site, the receiving waterbody name and the discharge point, as well as property boundaries, wells, downstream houses, etc. within a 1/2 mile radius of the site.

11. The owner/operator of any proposed facility or any facility which has not previously been issued a valid permit by the board must attach to this Registration Statement notification from the governing body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq) of Title 15.1 of the Code of Virginia.

12. Are central wastewater treatment facilities available to this site? Yes .... No .... If yes, has the option of discharging to the central facilities been evaluated? What was the result of that evaluation?

13. Does this facility currently have a permit issued by the board? Yes .... No ....
If yes, please provide permit number:

Certification:

I hereby grant to duly authorized agents of the State Water Control Board, upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: . . . . . .Date: . . . . . .

For Water Control Board use only:

Registration Statement Accepted/Not Accepted by:

.....Date: . . . . . .

..... Basin ..... Stream Class ..... Section

Special Standards

§ 8. General permit.

Any owner/operator whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of § 6.2 of the Permit Regulation. Not all pages of Part I of the General Permit will apply to every permittee. The determination of which pages apply will be based on the type of contamination and the medium, soil or water, contaminated at the individual site. All pages of Parts II, III and IV apply to all permittees.

General Permit No.: VAG000002

. . . . . Effective Date:

. . . . . Expiration Date:

CORRECTIVE ACTION PLAN GENERAL PERMIT AUTHORIZATION TO CLEANUP CONTAMINATED UNDERGROUND STORAGE TANK (UST) SITES AND TO DISCHARGE OR MANAGE POLLUTANTS UNDER THE CORRECTIVE ACTION PLAN, THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, the State Water Control Law and regulations adopted pursuant thereto, owners/operators are authorized to cleanup contaminated UST sites and to manage pollutants or discharge to surface waters within the boundaries of the Commonwealth of Virginia, except to designated public water supplies or waters where Board Regulations or Policies prohibit such discharges.

The authorized cleanup of the contamination and the discharge or management of pollutants shall be in accordance with the Corrective Action Plan, this cover page, Part I - Effluent Limitations and Monitoring Requirements and CAP Monitoring Requirements, Part II Corrective Action Plan Requirements, and Post Operational Monitoring and Closure Requirements, Part III - Monitoring and Reporting Requirements, and Part IV - Management Requirements, as set forth herein.

If there is any conflict between the requirements of the Corrective Action Plan and this Permit, the requirements of this Permit shall govern.

PART I

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - AUTOMOTIVE GASOLINE CONTAMINATION - FRESHWATER

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to freshwater receiving waterbodies treated ground water that has been contaminated with automotive gasoline from outfall serial number 001. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS Instantaneous Minimum	Instantaneous Maximum	MONITORING REQUIREMENTS Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Benzene	NA	50 ug/l	1/Month	Grab
Toluene	NA	175 ug/l	1/Month	Grab
Ethylbenzene	NA	320 ug/l	1/Month	Grab
Total Xylenes	NA	74 ug/l	1/Month	Grab
pH (standard units)	6.0	9.0	1/Month	Grab
Total Recoverable Lead*	NA	$e^{(1.273(\ln \text{hardness}^{**}))-4.705}$	1/Month	Grab
Hardness*	NL	NA	1/Month	Grab

NL = No Limitation, monitoring required
NA = Not Applicable

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

* Monitoring for this parameter is required only when contamination results from leaded fuel.
** Hardness of the effluent.

PART I

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - AVIATION GASOLINE, JET FUEL, DIESEL CONTAMINATION - FRESHWATER

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to freshwater receiving waterbodies treated ground water that has been contaminated with aviation gasoline, jet fuel or diesel from outfall serial number 001. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS Instantaneous Minimum	Instantaneous Maximum	MONITORING REQUIREMENTS Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Naphthalene	NA	62 ug/l	1/Month	Grab
Total Petroleum Hydrocarbons	NA	NL	1/Month	Grab
pH (standard units)	6.0	9.0	1/Month	Grab

NL = No Limitation, monitoring required
NA = Not Applicable

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

PART I

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - AUTOMOTIVE GASOLINE CONTAMINATION - SALTWATER

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to saltwater receiving waterbodies treated ground water that has been contaminated with automotive gasoline from outfall serial number 001. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Benzene	NA	50 ug/l	1/Month	Grab
Toluene	NA	500 ug/l	1/Month	Grab
Ethylbenzene	NA	4.3 ug/l	1/Month	Grab
Total Xylenes	NA	13 ug/l	1/Month	Grab
pH (standard units)	6.0	9.0	1/Month	Grab
Total Recoverable Lead*	NA	8.5 ug/l	1/Month	Grab

NL = No Limitation, monitoring required
NA = Not Applicable

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

* Monitoring for this parameter is required only when contamination results from leaded fuel.

PART I

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - AVIATION GASOLINE, JET FUEL, DIESEL CONTAMINATION - SALTWATER

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to saltwater receiving waterbodies treated ground water that has been contaminated with aviation gasoline, jet fuel or diesel from outfall serial number 001. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Naphthalene	NA	23.5 ug/l	1/Month	Grab
Total Petroleum Hydrocarbons	NA	NL	1/Month	Grab
pH (standard units)	6.0	9.0	1/Month	Grab

NL = No Limitation, monitoring required
NA = Not Applicable

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

PART I

CAP MONITORING REQUIREMENTS - MONITORING FREE PRODUCT

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor Free Product. Samples taken in compliance with the monitoring requirements specified below shall be taken at the locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Free Product	1/Month	Measurement*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this Free Product monitoring operation.

* Free Product measurement shall be done by probe or bailer prior to well bailing or sample collection and shall measure product thickness to an accuracy within 0.01 feet.

PART I

CAP MONITORING REQUIREMENTS - MONITORING SOIL VAPOR

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor soil vapor at the well/sample locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Volatile Organics	1/Month	Air Sample*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements of system shutdown.

* Air sample collection shall be according to EPA stationary source method 18 and sample analysis shall be according to EPA method TO-3 for volatile organics or other staff approved method.

PART I

CAP MONITORING REQUIREMENTS - MONITORING RESIDUAL PRODUCT IN SOIL FOR IN SITU TREATMENT - AUTOMOTIVE GASOLINE CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in soil that has been contaminated with automotive gasoline at the locations specified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS FREQUENCY	SAMPLE TYPE
Benzene	1/Year	Soil Sample*
Toluene	1/Year	Soil Sample*
Ethylbenzene	1/Year	Soil Sample*
Xylenes	1/Year	Soil Sample*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this monitoring of residual product in soil and in situ operation.

* Benzene, Toluene, Ethylbenzene and Xylenes (BTEX) soil samples shall be collected using a split spoon sampler and shall be screened using a Photoionization Detector (PID) type instrument. A discrete BTEX soil sample from the segment of the boring that gives the highest PID reading shall be analyzed using SW 846 Method 8020 modified for soils.

PART I

CAP MONITORING REQUIREMENTS - MONITORING RESIDUAL PRODUCT IN SOIL FOR IN SITU TREATMENT - AVIATION GASOLINE, JET FUEL, DIESEL CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in soil that has been contaminated with aviation gasoline, jet fuel or diesel at the locations specified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS FREQUENCY	SAMPLE TYPE
Total Petroleum Hydrocarbons (TPH)	1/Year	Soil Sample*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this monitoring of residual product in soil and in situ operation.

* TPH soil samples shall be collected using a split spoon sampler and shall be screened using a Photoionization Detector (PID) type instrument. A discrete TPH soil sample from the segment of the boring that gives the highest PID reading shall be analyzed using the GC-FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with SW 846 Method 3550 (Sonication) for sample preparation.

PART I

CAP MONITORING REQUIREMENTS - MONITORING RESIDUAL PRODUCT IN EXCAVATED SOIL - AUTOMOTIVE GASOLINE CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in the excavated soil that has been contaminated with automotive gasoline at the locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS FREQUENCY	SAMPLE TYPE
Benzene	1/Month	Grab*
Toluene	1/Month	Grab*
Ethylbenzene	1/Month	Grab*
Xylenes	1/Month	Grab*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this monitoring of residual product in this excavated soil operation.

* Benzene, Toluene, Ethylbenzene and Xylenes (BTEX) soil samples shall be collected using a hand auger and shall be screened using a Photoionization Detector (PID) type instrument. A discrete BTEX soil sample from the segment of the boring that gives the highest PID reading shall be analyzed using SW 846 Method 8020 modified for soils.

PART I

CAP MONITORING REQUIREMENTS - MONITORING RESIDUAL PRODUCT IN EXCAVATED SOIL - AVIATION GASOLINE, JET FUEL, DIESEL CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in the excavated soil that has been contaminated with aviation gasoline, jet fuel or diesel at the locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS FREQUENCY	SAMPLE TYPE
Total Petroleum Hydrocarbons (TPH)	1/Month	Grab*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this monitoring of residual product in this excavated soil operation.

* TPH soil samples shall be collected using a hand auger and shall be screened using a Photoionization Detector (PID) type instrument. A discrete TPH soil sample from the segment of the boring that gives the highest PID reading shall be analyzed using the GC-FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with SW 846 Method 3550 (Sonication) for sample preparation.

PART I

CAP MONITORING REQUIREMENTS - MONITORING GROUND WATER - AUTOMOTIVE GASOLINE CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor ground water that has been contaminated with automotive gasoline at the well/sample locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS FREQUENCY	SAMPLE TYPE
Benzene	1/Month	Grab*
Toluene	1/Month	Grab*
Ethylbenzene	1/Month	Grab*
Xylenes	1/Month	Grab*
Total Lead**	1/Month	Grab
Ground Water Elevation (Ft.)	1/Month	Measure***

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this Ground Water monitoring operation.

* Benzene, Toluene, Ethylbenzene and Xylenes shall be analyzed according to SW 846 Method 8020.

** Monitoring for this parameter is required only when contamination results from leaded fuel. Total lead analysis shall be according to SW 846 Method 7420/7421.

*** The ground water elevation shall be determined prior to bailing or sampling of wells. Ground water measurement accuracy shall be within 0.01 feet and reported in relation to mean sea level.

PART I

CAP MONITORING REQUIREMENTS - MONITORING GROUND WATER - AVIATION GASOLINE, JET FUEL, DIESEL CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor ground water that has been contaminated with aviation gasoline, jet fuel or diesel at the well/sample locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS FREQUENCY	SAMPLE TYPE
Total Petroleum Hydrocarbons (TPH)	1/Month	Grab*
Ground Water Elevation (Ft.)	1/Month	Measure**

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II.B.1. See Part II.A.4.c. for the requirements for system shutdown.

3. There shall be no discharge to surface water from this Ground Water monitoring operation.

* TPH shall be analyzed using the GC-FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with SW 846 Method 3510 for sample preparation.

** The ground water elevation shall be determined prior to bailing or sampling of wells. Ground water measurement accuracy shall be within 0.01 feet and reported in relation to mean sea level.

Part II.

A. Corrective action plan requirements.

1. In accordance with State Water Control Board Regulation VR 680-13-02, the permittee shall immediately provide an alternate water supply to any user of ground water should monitoring indicate pollutant contamination of existing water supply wells for any parameter listed in the ground water monitoring requirement found in Part I.A. of this permit.

2. O & M Manual. The owner/operator shall develop and submit within 30 days of coverage under this general permit, an Operations and Maintenance (O & M) Manual for the treatment works permitted herein. This manual shall detail practices and procedures which will be followed to ensure compliance with the requirements of this permit. The owner/operator shall operate the remediation program and treatment works in accordance with the O & M Manual.

3. Corrective action plan. Cleanup of the contaminated UST site shall be conducted in accordance with the corrective action plan (CAP) approved by the board. The approved CAP and any subsequent addenda are incorporated into this permit and noncompliance with the CAP is a violation of this permit.

4. Cleanup endpoints.

a. Cleanup endpoints for each phase of contamination are specified in the approved corrective action plan.

b. The endpoints must be achieved within the zone of contamination, as evidenced by Part I.A. CAP monitoring requirements and using specific board approved methods of analysis.

c. After demonstrating that the cleanup endpoints in the approved corrective action plan have been maintained for six consecutive months, the permittee may request that the executive director allow a shutdown of the system and the permittee shall initiate post operational monitoring (as described in Part II B 1).

5. Operation schedule. The permittee shall construct, install and begin operating the cleanup system approved by the board within 60 days of coverage under this general permit. The permittee shall notify the board's regional office within five days after the completion of installation and commencement of operation.

6. CAP reopener. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under §§ 301(b) (2) (C), (D), and (E), 304 (b) (2) (3) (4), and 307 (a) (2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

b. Controls any pollutant not limited in the permit. The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

If, at any given time during the life of this permit the board determines that cleanup is not proceeding in a satisfactory manner, the permittee will be required to reevaluate the cleanup approach and submit CAP modifications within 30 days of notification from the board. This notification will include a summary of the existing CAP deficiencies. The permittee may at any time request CAP modifications in order to improve the existing cleanup.

7. Resumption of cleanup. The permittee shall resume cleanup immediately at the site if post operational monitoring results indicate that the cleanup goals are no longer being maintained. The permittee shall resume cleanup operations in accordance with the approved CAP and this permit.

8. Annual evaluation reports. The permittee shall submit annual reports which evaluate the effectiveness of the corrective action plan and its progress toward achieving cleanup endpoints to the board's regional office. The first report shall be submitted within 12 months of coverage under this general permit and yearly thereafter.

9. Other requirements. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

B. Post operational monitoring and closure requirements.

1. Post operational monitoring requirements. After system shutdown, the permittee shall initiate post operational monitoring, which shall be a continuation of the monitoring required in Part I A, with a reduction in frequency to once per quarter for a period of one year.

Post operational monitoring for in situ treatment of residual product in the soil shall be a continuation of the monitoring required in Part I A for a period of

one year.

2. Closure requirement. Provided that the post operational monitoring confirms the remediation endpoints have been maintained, the permittee shall request site closure. This request shall be sent to the board's regional office with appropriate documentation or references to documentation already in the board's possession. Upon receipt of the regional office approval, the site shall be deemed closed.

PART III.

MONITORING AND REPORTING.

A. Sampling and analysis methods.

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in the permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in (i) this permit, (ii) guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act as published in the Federal Register (40 CFR 136) or (iii) other methods approved by the board.

3. The sampling and analysis program to demonstrate compliance with the permit shall, at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Recording of results.

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;

2. The person(s) who performed the sampling or measurements;

3. The dates analyses were performed;

4. The person(s) who performed each analysis;

5. The analytical techniques or methods used;

6. The results of such analyses and measurements;

7. The method detection limit;

8. The sample medium (soil, water); and

9. The units of measure.

C. Records retention.

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or report. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

D. Additional monitoring by permittee.

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.

E. Water quality monitoring.

The board may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the Virginia State Water Control Law, Clean Water Act or the board's regulations.

The permittee shall obtain and report such information if requested by the board. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the board.

F. Reporting requirements.

1. The permittee shall submit an original monitoring report of the preceding month's performance to the State Water Control Board regional office by the 10th of each month. This report shall include the results of all monitoring required by Part I A Effluent Limitations and Monitoring Requirements and CAP Monitoring Requirements, and Part II Corrective Action Plan Requirements and Post Operational Monitoring and Closure Requirements.

2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the board with the monitoring report at least the following information:

a. A description and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or the anticipated time when the noncompliance will cease; and

c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The board may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part III F 2 a-c regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations or pollutant management activities, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities or pollutant management activities, or (vi) flooding or other acts of nature.

If the regional office cannot be reached, the board maintains a 24-hour telephone service in Richmond (804-527-5200) to which the report required above is to be made.

G. Signatory requirements.

Any registration statement, report, or certification required by this permit shall be signed as follows:

1. Registration statement.

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

2. Reports. All reports required by permits and other information requested by the board shall be signed by:

a. One of the persons described in subdivision 1 a, b or c of this subsection; or

b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subdivision 1 a, b or c of this subsection; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or registration statement to be signed by an authorized representative.

3. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge

and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

PART IV.
MANAGEMENT REQUIREMENTS.

A. Change in discharge or management of pollutants.

1. Any permittee proposing a new discharge or the management of additional pollutants shall submit an amended corrective action plan and a registration statement at least 180 days prior to commencing erection, construction, or expansion or employment of new pollutant management activities or processes at any facility. There shall be no commencement of treatment or management of pollutants activities until a permit is received.

2. All discharges or pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit to the board an amended corrective action plan and a registration statement 180 days prior to all expansions, production increases, or process modifications, that will result in new or increased pollutants. The discharge or management of any pollutant more frequently than, or at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.

3. The permittee shall promptly provide written notice to the board of the following:

a. Any new introduction of pollutant(s), into treatment works or pollutant management activities which represents a significant increase in the discharge or management of pollutant(s) which may interfere with, pass through, or otherwise be incompatible with such works or activities, from an establishment, treatment works, or discharge(s), if such establishment, treatment works, or discharge(s) were discharging or has the potential to discharge pollutants to state waters; and

b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, pollutant management activities, or discharge(s) that was introducing pollutants into such treatment works at the time of issuance of the permit.

c. Any reason to believe that any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) One hundred micrograms per liter (100 ug/l);

(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for the pollutant in the registration statement; or

(4) The level established in accordance with regulation under § 307(a) of the Act and accepted by the board.

d. Any activity has occurred or will occur which would result in any discharge on a nonroutine or infrequent basis of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following "notification levels":

(1) Five hundred micrograms per liter (500 ug/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the registration statement;

(4) The level established by the board.

Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works or pollutant management activities; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from such treatment works or pollutants managed at a pollutant management activity; and (iii) any additional information that may be required by the board.

B. Treatment works operation and quality control.

1. Design and operation of facilities or treatment works and disposal of all wastes shall be in accordance with the corrective action plan and registration statement filed with the State Water Control Board and in conformity with the conceptual design, or the plans, specifications, or other supporting data approved by the board. The approval of the treatment works conceptual design or the plans and specifications does not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design or operation, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:

a. At all times, all facilities and pollutant management activities shall be operated in accordance with the Operation and Maintenance (O&M) Manual and in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.

c. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.

d. Collected sludges shall be stored in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters, and disposed of in accordance with this permit or plans approved by the board.

C. Adverse impact.

The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability.

The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Bypassing.

Any bypass ("Bypass - means intentional diversion of waste streams from any portion of a treatment works") of the treatment works herein permitted is prohibited unless:

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall notify the board promptly at least 10 days prior to the bypass. After considering its adverse effects the board may approve an anticipated bypass if:

a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("Severe Property Damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.); and

b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down-time. However, if a bypass occurs during normal periods of equipment down-time, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.

2. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the board as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in Part IV G 1 above and in light of the information reasonably available to the permittee at the time of the bypass.

G. Conditions necessary to demonstrate an upset.

A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology-based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;

2. The facility permitted herein was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;

3. The permittee submitted a notification of noncompliance as required by Part III F above; and

4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.

H. Compliance with state and federal law.

Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.

I. Property rights.

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

J. Severability.

The provisions of this permit are severable.

K. Duty to reregister.

If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 180 days prior to the expiration date of this permit.

L. Right of entry.

The permittee shall allow authorized state and federal representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;

2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;

3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

4. To sample at reasonable times any waste stream, discharge, process stream, raw material or by-product; and

5. To inspect at reasonable times any collection, treatment, pollutant management activities or discharge facilities required under this permit.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.

M. Transferability of permits.

This permit may be transferred to another person by a permittee if:

1. The current owner notifies the board 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The board does not within the 30-day time period notify the existing owner and the proposed owner of its intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

N. Public access to information.

All information pertaining to permit processing or in reference to any source of discharge of any pollutant, shall be available to the public, unless the information has been identified by the applicant as a trade secret, of which the effluent data remain open public information. All information claimed confidential must be identified as such at the time of submission to the board or EPA. Otherwise, all information will be made available to the public. Notwithstanding the foregoing, any supplemental information that the board may obtain from filings made under the Virginia Toxics Substance Information Act (TSIA) shall be subject to the confidentiality requirements of TSIA.

O. Permit modification.

The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;

2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in

accordance with provisions of § 307(a) of the Clean Water Act; or

3. When the level of discharge of or management of a pollutant not limited in the permit exceeds applicable Water Quality Standards or Water Quality Criteria, or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

P. Permit termination.

After public notice and opportunity for a hearing, the general permit may be terminated for cause.

Q. When an individual permit may be required.

The board may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The discharger(s) is a significant contributor of pollution.

2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a General Permit.

3. The discharge violates the terms or conditions of this permit.

4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.

5. Effluent limitation guidelines are promulgated for the point sources covered by this permit.

6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

R. When an individual permit may be requested.

Any owner/operator operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to an owner/operator the applicability of this general permit to the individual owner/operator is automatically terminated on the effective date of the individual permit. When a General Permit is issued which applies to an owner/operator already covered by an individual permit, such owner/operator may request exclusion from the provisions of the General Permit and subsequent coverage under an individual permit.

S. Civil and criminal liability.

Except as provided in permit conditions on "bypassing" (Part IV G), and "upset" (Part IV H) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

T. Oil and hazardous substance liability.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.

U. Unauthorized discharge of pollutants.

Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.

* * * * * * * *

Title of Regulation: **VR 680-41-01. Public Participation Guidelines. REPEALED.**

Title of Regulation: **VR 680-41-01:1. Public Participation Guidelines.**

Statutory Authority: § 62.1-44.15(7) of the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to repeal existing Public Participation Guidelines and adopt new Public Participation Guidelines which establish, in

regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

VR 680-41-01:1 Public Participation Guidelines.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the administrative agency of the State Water Control Board, including staff, etc., established pursuant to the Environmental Protection Law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the collegial body of the State Water Control Board, established pursuant to Environmental Protection Law as the legal authority to adopt regulations.

"Director" means the executive director of the State Water Control Board or his designee.

"Environmental Protection Law" means the provisions found in the Code of Virginia authorizing the approving authority or agency or both to make regulations or decide cases or containing procedural requirements thereof including, but not limited to, Chapter 3.1 (§ 62.1-44.1 et seq.), Chapter 3.2 (§ 62.1-44.36 et seq.), Chapter 3.4 (§ 62.1-44.83 et seq.), and Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 of the Code of Virginia.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

Unless specifically defined in the Environmental Protection Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the approving authority, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the executive director, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held,

the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency may publish the NOPC and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice will be held in accordance with § 9-6.14:8.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation

published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the approving authority. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

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.

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 [of 1965 as amended].*

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

Effective Date: August 12, 1992.

Summary:

The amendments conform the SEAA's regulations to existing federal law and regulations. The 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 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:

[*"Abbreviated due diligence" means a series of collection activities as described in U.S. Department of Education bulletin 88-G-138, Section (E) issued on March 11, 1988.*]

"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. [*Comakers shall be treated as borrowers in all due diligence activities.*]

"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 [*by a lender or its agent*].

"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*~~ *temporary suspension*] of repayment of *interest or* principal [*or both, or acceptance of payments less than the statutory minimum*] ~~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 mu~~

~~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* [*qualifying*] *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*~~ *financial institution or qualifying school*] 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*~~ *temporarily withdraw*] *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*~~ *cease*] *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*~~ *Title IV, Part B*] 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* [*nor endorser*] 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~~ *from*] 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*~~ *from*] *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 [*Stafford loan*] *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.~~ *2.*] *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. 60 through 90 days delinquent: The SEAA may require the lender to request preclaims assistance during this period.*]

[~~b.~~ *c.*] *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.*

[*d. 120 to 270 days delinquent: The SEAA may require the lender to request supplemental preclaims assistance during this period.*]

[~~c.~~ *e.*] *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.~~ *3.*] *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.~~ *b.*] *Who is* [~~155~~ *150*] *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 [*enrollment,*] *grace or repayment period within 10 days of receipt of information that the borrower's* [*, comaker's*] *or endorser's address or telephone number is* [~~unknown~~ *invalid*] *. 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.* [*In addition, for loans for which the lender receives indication of an invalid telephone number or address on or after January 1, 1993, the lender shall perform the following:*]

1. [~~11 - 30~~ *1-30*] *days after* [~~receiving returned mail or upon~~] *learning that* [~~a~~ *an address or*] *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.* [*These efforts must be completed within 30 days of receiving indication that the address or phone number is invalid.*]

2. [~~31 - 90 and 91 - 180 days~~ *In each 90-day period after the initial skiptracing efforts described in this section,*] *the lender shall make at least one follow-up attempt during each of these periods to locate the borrower's* [*, comaker's or endorser's*] *current address. During each period the lender shall make at least one attempt to locate the borrower's* [*, comaker's or endorser's*] *telephone number through directory assistance.*

[*3. In the event that the loan is delinquent or becomes delinquent during the lenders efforts to*

locate a valid address or phone number, the lender must conduct skiptracing efforts during each 90-day period following the initial skiptracing efforts that are as comprehensive as those required during the initial 30-day period.]

[~~3.~~ *4.*] *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.~~ *5.*] *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* [*, endorser and comaker*] *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~~ *diligent*] *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.~~ *b.*] *Who is* [~~155~~ *150*] *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.~~ *D.*] 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~~ *payable*] 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. [*PLUS disbursements may be made copayable to the parent and the school indicated on the loan application at the agreement of the school and lender. In these cases, checks shall indicate the student's name and Social Security number and, unless authorized by the promissory note, the lender must retain in its file the borrower's authorization to make the check copayable.*]

3. Loan proceeds for a student attending a foreign school shall be made [~~copayable~~ *payable*] 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. In the case of a loan processed electronically, the school must transmit the school certification data on or before the last day of the loan period.*

3. The SEAA must have received a paper application/promissory note on or before the 30th day following the last day of the enrollment period indicated on the application. However, applications through the Lender of Last Resort program as described in § 2.1 B must be received on or before the 60th day following the last day of the loan period indicated on the application.]

[~~2.~~ *4.*] 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 case 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. [*The SEAA will not charge a reinstatement fee in cases in which the guarantee was cancelled as a result of SEAA error.*]

§ 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 [*and the borrower agree, in writing where required,*] to accrue and capitalize the interest.

§ 4.3. Repayment.

A. Minimum loan payment.

[~~Any~~ *Except in the case of forbearance, 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 [*:*

1. In ~~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~~ *a nonparticipating*] school.

[*2. In the case of a late conversion to repayment or in cases in which the lender learns that a borrower is no longer eligible for a deferment earlier granted, the lender may grant a forbearance through the time at which he learns of the event which disqualifies the loan for grace or deferment plus a reasonable period for placing the loan into active repayment status.*

3. In the case in which a lender places a loan into administrative forbearance during the automatic stay period during bankruptcy proceedings.

4.] *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, th(

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 notificiation, 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*~~ *receiving verifiable proof*] *that the borrower has died.*

§ 5.2. 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 ~~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~~ a] comaker, and only one party has the [obligation to repay 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. [If the loan was obtained with an endorser and the borrower's obligation to repay the loan is discharged through bankruptcy, the endorser is not obligated to repay the loan. If the endorser's obligation to repay the loan is discharged through bankruptcy, the borrower remains obligated to repay the loan.]

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 206th/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.~~

The SEAA will pay interest for a maximum of 360/420 days in the case of a qualifying default claim. The allowable interest includes up to 270/330 days for the lender to prepare and submit a qualifying default claim and up to 90 days for the SEAA's review of the claim and payment processing. Claim interest payment may not exceed federal reinsurance eligibility by more than 30 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. [Claim interest payment may not exceed federal reinsurance eligibility by more than 30 days.]

C. Bankruptcy claims.

The SEAA will pay interest for no more than [~~150~~ 120] 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~~ 100] 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. [Claim interest payment may not exceed federal reinsurance eligibility by more than 30 days.]

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. [For claims which are first rejected on or after January 1, 1993,] 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. [In the case of qualifying claims submitted under subdivision 2 of § 5.6 for which abbreviated due diligence is required, the SEAA will pay no more interest than is reinsured by the federal government.]

§ 5.6. Return of claims for inadequate documentation.

[For claims which are first rejected on or after January 1, 1993, lenders must observe the following:]

[~~A.~~ 1.] Lenders must resubmit returned claims within 60 days of the date the claim was returned by the SEAA.

[~~B.~~ 2.] Lenders may not resubmit more than [~~twice~~ once] a claim that has been returned to the lender for inadequate documentation unless [the lender has performed abbreviated due diligence and provides all required documentation. This provision does not apply if] 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.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: **VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.**

Statutory Authority: §§ 22.1-271.1, 22.1-271.2, 32.1-12, and 32.1-46 of the Code of Virginia.

Effective Date: August 13, 1992.

Summary:

These regulations are intended to ensure that children enrolling in schools and day care centers are immunized against the vaccine preventable diseases of childhood. The amendments will require children enrolling in school for the first time (be it kindergarten or first grade) and those enrolling in grade six to have received two doses of measles vaccine, and children through 30 months of age enrolling in day care centers to be immunized against Haemophilus influenzae type b (HIB) disease.

VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.

~~2.00~~
PART I.
DEFINITIONS.

§ 1.1. Definitions.

~~2.01 General. As used in these regulations, the words and terms hereinafter set forth have meanings respectively set forth unless the context requires a different meaning.~~ *The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:*

~~2.02 Definitions~~

~~2.02.01~~ *"Adequate immunization"* means

a. For currently enrolled students, the immunization requirements prescribed under Section 3.01.

b. For new students, the immunization requirements prescribed under Section 3.02 *§ 3.1* .

2.02.02 *"Admit" or "admission"* means the official enrollment or reenrollment for attendance at any grade level, whether full-time or part-time, of any student by any school.

2.02.03 *"Admitting official"* means the school principal or his designated representative if a public school; if a nonpublic school or child care center, the principal, headmaster or director of the school or center.

2.02.04 *"Board"* means the State Board of Health.

2.02.05 *"Commissioner"* means the State Health Commissioner.

2.02.06 *"Compliance"* means the completion of the immunization requirements appropriate to either category of student, currently enrolled or new, required *prescribed* under Section 3.00 *§ 3.1* .

2.02.07 *"Conditional enrollment"* means the enrollment of a student for a period of ninety 90 days contingent upon the student having received at least one dose of each of the required vaccines and the student possessing a plan, from a physician or local health department, for completing his immunization requirements within the ensuing ninety 90 days.

2.02.08 Currently Enrolled Student means any person less than twenty 20 years of age who enrolled in any Virginia school for the first time prior to July 1, 1983. Any currently enrolled student transferring from one school to another within the Commonwealth shall continue to be a currently enrolled student for the purposes of these regulations.

2.02.09 *"Documentary proof"* means

a. For currently enrolled students, any document signed by a physician or official of a local health department, or a document excerpted from the student's immunization records by an admitting official prior to July 1, 1983. This document may be Form MCH 213B.

b. For new students, an appropriately completed copy of Form MCH 213B *and the temporary certification form for Haemophilus influenzae type b disease where applicable,* [*or*] *Form MCH 213C* [*(Appendix A) or a computer generated facsimile of Form 213C*] signed by a physician or his designee or an official of a local health department [; except that for . *The MCH 213C SUPPLEMENT (Appendix B) indicating the dates of administration of the required vaccines, shall be acceptable in lieu of recording these dates on Form MCH 213C, as long as the supplement is attached to Form MCH 213C and the remainder of ,Form MCH 213C has been appropriately completed. For*] a new student transferring from an out-of-state school, any immunization record, which contains the exact date (month/day/year) of administration of each of the required doses of vaccines *when indicated* and complies fully with the requirements prescribed under Section 3.02 *§ 3.1* shall be acceptable.

2.02.10 *"Immunization"* means [a treatment which renders an individual less susceptible to the pathologic effects of a disease or provides a measure of protection against the disease (e.g., inoculation, vaccination) *the administration of a product licensed by the FDA to confer protection against one or more specific pathogens*].

2.02.11 New Student means any person less than twenty 20 years of age who seeks for the first time, admission to any Virginia school, or for whom admission to any Virginia school is sought by a parent or guardian, after July 1, 1983.

2.02.12 *"Physician"* means any person licensed to practice medicine in any of the fifty *50* states or the District of Columbia.

2.02.13 *"School"* means:

a. *1.* Any public school from kindergarten through grade twelve *12* operated under the authority of any locality within this Commonwealth;

b. *2.* Any private or parochial school that offers instruction at any level or grade from kindergarten through grade twelve *12* ;

c. *3.* Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and

d. *4.* Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

"Student" means any person less than 20 years of age who seeks [*for the first time,*] *admission to any Virginia school, or for whom admission to any Virginia school is sought by a parent or guardian.*

2.02.14 *"Twelve months of age"* means the three hundred and sixty-fifth 365th day following the date of birth.

1.00
PART II.
GENERAL INFORMATION.

1.00 *§ 2.1.* Authority.

Section 22.1-271.2 of the Code of Virginia ~~(1950)~~ ~~as amended~~ pertains to immunization requirements for attending a school or licensed child care center in the Commonwealth. Section 22.1-271.1 deals with the definitions necessary to implement § 22.1-271.2. Section 22.1-271.2 directs the Board of Health to promulgate regulations for implementing this section in congruence with the board's regulations promulgated under § 32.1-46. ~~These are the Regulations for the Reporting and Control of Diseases promulgated by the board and effective August 1, 1980.~~ Section 32.1-12 of the Code empowers the Board of Health with the authority to adopt regulations. These regulations have been promulgated in cooperation with the State Board of Education.

~~1.01~~ *§ 2.2.* Purpose.

These regulations are designed to ensure that all students attending any public, private or parochial school and all attendees of licensed child care centers in the Commonwealth, are adequately immunized and protected against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, ~~and~~ mumps *, and haemophilus influenzae type b disease* as appropriate for the age of the student.

~~1.02.~~ *§ 2.3.* Administration.

~~1.02.01~~ *A.* State Board of Health.

The Board of Health has the responsibility for promulgating regulations pertaining to the implementation of the school immunization law and standards of immunization by which a child attending a school or child care center may be judged to be adequately immunized.

~~1.02.02~~ *B.* State health commissioner.

The state health commissioner is the executive officer for the State Board of Health with the authority of the board when it is not in session, subject to the rules and regulations of the board.

~~1.02.03~~ *C.* Local health director.

The local health director is responsible for providing assistance in implementing these regulations to the school divisions in his jurisdiction and for providing immunizations to children determined not to be adequately immunized, who present themselves to the local health department for immunization.

~~1.02.04~~ [~~*D.* Regional medical director.~~

~~The regional medical director is responsible for coordinating the efforts of the local health department, school divisions and local medical societies within his region in implementing these regulations.~~]

~~1.02.05~~ [~~*E.*~~ *D.*] Admitting officials.

The school principals of public schools and the principals, headmasters and directors of nonpublic schools and child care centers [~~are responsible for ensuring that~~ *shall require*] each student attending their institutions [~~provides~~ *to provide*] documentary proof of immunization against the diseases listed in ~~Section 3.0~~ *§ 3.1* [~~of these regulations~~].

~~1.03~~ 1 *§ 2.4.* Application of regulations.

These regulations have general application throughout the Commonwealth.

~~1.04~~ *§ 2.5.* Effective date [*of original regulations*].

~~July 1, 1983~~ [~~*July 1, 1992*~~ *July 1, 1983*]

[*Effective date of amendment No. 1: August 13, 1992.*]

~~1.05~~ *§ 2.6.* Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, contained in Chapter 1.1:1 of Title 9 of the Code, shall govern the adoption, amendment, modification and revision of these regulations, and the conduct of all proceedings and appeals hereunder.

~~1.06~~ *§ 2.7.* Powers and procedures of regulations not exclusive.

The board reserves the right to authorize a procedure for enforcement of these regulations which is not inconsistent with the provisions set forth herein and the provisions of Chapter 2 of Title 32.1 of the Code.

~~1.07 Severability - If any provision of these regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions of the application, and to this end, the provisions of these regulations and the various applications thereof are declared to be severable.~~

~~1.08~~ *§ 2.8.* Terminology.

The use of terminology in these regulations indicating the male gender shall apply equally to the female gender.

~~3.00~~
PART III.
IMMUNIZATION REQUIREMENTS.

~~3.01 Immunization Requirements for Currently Enrolled Students -Every currently enrolled student shall provide, or shall have on file, in his mandatory permanent school record at the school to which he is seeking admission, documentary proof of adequate immunization with the prescribed number of doses of each of the vaccines and toxoids listed in the following subsections, as appropriate for his age.~~

~~3.01.01 Diphtheria and Tetanus Toxoids and Pertussis Vaccine (DTP) - For students less than seven years of age, a minimum of three doses of DTP. If any of these three doses must be administered on or after the seventh birthday, Td (adult tetanus toxoid full dose and diphtheria toxoid reduced dose) should be used instead of DTP.~~

~~3.01.02 Poliomyelitis Vaccine - A minimum of three doses of trivalent oral poliomyelitis vaccine (OPV). Four (4) doses of inactivated poliomyelitis vaccine (IPV) shall be an acceptable alternative means of immunizing any child in whom the use of OPV is medically contraindicated.~~

~~3.01.03 Measles (Rubeola) Vaccine - A minimum of one dose of attenuated, (live) rubeola virus vaccine administered at age 12 months or older. Any measles immunization receive after 1968 should be considered to have been administered using a live virus vaccine.~~

~~3.01.04 German Measles (Rubella) Vaccine - A minimum of one dose of rubella virus vaccine administered at age 12 months or older.~~

~~3.02~~ *§ 3.1.* Immunization requirements ~~for New Students~~ .

Every new student and every child attending a licensed child care center shall provide documentary proof of adequate immunization with the prescribed number of doses of each of the vaccines and toxoids listed in the following ~~subsections~~ *subdivisions* , as appropriate for his age. [*A copy of every student's immunization record shall be on file in his school record.*]

~~3.02.01~~ *1.* Diphtheria and Tetanus Toxoids and Pertussis Vaccine (DTP). For students less than seven years of age, a minimum of three doses of DTP, with one dose administered after the student's fourth birthday. If any of these three doses must be administered on or after the seventh birthday, Td (adult tetanus toxoid full dose and diphtheria toxoid reduced dose) should be used instead of DTP.

~~3.02.02~~ *2.* Poliomyelitis Vaccine. A minimum of three doses of trivalent oral poliomyelitis vaccine (OPV), with one dose administered after the fourth birthday ~~Four (4)~~ *or three* doses of *enhanced-potency* inactivated poliomyelitis vaccine (IPV) [,] ~~shall be an acceptable alternative means of immunizing~~ *with one dose administered after the fourth birthday* [~~for any child in whom the use of~~ *when*] OPV is [~~medically~~] contraindicated.

~~3.02.03~~ *3.* Measles (Rubeola) Vaccine. ~~A minimum of one~~ [~~One~~ *For students enrolling in kindergarten or first grade on and after July 1, 1991, one*] dose of [~~attenuated, (~~] live [~~)~~ ~~rubeola virus~~ *measles*] vaccine administered at age 12 months or older , *and a second dose administered prior to entering kindergarten or first grade, whichever occurs first. The two doses must be administered at least one month apart* . [*Students entering sixth grade on and after July 1, 1992, shall also have received two doses of live measles vaccine, with the first dose administered at age 12 months or older and the second dose at least one month after the first dose. All other students shall have received at least one dose of live measles vaccine.*] ~~Any measles immunization received after 1968 should be considered to have been administered using a live virus vaccine.~~

~~3.02.04~~ *4.* German Measles (Rubella) Vaccine. A minimum of one dose of rubella virus vaccine administered at age 12 months or older.

~~3.02.05~~ *5.* Mumps Vaccine. A minimum of one dose of mumps virus vaccine administered at age 12 months or older. [*The requirement for mumps vaccine shall not apply to any child admitted for the first time to any grade level, kindergarten through grade 12 of a school prior to August 1, 1981.*]

6. Haemophilus Influenzae Type b (Hib) Vaccine. A complete series of Hib vaccine [~~*in accordance with current recommendations of the American Academy of Pediatrics or the U.S. Public Health Service for children 15 through 30 months of age, and age-appropriate doses for children younger than 15 months of age as attested to by the temporary form documenting immunizations against Hib or Form MCH 213C.*~~ *i.e., up to a maximum of four doses of vaccine as appropriate for the age of the child and the age at which the immunization series was initiated. The number of doses administered shall be in accordance with current recommendations of either the American Academy of Pediatrics or those of the U.S. Public Health Service. Attestation by the physician or his designee on the temporary form documenting immunizations against Hib, that portion of Form MCH 213C pertaining to Hib vaccine, a computer generated facsimile of MCH 213C, or on the MCH 213C SUPPLEMENT as defined in § 1.1 under "documentary proof" shall mean that the child has satisfied the requirements of this section. This section shall not apply to children older than 30 months of age.*

The dosage schedule for Hib vaccine varies with the manufacturer. The number of doses of vaccine required is also governed by the age at which immunization is initiated. Hence the reason why the requirements for Hib vaccine are prescribed in a manner different from those for the other vaccines.]

~~3.03~~ *§ 3.2.* Exemptions from immunization requirements.

~~3.03.01~~ *A.* Religious and medical exemptions.

No certificate of immunization shall be required of any student for admission to school if:

~~a.~~ *1.* The student or his parent or guardian submits a Certificate of Religious Exemption (Form CRE 1), t~~r~~

the admitting official of the school to which the student is seeking admission. Form CRE 1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. For a ~~currently enrolled~~ student *enrolled before July 1, 1983,* any document present in the student's permanent school record claiming religious exemption ~~; submitted prior to July 1, 1983,~~ shall be acceptable [~~for the purposes of school attendance~~], or

~~b.~~ *2.* The school has written certification [*on any of the documents specified under "documentary proof" in § 1.1*] from a physician or a local health department [~~on Form MCH 213B~~] that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization. For a ~~currently enrolled~~ student *enrolled before July 1, 1983,* any document attesting to the fact that one or more of the required immunizations may be detrimental to the student's health shall be acceptable [~~in lieu of Form MCH 213B~~].

~~3.03.02~~ *B.* Demonstration of existing immunity.

The demonstration in a student of antibodies against either rubeola ~~and/~~ or rubella in sufficient quantity to ensure protection of that student against that disease, shall render that student exempt from the immunization requirements contained in ~~Sections 3.01 and 3.02~~ *§ 3.1* for the disease [~~against which he must be protected~~ *in question*]. Such protection should be demonstrated by means of a serological testing method appropriate for measuring protective antibodies against rubeola or rubella respectively.

~~4.00~~
PART IV.
PROCEDURES AND RESPONSIBILITIES

~~4.01~~ *§ 4.1.* Responsibilities of admitting officials.

~~4.01.01~~ *A.* Procedures for determining the immunization status of students.

Each admitting official or his designee shall review, ~~before the first day of the 1983-1984 school year, the school medical records of every currently enrolled and every new student seeking admission to his school. After the 1983-1984 school year, each admitting official or his designee shall review,~~ before the first day of each school year, the school medical record of every new student seeking admission to his school [*, and that of every student enrolling in grade six for compliance with the measles vaccine requirements prescribed in § 3.1 3*]. Such review shall determine into which one of the following categories each student falls:

~~a.~~ *1.* Students whose immunizations are adequately documented and complete in conformance with ~~Section 3.01 or Section 3.02~~ *§ 3.1* .

~~b.~~ *2.* Students who are exempt from the immunization requirements of ~~Section 3.01 or Section 3.02~~ *§ 3.1* because of medical contraindications or religious beliefs provided for by ~~Section 3.03~~ *§ 3.2* .

~~c.~~ *3.* Students whose immunizations are inadequate according to the requirements of ~~Section 3.01 or Section 3.02~~ *§ 3.1* .

~~d.~~ *4.* Students without any documentation of having been adequately immunized.

~~4.01.02~~ *B.* Notification of deficiencies.

Upon identification of the students in categories ~~c.~~ *3* and ~~d.~~ *4* under ~~Section 4.01.01~~ *§ 4.1 A* , the admitting official shall notify the student or his parent or guardian:

~~a.~~ *1.* That there is no, or insufficient, documentary proof of adequate immunization in the student's school records.

~~b.~~ *2.* That the student cannot be admitted to school unless he has documentary proof that he is exempted from immunization requirements pursuant to ~~Section 3.03~~ *§ 3.1* .

~~c.~~ *3.* That the student may be immunized and receive certification by a licensed physician or an official of a local health department.

~~d.~~ *4.* How to contact the local health department to [~~learn where and when it performs these services~~ *receive the necessary immunizations*].

~~4.01.03~~ *C.* Conditional enrollment.

Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within ~~ninety~~ *90* days, during which time that student shall complete the immunizations required under ~~Section 3.00~~ *§ 3.1* . Appendix C contains a suggested plan for ensuring the completion of these requirements within the ~~ninety~~ (90) day conditional enrollment period. The admitting official should examine the records of any conditionally enrolled student at regular intervals to ensure that such a student remains on schedule with his plan of completion.

~~4.01.04~~ *D.* Exclusion.

The admitting official shall, at the end of the conditional enrollment period, exclude any student who is not in compliance with the immunization requirements under

~~Section 3.00~~ *§ 3.1* and who has not been granted an exemption under ~~Section 3.03~~ *§ 3.2* until that student provides documentary proof that his immunization schedule has been completed, unless documentary proof, that a medical contraindication developed during the conditional enrollment period, is submitted.

~~4.01.05~~ *E.* Transfer of records.

The admitting official of every school shall be responsible for sending a student's immunization records or a copy thereof, along with his permanent academic or scholastic records, to the admitting official of the school to which a student is transferring within ~~thirty~~ (30) days of his transfer to the new school.

~~4.01.06~~ *F.* Report of student immunization status.

Each admitting official shall, within 30 days of the beginning of each school year or entrance of a student, or by October 15 of each school year, file with the State Health Department through the health department for his locality, a report summarizing the immunization status of the students in his school. This report shall be filed on Form SIS 1, the Student Immunization Status Report (see Appendix E), and shall contain the number of students admitted to that school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

~~4.02~~ *§ 4.2.* Responsibilities of physicians and local health departments.

A. [*Documentary proof for students immunized in Virginia.*]

Every physician and ~~or~~ local health department ; providing immunizations to a child ; shall provide documentary proof, [*as defined in § 1.1,*] to the child or his parent or guardian [;] of all immunizations administered.

~~4.02.01 Currently Enrolled Students - Documentary proof of immunization for a currently enrolled student may be provided by the physician or official of a local health department by completing Form MCH 213B, recording the date each immunization was administered and signing Form MCH 213B in the appropriate location. In the case where a physician or local health department knows that a child has received the DTP, Td and/or OPV immunizations required under Section 3.01 3.0 from another physician or health department, but the exact dates the immunizations were administered are not known, a physician or official of a local health department, may, where repeat immunizations are not believed indicated, certify on Form MCH 213B that a currently enrolled student is adequately immunized. Such method shall not be used to certify any student as adequately immunized against measles (rubeola) or German measles (rubella).~~

~~4.02.02~~ *B.* ~~New Students~~ *Documentary proof* [*for out-of-state students*] .

[~~Only Form MCH 213B and the temporary form for documenting immunizations against Hib (when applicable) or Form MCH 213C~~ ; ~~appropriately completed and signed by a physician or his designee or an official of a local health department, shall be accepted by an admitting official as documentary proof of adequate immunization, except that for~~ *For*] a student transferring from an out-of-state school to a Virginia school, the admitting official may accept as documentary proof any immunization record for that student which contains the exact date (month/day/year) of administration of each of the required doses of vaccines [*when indicated*] and which complies fully with the requirements prescribed under ~~Section 3.02~~ *§ 3.1* . Any immunization record which does not contain the month/day/year of administration of each of the required vaccine doses shall not be accepted by the admitting official as documentary proof of adequate immunization ; *with the exception of immunization against Hib.* ~~such~~ *Such* a student's record shall be evaluated by an official of the local health department who shall determine if that student is adequately immunized in accordance with the provisions of ~~Section 3.02~~ *§ 3.1* . Should the local health department determine that such a student is not adequately immunized, that student shall be referred to his private physician or local health department for any required immunizations.

~~5.00~~
PART V.
PENALTIES.

~~5.01~~ *§ 5.1.* Exclusion of students.

Any student who fails to provide documentary proof of immunization in the manner prescribed, within the time periods provided for in these regulations and §§ 22.1-271.1 and 22.1-271.2 of the Code of Virginia ~~(1950) as amended~~ , shall be excluded from school attendance by the school's admitting official.

~~5.02~~ *§ 5.2.* Exclusion of students unprotected against vaccine - preventable diseases.

In accordance with § 32.1-47 of the Code of Virginia ~~(1950) as amended~~ , any student exempted from immunization requirements pursuant to ~~Section 3.03.01~~ *§ 3.2 A* of these regulations, shall be excluded from school attendance for his own protection until the danger has passed, if the commissioner so orders such exclusion upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in that student's school.

~~5.03~~ *§ 5.3.* Responsibility of parent to have a child immunized.

In accordance with § 32.1-46 of the Code of Virginia ~~(1950) as amended~~ , "the parent, guardian or person in

loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and poliomyelitis before such child attains the age of one year , *against Haemophilus influenzae type b before he attains the age of 30 months,* and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. *All children shall also be required to receive a second dose of measles [(rubeola)] vaccine [~~prior to entering kindergarten or first grade~~ in accordance with the regulations of the board. The board's regulations shall require that all children receive a second dose of measles (rubeola) vaccine prior to first entering kindergarten or first grade and that all children who have not yet received a second dose of measles (rubeola) vaccine receive such second dose prior to entering the sixth grade].*"

~~5.04~~ *§ 5.4.* General penalties.

In accordance with § 32.1-27 of the Code of Virginia ~~(1950) as amended~~ , "any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the board or commissioner of any provision of this title ~~(Title 32)~~ shall be guilty of a Class 1 misdemeanor unless a different penalty is specified."

Appendix A

PART I *COMMONWEALTH OF VIRGINIA*

SCHOOL ENTRANCE PHYSICAL EXAMINATION AND IMMUNIZATION CERTIFICATION

HEALTH INFORMATION SECTION:(PART I to be completed by parent or guardian) Please Print or Type. Thank you.

92 JUN 24 AM 11:00

Student's Name:_____ (LAST) (FIRST)

Complete Date of Birth:(mo/day/yr)_____; Sex:_____; Number of Children in Family:_____; State or Country of Birth:_____

Social Security #:_____; I.D. #:_____

Parent or Legal Guardian:_____

Address:_____ City:_____ Zip:_____

Home Phone:(area code)_____ Work Phone:(area code)_____

School's Name:_____ Grade:_____

In case of emergency, notify: (other than parent or guardian) Please list Name, address, and Complete Phone Number (area code and number).

1)_____ Phone:(area code)_____

2)_____ Phone:(area code)_____

Birth History (weight, prematurity, any other problems at birth):_____

Allergies to food, medicines, insect bites/stings, or other:_____

_____ Check here if you wish to discuss confidential information with school authorities.

	EQUIPMENT USED BY CHILD (please check those that apply)		CHRONIC OR RECURRING CONDITIONS (please check those that apply)
	Prosthesis (e.g., cane, crutch, limb)		Ear Infections
	Brace		Hard of Hearing
	Hearing Aids		Seizures/spells
	Glasses		Kidney Disease
	Helmet		Sickle Cell Anemia (not trait)
	Wheelchair or Walker		Head, spinal cord injury, or disease of central nervous system
	Special Shoes		Eye Diseases
	Other (Please List!):		Heart Disease
			Asthma
			Diabetes
			Other (Please List!):

Names of medical specialists, dentists, or special clinics caring for child:_____

Prescription medicines taken regularly (LIST):_____

Operations (dates):_____

Hospitalizations (dates):_____

Other important information about your child:_____

I give my permission for the school nurse/school to contact the examining physician to discuss any information contained on this form.

PART II *CERTIFICATION OF SCHOOL HEALTH EXAMINATION*

PART II TO BE COMPLETED BY A PHYSICIAN

(Returns to be completed by parent/guardian)

Student's Name:_____ (LAST) (FIRST) (MI); Birth Date:(mo/day/yr)_____

Height:_____; Weight:_____; Head Circumference:_____; BP:_____

Hemoglobin or Hematocrit:_____; Sickle Urine Albumin:_____; Sugar:_____; Other:_____

Most recent Tuberculin Test Date:(mo/day/yr)_____; Results:_____; Hearing R:_____; L:_____

Vision (w/out glasses) R20/_____; L20/_____; Hearing test performed? Audiogram:_____; Voice:_____

Vision (with glasses) R20/_____; L20/_____; Tympanogram (if indicated): normal:_____; abnormal:_____

Systems Examination	Exam.	Not Exam.	Comments About Findings
General Appearance, Nutrition			
Posture, Gait			
Skin			
Head			
Eyes: External			
Fundi			
Ears: External & Canal			
Tympanic Membrane			
Nose			
Throat			
Teeth			
Neck			
Heart			
Lungs			
Abdomen			
Genitalia (Tanner Stage)			
Bones, joints, muscles			
Neurological			
Other:			
Est. of developmental level			
Behavioral Observations			
Cooperation			
Emotional tone			
Activity level			

Summary of abnormal conditions which may require: (a) Educational evaluation, (b) Environmental adjustment, or (c) Activities to be limited:_____

Referrals made:_____

Physician (print):_____ Signature:_____ Date:(mo/day/yr)_____

Address:_____ Phone:(area code)_____

PART III

CERTIFICATION OF IMMUNIZATION

Part III to be Completed by a Physician or Health Department Official

Student's Name:_____ DOB:(mo)/(day)/(yr)

(LAST) (FIRST) (MI)

Student's S.S. #:_____; I.D #:_____

Parent/Guardian:_____

IMMUNIZATIONS	RECORD COMPLETE DATES (month,day,year) OF VACCINE DOSES ADMINISTERED				
Diphtheria/Tetanus/Pertussis (DTP)	/ /	/ /	/ /	/ /	/ /
Diphtheria/Tetanus (DT or Adult Td)	/ /	/ /	/ /	/ /	/ /
Poliomyelitis (OPV or eIPV)	/ /	/ /	/ /	/ /	/ /
Measles (Rubeola)	/ /	/ /	Serological Confirmation of Measles Immunity / /		
Rubella	/ /	/ /	Serological Confirmation of Rubella Immunity / /		
Mumps	/ /	/ /	Child Entered School Before 08/01/81 / /		
Measles, Mumps, Rubella (MMR)	/ /	/ /			
Hepatitis B Vaccine	/ /	/ /	/ /	Other:_____	/ /

Haemophilus influenzae Type b (Hib Conjugate): PLEASE COMPLETE THE APPROPRIATE SECTION BELOW.

__/__ Has received complete series of Hib vaccine in accordance with current recommendations of the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE.

__/__ Has received the AGE-APPROPRIATE doses of Hib vaccine as recommended by the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE, the series will be completed on (RECORD COMPLETE DATE (month,day,year):

Series Completion Date:(mo)/(day)/(yr)

__/__ Hib vaccine is not indicated because this child has had Hib disease at 24 months of age or older.

__/__ Being over 30 months of age, this child is not required by law to have proof of immunization against Hib.

MEDICAL EXEMPTION: DTP/__/; Td/__/; OPV/__/; Hib/__/; Measles/__/; Mumps/__/; Rubella/__/.
As specified in 22.1-271.2.c(ii) of the Code of Virginia, I certify that administration of the vaccine(s) designated above would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because (please specify):_____

This contraindication is permanent/__/; or temporary/__/ and expected to preclude immunization until _____

Signature of PHYSICIAN or HEALTH DEPT. OFFICIAL_____ Date:_____

RELIGIOUS EXEMPTION: The Code of Virginia allows a child an exemption from receiving immunizations required for school attendance if the student or the student's parent/guardian submits an affidavit to the school's admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. Any student entering school for the first time after July 1, 1983, must submit this affidavit on a CERTIFICATE OF RELIGIOUS EXEMPTION (Form CRE-1) which may be obtained at any local health department, school division superintendent's office or local department of Social Services. Ref. Code 22.1-271.2. C(i). CODE OF VIRGINIA

I certify that this student has received at least one dose of each of the vaccines required by the State Board of Health for attending school and that this student has a plan for the completion of his/her requirements within the next 90 days (conditional enrollment).

Signature of Physician or Health Dept. Official:_____; Date(mo,day,yr):_____

I certify that this student is ADEQUATELY IMMUNIZED in accordance with the MINIMUM requirements for attending school prescribed by the State Board of Health on the reverse side of this form.

Signature of Physician or Health Dept. Official:_____; Date(mo,day,yr):

PART IV

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH FOR *SCHOOL ATTENDANCE

DTP: THREE (3) doses of DTP with one (1) of the three (3) administered after the fourth birthday. If any o these doses must be administered on or after the seventh birthday, ADULT Td should be used instead of DTP

OPV: THREE (3) doses of trivalent OPV with one of the three administered after the fourth birthday or three (3) doses of eIPV with one of the three administered after the fourth birthday.

MEASLES: TWO (2) doses of live virus measles (rubeola) vaccine, one dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first, effective JULY 1, 1991. Two (2) doses of live measles vaccine shall also be required of students enrolling in grade six (6) in 1992 and thereafter. All other students should have received one (1) dose of live measles vaccine.

RUBELLA: ONE (1) dose of rubella vaccine received at 12 months of age or older.

MUMPS: ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after AUGUST 1, 1981.

*SCHOOL DEFINITION: a) Any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth; b) Any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; c) Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and d) Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

If there are questions please call your local health department.

MCH-213C,Rev.06/92

VIRGINIA DEPARTMENT OF HEALTH

Appendix B

Date:_____
Patient #:_____
S.S #:_____

IMMUNIZATION RECORD

VIRGINIA DEPARTMENT OF HEALTH

Name:_____ DOB:_____

	DATE	DATE	DATE	DATE	DATE
Diphtheria/Tetanus/ Pertussis (DTP)	____	____	____	____	____
Diphtheria/Tetanus (DT or Adult Td)	____	____	____	____	____
Poliomyelitis (OPV or eIPV)	____	____	____	____	____
Measles (Rubeola)	____	____	____	____	____
Rubella	____	____	____	____	____
*Mumps	____	____	____	____	____
Measles, Mumps, Rubella (MMR)	____	____	____	____	____
Hepatitis B Vaccine	____	____	____	____	____
Haemophilus Influenza type b (Hib)	____	____	____	____	____

Serological Confirmation of Measles Immunity ____

Serological Confirmation of Rubella Immunity ____

*Child Entered School Before 08/01/81 ____
*(Mumps vaccine is not required if the child entered school before 08/01/91)

This is an official replication of the vaccination record for the above patient. Dates of immunizations listed above are either dates of vaccinations given or dates recorded with the Virginia Department of Health by the Patient.

_____ _____
Public Health Official Date
MCH 213C-SUPPLEMENT

Appendix C

COMMONWEALTH OF VIRGINIA
CERTIFICATE OF RELIGIOUS EXEMPTION

Name _____ Birth Date _____

Student I.D. Number _____

The administration of immunizing agents conflicts with the above named student's my religious tenets or practices. I understand, that in the occurrence of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in my/my child's school, the State Health Commissioner may order my/my child's exclusion from school, for my/my child's own protection, until the danger has passed.

_____ _____
Signature of parent/guardian/student Date

I hereby affirm that this affidavit was signed in my presence on this _____ day of _____

Notary Public Seal

APPENDIX D

REGISTRAR OF REGULATIONS

92 JUN 24 AM 11: 01

A SUGGESTED PLAN FOR ENSURING COMPLIANCE

TIME	
Day 0	Conditional enrollment period starts. If student has not received first dose(s) of required vaccines, exclude student.
Day 1 to Day 42	Student should have received second dose(s) of required vaccines.
Day 43 to Day 88	Student should have received third dose(s) of required vaccines.
Day 89 and Day 90	Confirm that immunizations are complete; exclude children not in compliance.

APPENDIX E

REGISTRAR OF REGULATIONS

92 JUN 24 AM 11: 01

§ 22.1-270. (Effective July 1, 1983) Preschool physical examinations.—A pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed no earlier than twelve months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

B. The physician making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent or guardian shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent or guardian shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F, G. [Repealed.]

H. The provisions of this section shall not apply to any child who was admitted to a public school prior to July 1, 1972.

I. Parents or guardians of entering students shall complete a health information form which shall be distributed by the local school divisions and developed and provided jointly by the Department of Education and Department of Health. Such forms shall be returnable within fifteen days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent or guardian to complete such form within the extended time, the superintendent may send to the parent or guardian written notice of the date he intends to exclude the child from school. (Code 1950, § 22-220.1; 1972, c. 761; 1973, c. 300; 1974, c. 160; 1979, cc. 120, 260; 1980, c. 559; 1982, c. 510.)

Cross reference.—For this section as in effect until July 1, 1983, see the preceding section, also numbered 22.1-270.

The 1982 amendment, effective July 1, 1983, rewrote this section so as to delete references to immunization certificates.

§ 22.1-271. (Repealed effective July 1, 1983) Failure to complete immunizations.—Upon the admission to any public school of any pupil who has furnished a certificate that indicates that the required immunizations were not completed, the school principal shall notify the parent, guardian or other person having custody or control of the pupil that the immunizations must be completed within sixty days of admission. If the pupil's immunizations are not completed within the sixty-day period, the parent, guardian or other person so notified shall be guilty of a Class 4 misdemeanor and the pupil shall be excluded from school until the pupil furnishes a certificate from a licensed physician that the required immunizations have been completed. (Code 1950, § 22-250; 1980, c. 559; 1981, c. 540.)

Cross reference.—As to punishment for Class 4 misdemeanors, see § 18.2-11.

The 1981 amendment substituted the language beginning "be excluded from school until the pupil furnishes a certificate for" for "not be included in the average daily membership of the school division for funding purposes" at the end of the section.

Section repealed effective July 1, 1983.—The section is repealed, effective July 1, 1983, by Acts 1982, c. 510.

Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within thirty calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

F. The requirement for mumps immunization as provided in § 32.1-46 shall not apply to any child admitted for the first time to any grade level, kindergarten through grade twelve, of a school prior to August 1, 1981.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education. (1982, c. 510)

Effective date.--This section is effective July 1, 1983.

§ 32.1-46. Immunization of children against certain diseases.--A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and poliomyelitis before such child attains the age of one year, again Haemophilus ~~Influenzae Type~~ influenzae type b ~~after such child attains the age of eighteen months and~~ before he attains the age of thirty months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children shall also be required to receive a second dose of measles vaccine (prior to entering ~~kindergarten or first grade~~ in accordance with the regulations of the board. The board's regulations shall require that all children receive a second dose of measles (rubeola) vaccine prior to first entering kindergarten or first grade and that all children who have not yet received a second dose of measles (rubeola) vaccine receive such second dose prior to entering the sixth grade). The parent, guardian or person standing in loco parentis may have such child immunized by a physician or may present the child to the appropriate local health department which shall administer the required vaccines without charge.

B. A physician or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate which shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, regulations of the Board.

D. The provisions of this section shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board, or

2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia which states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.

~~The provisions of this section shall not operate so as to affect the eligibility of any child to be admitted to public schools in Virginia prior to August 1, 1981.~~

The 1980 amendment inserted the reference to mumps in the first sentence of subsection A and added the last paragraph of subsection D.

Law Review. For survey of Virginia law on governmental services and social welfare for the year 1978-79, see 66 Va. L. Rev. 301 (1980).

§ 22.1-271.1. (Effective July 1, 1983) Definitions.—For the purpose of § 22.1-271.2:

"*Admit*" or "*admission*" means the official enrollment or reenrollment for attendance at any grade level, whether full-time or part-time, of any student by any school.

"*Admitting official*" means the school principal or his designated representative in a public school, in a nonpublic school or child-care center, the principal, headmaster or director of the school or center.

"*Documentary proof*" means written certification that a student has been immunized, such certificate to be on a form provided by the State Department of Health and signed by the licensed immunizing physician or an employee of the immunizing local health department.

"*Student*" means any person who seeks admission to a school, or for whom admission to a school is sought by a parent or guardian, and who will not have attained the age of twenty years by the start of the school term for which admission is sought.

"*Immunized*" or "*immunization*" means initial immunization and any boosters or reimmunizations required by § 32.1-46.

"*School*" means (i) any public school from kindergarten through grade twelve operated under the authority of any locality within this Commonwealth, (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade twelve, and (iii) any private or parochial nursery school or preschool, or any private or parochial child-care center required to be licensed by this Commonwealth. (1982, c. 510.)

Effective date.—This section is effective July 1, 1983.

§ 22.1-271.2. (Effective July 1, 1983) Immunization requirements.—A. No student shall be admitted by a school unless at the time of admission the student or his parent or guardian submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C. If a student does not have documentary proof of immunization, the school shall notify the student or his parent or guardian (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C; (iii) that the student may be immunized and receive certification by a licensed physician or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Documentary proof of immunization shall be provided to any person who has been immunized or to his parent or guardian.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within ninety days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent or guardian submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician or a local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record.

§ 32.1-47. Exclusion from school of children not immunized.--Upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in a public or private school, the Commissioner shall have the authority to require the exclusion from such school of all children who are not immunized against that disease. (1979, c. 711.)

§ 32.1-27. Penalties, injunctions, civil penalties and charges for violations.--

A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner of any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board of Commissioner or any provision of this title may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey such regulation, order or provision of this title and to comply therewith by injunction, mandamus, or other appropriate remedy.

C. Without limiting the remedies which may be obtained subsection B, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation shall constitute a separate offense. Such civil penalties may, in the discretion of the court constitute a separate offense. Such civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury of the county, city or town in which the violation occurred, to be used for the purpose of abating environmental pollution therein in such manner as the court may, by order, direct, except that where the owner in violation is such county, city or town itself, or its agent, the court shall direct such penalty to be paid into the State treasury.

D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limit specified in subsection C. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection C. (Code 1953, §§32-6.4, 32-15; 1975, c.564; 1976, c.623; 1979, c.711; 1980, c.378)

Cross reference.--As to punishment for Class 1 misdemeanors, see § 18.2-11.

The 1980 amendment added the third sentence of subsection C.

Appendix F

COMMONWEALTH OF VIRGINIA
STUDENT IMMUNIZATION STATUS REPORT

REGISTRAR OF REGULATIONS
92 JUN 24 AM 11:01

Please Type or Print All Information!

FACILITY:_____

MAILING ADDRESS:_____

CITY:_____ ZIP:_____

LOCATION: STREET:_____

COUNTY:_____ CITY:_____

PERSON PREPARING REPORT (PRINT):_____ TITLE:_____

SIGNATURE:_____ DATE:_____ PHONE:_____

TYPE OF FACILITY REPORTING!

1) Please check one of the following:

PUBLIC SCHOOL(____); PRIVATE SCHOOL(____); PAROCHIAL SCHOOL(____); HEAD START(____); CHILD CARE CENTER(____)

INSTRUCTIONS!

1) Please complete this report using information in each student's school medical record.

2) Please refer to the back section of this form for the MINIMUM IMMUNIZATIONS REQUIRED BY THE CODE OF VIRGINIA.

3) ALL SCHOOLS: Please submit to the ADDRESS BELOW by OCTOBER 15.

VIRGINIA DEPARTMENT OF HEALTH
BUREAU OF IMMUNIZATION
1500 E. MAIN ST., SUITE 120
RICHMOND, VIRGINIA 23219
PHONE # (804)786-4326

COMPLETE THE SECTION(S) APPLICABLE TO YOUR FACILITY

Please note in each section, numbers in columns (b) through (f) should add together to equal the total number of students in column (a).

SECTION I
CHILD CARE CENTERS, HEAD STARTS OR PRESCHOOLS

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number of Conditionally Enrolled	(f) Number Without Records

SECTION II
KINDERGARTEN OR FIRST GRADE IF THERE IS NO KINDERGARTEN(PUBLIC, PRIVATE, PAROCHIAL)

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number Conditionally Enrolled	(f) Number Without Records

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALT
FOR SCHOOL ATTENDANCE

For More Information Please Refer to the Code of Virginia 22.1-271.2 Immunization Requirements and Section 3.00 of the Rules and Regulations for the Immunization of Sch Children.

DTP: THREE (3) doses of DTP with one (1) of the three (3) administered after the fourth birthday. If any of these doses must administered on or after the seventh birthday, ADULT Td vaccine should be used instead of DTP.

OPV: THREE (3) doses of trivalent OPV or THREE (3) doses of IPV with one of the three administered after the fourth birthda

MEASLES: TWO (2) doses of live virus measles (rubeola) vaccine, one (1) dose given at 12 months of age or older and a second do administered prior to entering KINDERGARTEN or first grade, whichever occurs first.

RUBELLA: ONE (1) dose of rubella vaccine received at 12 months of age or older.

MUMPS: ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1 1981.

CONDITIONAL ENROLLMENT: In order for a student to be CONDITIONALLY ENROLLED, the student must have proof of havin received at least one (1) dose of each of the required immunizations (DTP, OPV, MEASLES, MUMPS, and RUBELLA) and have schedule on file to receive the remainder of the required doses within 90 DAYS.

RELIGIOUS EXEMPTIONS: The student or his parent or guardian submits a CERTIFICATE OF RELIGIOUS EXEMPTION (FORM CRE-1), to the admitting official of the school to which the student is seeking admission. Form CRE-1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. The CRE-1 must be signed by a NOTARY PUBLIC AND STAMPED WITH THE NOTARY'S SEAL.

MEDICAL EXEMPTIONS: The school must have written certification from a physician or a local health department on FORM MCH213B that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization.

IF THERE ARE QUESTIONS REGARDING IMMUNIZATIONS PLEASE CALL YOUR LOCAL HEALTH DEPARTMENT OR THE BUREAU OF IMMUNIZATION @ (804) 786-4344

Form: 513-2, Rev.10/91

* * * * * * * *

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR ~~355-39-01~~ *355-39-200* . ~~Regulations Governing Eligibility Standards and~~ Charges for Medical Care Services.**

Statutory Authority: § 32.1-12 of the Code of Virginia.

Effective Date: August 15, 1992.

Summary:

The amendments increase charges for medical services so that the costs for providing these services will be fully recovered. The charge for "Case Management Service: Medical Conference with Patient and/or Family" will be deleted and the charge for "Case Management Service: Interdisciplinary Medical Conference" will be increased. This revision will result in a charge schedule for the case management conference that is based on cost and is consistent with the current program practice of holding a combined interdisciplinary/family medical conference. The charge for developmental screening will be deleted, as this service is not being provided.

VR 355-39-200. Charges for Medical Care Services.

STATE HEALTH DEPARTMENT
CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
EFFECTIVE ~~APRIL 9, 1992~~ AUGUST 15, 1992
EXCEPT FOR NORTHERN VIRGINIA - CHART I

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services," promulgated by the authority of the Board of Health in accordance with § 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to by made by patients toward their charges, according to income levels.

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
Z9900	MATERNITY/GYNECOLOGY(3)	$ 33.00	$ .00	$ 3.25	$ 8.25	$16.50	$24.75	$ 33.00
59420	Maternity Care Billed on Global Basis	$300.00	$ .00	$30.00	$75.00	$150.00	$225.00	$300.00
59430	Postpartum Visit	$ 33.00	$ .00	$ 3.30	$ 8.25	$16.50	$24.75	$ 33.00
	Maternity Care Coordination(4)							
Z9000, Z9001, Z9002, Z9003, Z9004	Risk Screening	$ 10.00	$ .00	$ 1.00	$ 2.50	$ 5.00	$ 7.50	$ 10.00
Z9104	Maternity Assessment	$ 25.00	$ .00	$ 2.50	$ 6.25	$12.50	$18.75	$ 25.00
Z9105, Z9107, Z9109	Maternity Follow-up	$ 40.00 per month x 11 months	$ .00	$ 4.00	$10.00	$20.00	$30.00	$ 40.00
	Nutritional Services							
Z9310	Original Assessment	$ 20.00	$ .00	$ .00	$ .00	$ .00	$15.00	$ 20.00
Z9311	Follow-up	$ 10.00 per encounter	$ .00	$ .00	$ .00	$ .00	$ 7.50	$ 10.00
Z9300, Z9301, or Z9302	Group Education	$ 6.00 per class or session $ 36.00 maximum	$ .00	$ .60	$ 1.50	$ 3.00	$ 4.50	$ 6.00
Z9312	Homemaker Services	$ 33.00 per visit or $ 8.00 per hour, not to exceed 4 hours	$ .00 $ .00	$ 3.30 $ .80	$ 8.25 $ 2.00	$16.50 $ 4.00	$24.75 $ 6.00	$ 33.00 $ 8.00
	CLINICAL VISITS (INCLUDES BOTH PEDIATRIC AND ADULT SERVICES)							
	New Patients: To qualify as a new patient, patient must not have been seen by any provider in that health department for at least three years.							
99201	Visit included all three components: *Problem focused history *Problem focused examination *Straightforward medical decision making		$ .00	$ 2.50	$ 6.00	$12.00	$18.00	$ 24.00
99202	Visit included all three components: *Expanded problem focused history *Expanded problem focused examination *Straightforward medical decision making		$ .00	$ 3.00	$ 7.00	$14.00	$21.00	$ 28.00
99203	Visit included all three components: *Detailed history *Detailed examination *Medical decision making of low complexity		$ .00	$ 3.25	$ 8.25	$16.50	$24.75	$ 33.00
99204	Visit included all three components: *Comprehensive history *Comprehensive examination *Medical decision making of moderate complexity		$ .00	$ 4.75	$11.75	$23.50	$35.00	$ 46.75
99205	Visit included all three components: *Comprehensive history *Comprenehsive examination *Medical decision making of high complexity		$ .00	$ 5.00	$12.50	$25.00	$37.50	$ 50.00
	Established patient visits: Any patient that has been seen by a provider in that health department within the last 3 years.							
99211	Visit may or may not require physician Presenting problems are minimal		$ .00	$ 1.00	$ 2.50	$ 5.00	$ 7.50	$ 10.00
99212	Visit included two of three components: *Problem focused history *Problem focused examination *straightforward medical decision making		$ .00	$ 2.00	$ 4.75	$ 9.50	$14.25	$ 19.00
99213	Visit included two of three components: *Expanded problem focused history *Expanded problem focused examination *Medical decision of low complexity		$ .00	$ 2.75	$ 6.50	$13.25	$19.75	$ 26.50
99214	Visit included two of three components: *Detailed history *Detailed examination *Medical decision making of moderate complexity		$ .00	$ 3.50	$ 8.75	$26.25	$24.75	$ 35.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
EFFECTIVE ~~APRIL 9, 1992~~ AUGUST 15, 1992
EXCEPT FOR NORTHERN VIRGINIA - CHART I

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
99215	Visit included two of three components: *Comprehensive history *Comprehensive examination *Medical decision making of high complexity		$ .00	$ 4.50	$11.25	$22.50	$33.75	$ 45.00
	PREVENTIVE MEDICINE SERVICES (These codes are to be used primarily for well baby visits. They are the codes to be used for EPSDT billing.)							
	New Patient							
99381	Age under 1 year		$ .00	$ 3.50	$ 8.75	$17.50	$26.25	$ 35.00
99382	Age 1 through 4 years		$ .00	$ 4.00	$ 9.75	$19.50	$29.25	$ 39.00
99383	Age 5 through 11 years		$ .00	$ 4.00	$ 9.75	$19.50	$29.25	$ 39.00
99384	Age 12 through 17 years		$ .00	$ 3.50	$ 8.75	$17.50	$26.25	$ 35.00
99385	Age 18 through 21 years		$ .00	$ 3.75	$ 9.50	$19.00	$28.50	$ 38.00
	Established Patient							
99391	Age under 1 year		$ .00	$ 3.50	$ 8.75	$17.50	$26.25	$ 35.00
99392	Age 1 through 4 years		$ .00	$ 3.50	$ 9.00	$18.00	$27.00	$ 36.00
99393	Age 5 through 11 years		$ .00	$ 3.50	$ 9.00	$18.00	$27.00	$ 36.00
99394	Age 12 through 17 years		$ .00	$ 3.00	$ 7.75	$15.50	$23.25	$ 31.00
99395	Age 18 through 21 years		$ .00	$ 3.75	$ 9.50	$19.00	$28.50	$ 38.00
	Infant Care Coordination(4)							
Z9000, Z9001, Z9002, Z9004	Risk Screening	$ 10.00	$ .00	$ 1.00	$ 2.50	$ 5.00	$ 7.50	$ 10.00
Z9104	Infant Assessment	$ 25.00	$ .00	$ 2.50	$ 6.25	$12.50	$18.75	$ 25.00
Z9106, Z9108, Z9110	Follow-up	$ 40.00 per month x 24 months	$ .00	$ 4.00	$10.00	$20.00	$30.00	$ 40.00
	FAMILY PLANNING(5)							
Z9007	Initial/Annual Visit	$ 50.00	$ .00	$ 5.00	$12.50	$25.00	$37.50	$ 50.00
Z9009	Follow-up/Problem Visit	$ 20.00	$ .00	$ 2.00	$ 5.00	$10.00	$15.00	$ 20.00
	COLPOSCOPY SERVICES							
57454	Colposcopy with Biopsy	$ 90.00	$ .00	$ 9.00	$22.50	$45.00	$67.50	$ 90.00
57511	Colposcopy with Biopsy and Cryosurgery	$130.00	$ .00	$13.00	$32.50	$65.00	$97.50	$130.00
	DENTAL SERVICES(6)		--------BASED ON MEDIAN PRIVATE PRACTICE PROFESSIONAL FEES------					
	SPECIAL SERVICES WITHOUT ELIGIBILITY(7)							
36415	Venipuncture	$ 7.00	----------FLAT RATE CHARGE----------					
90030	Administration of Prescribed Medication and/or Nonroutine Immunizations PLUS: Cost of Vaccine when furnished by Health Department	$ 3.50	----------FLAT RATE CHARGE----------					
	Blood Pressure Check	FREE	----------SERVICE PROVIDED FREE STATEWIDE----------					
86580	PPD/Tuberculin Testing	$ 3.15	----------FLAT RATE CHARGE----------					
71010	Radiological Examination (Chest)	$ 28.00	----------FLAT RATE CHARGE----------					
	Activities of Daily Living(8)	$ 9.00 per hour	----------FLAT RATE CHARGE----------					
	Cholesterol Screening and Counseling	$ 5.00	----------FLAT RATE CHARGE----------					
	Medical Record Copying	$ .50 per page	----------FLAT RATE CHARGE----------					
	ELIGIBILITY IS REQUIRED ON THE FOLLOWING:							
	Pharmacy Professional Fee	$ 4.40	$ .00	$ .50	$ 1.00	$ 2.25	$ 3.25	$ 4.40
	PLUS: Cost of Drugs or Vaccine		0%	10%	25%	50%	75%	100%
	Other X-ray Services(9)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
	Other Laboratory Services(10)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
	OTHER SERVICES							
	Children's Specialty Services (Annual)	$120.00	$ .00	$12.00	$30.00	$60.00	$90.00	$120.00
	HOME HEALTH SERVICES							
	Skilled Nursing							
	Assessment	$ 94.00	$ .00	$ 9.40	$23.50	$47.00	$70.50	$ 94.00
	Follow-up	$ 85.00	$ .00	$ 8.50	$21.25	$42.50	$63.75	$ 85.00
	Comprehensive	$155.00	$ .00	$15.50	$38.75	$77.50	$116.25	$155.00
	Physical Therapy							
	Assessment	$ 91.00	$ .00	$ 9.10	$22.75	$45.50	$68.25	$ 91.00
	Follow-up	$ 75.00	$ .00	$ 7.50	$18.75	$37.50	$56.25	$ 75.00
	Occupational Therapy							
	Assessment	$ 93.00	$ .00	$ 9.30	$23.25	$46.50	$69.75	$ 93.00
	Follow-up	$ 77.00	$ .00	$ 7.70	$19.25	$38.50	$57.75	$ 77.00
	Speech Therapy							
	Assessment	$ 97.00	$ .00	$ 9.70	$24.25	$48.50	$72.75	$ 97.00
	Follow-up	$ 81.00	$ .00	$ 8.10	$20.25	$40.50	$60.75	$ 81.00
	Home Health Aide	$ 46.00	$ .00	$ 4.60	$11.50	$23.00	$34.50	$ 46.00
	Medical Social Worker	$109.00	$ .00	$10.90	$27.25	$54.50	$81.75	$109.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
EFFECTIVE ~~APRIL 9, 1992~~ AUGUST 15, 1992
EXCEPT FOR NORTHERN VIRGINIA - CHART I

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
	CHILD DEVELOPMENT SERVICES PROGRAM							
	~~(according to Physicians' Current Procedural Terminology)~~							
	Medical Services							
	~~Limited, new patient~~	~~$ 22.00~~	~~$ .00~~	~~$ 2.20~~	~~$ 5.50~~	~~$11.00~~	~~$16.50~~	~~$ 22.00~~
	~~Limited, established patient~~	~~$ 17.00~~	~~$ .00~~	~~$ 1.70~~	~~$ 4.25~~	~~$ 8.50~~	~~$12.75~~	~~$ 17.00~~
	~~Intermediate, new patient~~	~~$ 24.00~~	~~$ .00~~	~~$ 2.40~~	~~$ 6.00~~	~~$12.00~~	~~$18.00~~	~~$ 24.00~~
	~~Intermediate, established patient~~	~~$ 19.00~~	~~$ .00~~	~~$ 1.90~~	~~$ 4.75~~	~~$ 9.50~~	~~$14.25~~	~~$ 19.00~~
	~~Comprehensive, new patient~~	~~$ 47.00~~	~~$ .00~~	~~$ 4.70~~	~~$ 11.75~~	~~$23.50~~	~~$35.25~~	~~$ 47.00~~
	~~Established patient~~	~~$ 20.00~~	~~$ .00~~	~~$ 2.00~~	~~$ 5.00~~	~~$10.00~~	~~$15.00~~	~~$ 20.00~~
	~~Initial Consultation, Interm~~	~~$ 21.00~~	~~$ .00~~	~~$ 2.10~~	~~$ 5.25~~	~~$10.50~~	~~$15.75~~	~~$ 21.00~~
	~~Follow-up Consultation, Interm~~	~~$ 10.50~~	~~$ .00~~	~~$ 1.05~~	~~$ 2.65~~	~~$ 5.25~~	~~$ 7.90~~	~~$ 10.50~~
	Problem focused consultation	$ 47.00	$ .00	$ 4.70	$11.75	$23.50	$35.25	$ 47.00
	Expanded consultation	$ 60.00	$ .00	$ 6.00	$15.00	$30.00	$45.00	$ 60.00
	Detailed consultation	$ 75.00	$ .00	$ 7.50	$18.75	$37.50	$56.25	$ 75.00
	Comprehensive consultation	$100.00	$ .00	$10.00	$25.00	$50.00	$75.00	$100.00
	Pharmacological Management	$ 8.50	$ .00	$ .85	$ 2.10	$ 4.25	$ 6.35	$ 8.50
	~~Developmental Screening~~	~~$ 8.50~~	~~$ .00~~	~~$ .85~~	~~$ 2.10~~	~~$ 4.25~~	~~$ 6.35~~	~~$ 8.50~~
	Health Education	$ 10.50	$ .00	$ 1.05	$ 2.65	$ 5.25	$ 7.90	$ 10.50
	Mental Health Services							
	Psychological Evaluation per hr.	$105.00	$ .00	$10.50	$26.25	$52.50	$78.75	$105.00
	Psycho-Social Assessment	$ 30.00	$ .00	$ 3.00	$ 7.50	$15.00	$22.50	$ 30.00
	Individual Psychotherapy per 1/2 hour	$ 15.75	$ .00	$ 1.60	$ 3.95	$ 7.90	$11.85	$ 15.75
	Family Psychotherapy	$ 10.50	$ .00	$ 1.05	$ 2.65	$ 5.25	$ 7.90	$ 10.50
	Group Psychotherapy	$ 10.50	$ .00	$ 1.05	$ 2.65	$ 5.25	$ 7.90	$ 10.50
	Multifamily Psychotherapy	$ 10.50	$ .00	$ 1.05	$ 2.65	$ 5.25	$ 7.90	$ 10.50
	Educational Services							
	Educational Diagnostic Evaluation	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	School Visit/Consultation	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Classroom Observation	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Case Management Services							
	Interdisciplinary Medical Conference	~~$ 26.00~~	~~$ .00~~	~~$ 2.60~~	~~$ 6.50~~	~~$13.00~~	~~$19.50~~	~~$ 26.00~~
		$ 40.45	$ .00	$ 4.05	$10.12	$20.23	$30.35	$ 40.45
	~~Medical Conference with Patient and/or Family~~	~~$ 27.00~~	~~$ .00~~	~~$ 2.70~~	~~$ 6.75~~	~~$13.50~~	~~$20.25~~	~~$ 27.00~~
	Other Case Management Activity	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Progress Review	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					

STATE HEALTH DEPARTMENT
CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
EFFECTIVE ~~APRIL 9, 1992~~ AUGUST 15, 1992
NORTHERN VIRGINIA - CHART II

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services," promulgated by the authority of the Board of Health in accordance with § 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
Z9900	MATERNITY/GYNECOLOGY(3)	$ 37.00	$ .00	$ 3.75	$ 9.25	$18.50	$27.75	$ 37.00
59420	Maternity Care Billed on Global Basis	$530.00	$ .00	$53.00	$132.50	$265.00	$397.50	$530.00
59430	Postpartum Visit	$ 36.00	$ .00	$ 3.60	$ 9.00	$18.00	$27.00	$ 36.00
	Maternity Care Coordination(4)							
Z9900, Z9001, Z9002, Z9003, Z9004	Risk Screening	$ 11.50	$ .00	$ 1.25	$ 3.00	$ 5.75	$ 8.75	$ 11.50
Z9104	Maternity Assessment	$ 28.50	$ .00	$ 2.85	$ 7.25	$14.25	$21.50	$ 28.50
Z9105, Z9107, Z9109	Maternity Follow-up	$ 45.50 per month x 11 months	$ .00	$ 4.55	$11.50	$22.75	$34.25	$ 45.50
	Nutritional Services							
Z9310	Original Assessment	$ 22.75	$ .00	$ 2.50	$ 5.75	$11.50	$17.00	$ 22.75
Z9311	Follow-up	$ 11.50 per encounter	$ .00	$ 1.25	$ 3.00	$ 5.75	$ 8.75	$ 11.50
Z9300, Z9301, or Z9302	Group Education	$ 7.00 per class or session $ 41.00 maximum	$ .00	$ .75	$ 1.75	$ 3.50	$ 5.25	$ 7.00
Z9312	Homemaker Services	$ 37.50 per visit or $ 9.25 per hour, not to exceed 4 hours	$ .00 $ .00	$ 3.75 $ .95	$ 9.50 $ 1.85	$18.75 $ 4.75	$28.25 $ 6.95	$ 37.50 $ 9.25
	CLINICAL VISITS (INCLUDES BOTH PEDIATRIC AND ADULT SERVICES)							
	New Patients: To qualify as a new patient, patient must not have been seen by any provider in that health department for at least three years.							
99201	Visit included all three components: *Problem focused history *Problem focused examination *Straightforward medical decision making		$ .00	$ 2.75	$ 6.75	$13.50	$20.25	$ 27.00
99202	Visit included all three components: *Expanded problem focused history		$ .00	$ 3.00	$ 7.75	$15.50	$23.25	$ 31.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
EFFECTIVE ~~APRIL 9, 1992~~ AUGUST 15, 1992
NORTHERN VIRGINIA - CHART II

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
	*Expanded problem focused exmination *Straightforward medical decision making							
99203	Visit included all three components: *Detailed history *Detailed examination *Medical decision making of low complexity		$ .00	$ 3.75	$ 9.25	$18.50	$27.75	$ 37.00
99204	Visit included all three components: *Comprehensive history *Comprehensive examination *Medical decision making of moderate complexity		$ .00	$ 5.00	$12.75	$25.50	$38.25	$ 51.00
99205	Visit included all three components: *Comprehensive history *Comprenehsive examination *Medical decision making of high complexity		$ .00	$ 5.50	$13.75	$27.50	$41.25	$ 55.00
	Established patient visits: Any patient that has been seen by a provider in that health department within the last 3 years.							
99211	Visit may or may not require physician Presenting problems are minimal		$ .00	$ 1.00	$ 2.75	$ 5.50	$ 8.25	$ 11.00
99212	Visit included two of three components: *Problem focused history *Problem focused examination *straightforward medical decision making		$ .00	$ 2.00	$ 5.25	$10.50	$15.75	$ 21.00
99213	Visit included two of three components: *Expanded problem focused history *Expanded problem focused exmination *Medical decision of low complexity		$ .00	$ 3.00	$ 7.50	$15.00	$22.50	$ 30.00
99214	Visit included two of three components: *Detailed history *Detailed examination *Medical decision making of moderate complexity		$ .00	$ 4.00	$ 9.75	$19.50	$29.25	$ 39.00
99215	Visit included two of three components: *Comprehensive history *Comprehensive examination *Medical decision making of high complexity		$ .00	$ 5.00	$12.50	$25.00	$37.50	$ 50.00
	PREVENTIVE MEDICINE SERVICES (These codes are to be used primarily for well baby visits. They are the codes to be used for EPSDT billing.)							
	New Patient							
99381	Age under 1 year		$ .00	$ 4.00	$ 9.75	$19.50	$29.25	$ 39.00
99382	Age 1 through 4 years		$ .00	$ 4.25	$10.75	$21.50	$32.25	$ 43.00
99383	Age 5 through 11 years		$ .00	$ 4.25	$10.75	$21.50	$32.25	$ 43.00
99384	Age 12 through 17 years		$ .00	$ 4.00	$ 9.75	$19.50	$29.25	$ 39.00
99385	Age 18 through 21 years		$ .00	$ 4.25	$10.50	$21.00	$31.50	$ 42.00
	Established Patient							
99391	Age under 1 year		$ .00	$ 4.00	$ 9.75	$19.50	$29.25	$ 39.00
99392	Age 1 through 4 years		$ .00	$ 4.00	$10.00	$20.00	$30.00	$ 40.00
99393	Age 5 through 11 years		$ .00	$ 4.00	$10.00	$20.00	$30.00	$ 40.00
99394	Age 12 through 17 years		$ .00	$ 3.50	$ 8.75	$17.50	$26.25	$ 35.00
99395	Age 18 through 21 years		$ .00	$ 4.25	$10.50	$21.00	$31.50	$ 42.00
	Infant Care Coordination(4)							
Z9000, Z9001, Z9002, Z9004	Risk Screening	$ 11.50	$ .00	$ 1.85	$ 3.00	$ 5.75	$ 8.75	$ 11.50
Z9104	Infant Assessment	$ 28.50	$ .00	$ 2.85	$ 7.25	$14.25	$21.50	$ 28.50
Z9106, Z9108, Z9110	Follow-up	$ 45.00 per month x 24 months	$ .00	$ 4.60	$11.25	$22.55	$33.75	$ 45.00
	FAMILY PLANNING(5)							
09007	Initial/Annual Visit	$ 56.00	$ .00	$ 5.60	$14.00	$28.00	$42.00	$ 56.00
09008	Follow-up/Problem Visit	$ 22.75	$ .00	$ 2.25	$ 5.75	$11.25	$17.00	$ 22.75
	COLPOSCOPY SERVICES							
57454	Colposcopy with Biopsy	$100.00	$ .00	$10.00	$25.00	$50.00	$75.00	$100.00
57511	Colposcopy with Biopsy and Cryosurgery	$145.00	$ .00	$14.50	$36.25	$72.50	$98.75	$145.00
	DENTAL SERVICES(6)	-------BASED ON MEDIAN PRIVATE PRACTICE PROFESSIONAL FEES------						

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
EFFECTIVE ~~APRIL 9, 1992~~ AUGUST 15, 1992
NORTHERN VIRGINIA - CHART II

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
	SPECIAL SERVICES WITHOUT ELIGIBILITY(7)							
36415	Venipuncture	$ 8.00	----------FLAT RATE CHARGE----------					
90030	Medication and/or Nonroutine Immunizations PLUS: Cost of Vaccine when furnished by Health Department	$ 4.00	----------FLAT RATE CHARGE----------					
	Blood Pressure Check	FREE	----------FLAT RATE CHARGE----------					
86580	PPD/Tuberculin Testing	$ 3.55	----------SERVICE PROVIDED FREE STATEWIDE----------					
71010	Radiological Examination (Chest)	$ 22.00	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Activities of Daily Living(8)	$ 11.00 per hour	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Cholesterol Screening and Counseling	$ 6.00	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Medical Record Copying	$ .50 per page	----------SERVICE PROVIDED FREE STATEWIDE----------					
	ELIGIBILITY IS REQUIRED ON THE FOLLOWING:							
	Pharmacy Professional Fee PLUS: Cost of Drugs or Vaccine	$ 4.40	$ .00	$ .50	$ 1.00	$ 2.25	$ 3.25	$ 4.40
	Other X-ray Services(9)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
	Other Laboratory Services(10)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
	OTHER SERVICES							
	Children's Specialty Services (Annual)	$136.00	$ .00	$13.50	$34.00	$68.00	$102.00	$136.00
	HOME HEALTH SERVICES							
	Skilled Nursing							
	Assessment	$ 94.00	$ .00	$ 9.40	$23.50	$47.00	$70.50	$ 94.00
	Follow-up	$ 85.00	$ .00	$ 8.50	$21.25	$42.50	$63.75	$ 85.00
	Comprehensive	$155.00	$ .00	$15.50	$38.75	$77.50	$116.25	$155.00
	Physical Therapy							
	Assessment	$ 91.00	$ .00	$ 9.10	$22.75	$45.50	$68.25	$ 91.00
	Follow-up	$ 75.00	$ .00	$ 7.50	$18.75	$37.50	$56.25	$ 75.00
	Occupational Therapy							
	Assessment	$ 93.00	$ .00	$ 9.30	$23.25	$46.50	$69.75	$ 93.00
	Follow-up	$ 77.00	$ .00	$ 7.70	$19.25	$38.50	$57.75	$ 77.00
	Speech Therapy							
	Assessment	$ 97.00	$ .00	$ 9.70	$24.25	$48.50	$72.75	$ 97.00
	Follow-up	$ 81.00	$ .00	$ 8.10	$20.25	$40.50	$60.75	$ 81.00
	Home Health Aide	$ 46.00	$ .00	$ 4.60	$11.50	$23.00	$34.50	$ 46.00
	Medical Social Worker	$109.00	$ .00	$10.90	$27.25	$54.50	$81.75	$109.00
	CHILD DEVELOPMENT SERVICES PROGRAM							
	~~(according to Physicians' Current Procedural Terminology)~~							
	Medical Services							
	~~Limited, new patient~~	~~$ 25.00~~	~~$ .00~~	~~$ 2.50~~	~~$ 6.25~~	~~$ 12.50~~	~~$ 18.75~~	~~$ 25.00~~
	~~Limited, established patient~~	~~$ 19.30~~	~~$ .00~~	~~$ 1.95~~	~~$ 4.85~~	~~$ 9.65~~	~~$ 14.50~~	~~$ 19.40~~
	~~Intermediate, new patient~~	~~$ 26.00~~	~~$ .00~~	~~$ 2.60~~	~~$ 6.50~~	~~$ 13.00~~	~~$ 19.50~~	~~$ 26.00~~
	~~Intermediate, established patient~~	~~$ 21.60~~	~~$ .00~~	~~$ 2.15~~	~~$ 5.40~~	~~$ 10.80~~	~~$ 16.20~~	~~$ 21.60~~
	~~Comprehensive, new patient~~	~~$ 42.00~~	~~$ .00~~	~~$ 4.20~~	~~$ 10.50~~	~~$ 21.00~~	~~$ 31.50~~	~~$ 42.00~~
	~~Comprehensive, established patient~~	~~$ 22.75~~	~~$ .00~~	~~$ 2.30~~	~~$ 5.75~~	~~$ 11.50~~	~~$ 17.00~~	~~$ 22.75~~
	~~Initial Consultation, Interm.~~	~~$ 24.00~~	~~$ .00~~	~~$ 2.40~~	~~$ 6.00~~	~~$ 12.00~~	~~$ 18.00~~	~~$ 24.00~~
	~~Follow-up Consultation, Interm.~~	~~$ 12.00~~	~~$ .00~~	~~$ 1.20~~	~~$ 3.00~~	~~$ 6.00~~	~~$ 9.00~~	~~$ 12.00~~
	Problem focused consultation	$ 53.00	$ .00	$ 5.30	$13.25	$26.50	$39.75	$ 53.00
	Expanded consultation	$ 68.00	$ .00	$ 6.80	$17.00	$34.00	$51.00	$ 68.00
	Detailed consultation	$ 85.00	$ .00	$ 8.50	$21.25	$42.50	$63.75	$ 85.00
	Comprehensive consultation	$113.00	$ .00	$11.30	$28.20	$56.50	$84.75	$113.00
	Pharmacological Management	$ 9.50	$ .00	$ .95	$ 2.40	$ 4.75	$ 7.15	$ 9.50
	~~Developmental Screening~~	~~$ 9.60~~	~~$ .00~~	~~$ .95~~	~~$ 2.40~~	~~$ 4.75~~	~~$ 7.15~~	~~$ 9.60~~
	Health Education	$ 12.00	$ .00	$ 1.20	$ 3.00	$ 6.00	$ 9.00	$ 12.00
	Mental Health Services							
	Psychological Evaluation per hr.	$120.00	$ .00	$12.00	$30.00	$60.00	$90.00	$120.00
	Psycho-social Assessment	$ 34.00	$ .00	$ 3.40	$ 8.50	$17.00	$25.50	$ 34.00
	Individual Psychotherapy per 1/2 hour	$ 18.00	$ .00	$ 1.80	$ 4.50	$ 9.00	$13.50	$ 18.00
	Family Psychotherapy	$ 12.00	$ .00	$ 1.20	$ 3.00	$ 6.00	$ 9.00	$ 12.00
	Group Psychotherapy	$ 12.00	$ .00	$ 1.20	$ 3.00	$ 6.00	$ 9.00	$ 12.00
	Multifamily Psychotherapy	$ 12.00	$ .00	$ 1.20	$ 3.00	$ 6.00	$ 9.00	$ 12.00
	Educational Services							
	Educational Diagnostic Evaluation	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	School Visit/Consultation	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Classroom Observation	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Case Management Services							
	Interdisciplinary Medical Conference	~~$ 29.50~~ $ 45.70	~~$ .00~~ $ .00	~~$ 2.95~~ $ 4.75	~~$ 7.35~~ $11.43	~~$ 14.75~~ $22.85	~~$ 22.10~~ $34.28	~~$ 29.50~~ $ 45.70
	~~Medical Conference with Patient and/or Family~~	~~$ 30.50~~	~~$ .00~~	~~$ 3.05~~	~~$ 7.65~~	~~$ 15.25~~	~~$ 22.90~~	~~$ 30.50~~
	Other Case Management Activity	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					
	Progress Review	-NC-	----------SERVICE PROVIDED FREE STATEWIDE----------					

ALL FOOTNOTES FOR STATEWIDE CHARGES STILL APPLY TO NORTHERN VIRGINIA CHARGES

CHARGES AND PAYMENTS BY INCOME LEVELS
~~APRIL 9, 1992~~ AUGUST 15, 1992

FOOTNOTES

1. For any service not listed, please contact the Office of Community Health Services so that a charge may be established.

2. Maximum Charges per Visit:

   a. If the service is obtained through contracts with providers of the department, charges will be those charged the department as stated in the contract or the set charges, whichever is more.

   b. The listed charges include all procedures such as routine lab work or x-ray as required in each program protocol for all patients.

   c. Health Department maximum charges shall be: Income A - Free; Income B - 10% of charges; Income C - 25% charges; Income D - 50% of charges; Income E - 75% of charges; Income F - 100% of charges. See Income Levels Schedules in the Eligibility Section of the CHS manual for more details.

3. Maternity:

   a. Maternity patients covered by Medicaid may be charged either on a per visit basis or for global care.

      Maternity patients covered by private insurance will be billed on a global basis. At the end of the pregnancy, the insurance company is to be billed $300 for antenatal care. The billing code is 59420.

   b. All women making a postpartum visit are to be charged for the visit. To bill as a postpartum visit, use CPT code 59430. If family planning services are provided, this visit may be billed as a family planning visit (CPT code 09007 for Medicaid; appropriate office visit code for private insurances).

4. Maternal and Infant Care Coordination:

   Services must meet Medicaid's guidelines before charging the patient for the services.

   Charges may be deferred if the determination is made that the patient needs the services, but cannot pay for them at the time of service. Documentation of the waiver for deferment must be on file in the patient's medical folder. Refer to "Waiver of Payments" section of Regulations Governing Eligibility Standards and Charges for Medical Care Services.

   For non-Medicaid patients, the contraceptive method selected is included in the cost of the initial and yearly visits.

   If the patient has Medicaid and is given contraceptives at the clinic visit, bill for two procedures: one for the clinic visit and one for the contraceptives. Districts with pharmacies are to bill the prescription filling fee.

   Billing codes for Medicaid are 09007 for the initial/yearly exam and 09009 for the follow-up/problem visits. If private insurance is to be billed, use the appropriate visit and code as described in item 3 b above.

6. Dental:

   The charges for dental services are based on average professional charges in the private sector. Charge schedules may be obtained from the Division of Dental Health.

   For any service requiring the services of a dental lab, the patient will be required to pay the full lab charge. The professional fee is $30.00 per hour. Contact Dental Health for specific charges.

7. Special Services:

   Service charges are to be applied statewide except when indicated as free. Flat rate services must be paid at the time the services are provided.

8. ADL Services:

   ADL services are provided to patients who do not qualify for Medicaid benefits. All ADL service collections are to be charged to the General Medical subprogram activity.

9. Other X-Ray Services:

   These services are to be charged whenever they are ordered by the provider and are not part of the routine examination protocol for all clinic patients.

10. Other Lab Services:

    These services are to be charged whenever they are ordered by the provider and are not part of the routine examination protocol for all clinic patients.

    Contract Lab Work: When lab work is sent to contract labs and the patient is covered by Medicaid, a handling fee of $3.00 (CPT code 99000) should be charged. (Medicare will not pay a handling fee, but will pay the venipuncture as below.) For all other patients, the charges for the lab work should be the Medicaid rate for the test(s) ordered.

    If a venipuncture was needed to draw the sample, you may bill for the venipuncture.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.**

Statutory Authority: §§ 9-161 D and 9-164 (2) of the Code of Virginia.

Effective Date: September 1, 1992.

Summary:

The amendment to § 6.3 of this regulation indicates that any change in a health care institution's charges or cumulative changes in charges that will increase or decrease council-approved budgeted gross patient services revenues by less than 1.0% of annual revenue for the remaining portion of the budget fiscal year would be considered minimal and need not be reported. All other changes would have to be reported at least 60 days prior to their effective date.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;

3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carryforwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

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

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III.
COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV.
VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2 B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and

recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V.
CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI.
FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each individual health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia. The annual report and the certified audited financial statement shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times for the annual report or the certified audited financial statement may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. The requirement for the filing of an annual report and a certified audited financial statement may be waived if a health care institution can show that an extenuating circumstance exists. Examples of an extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, or the institution is a new facility that has recently opened.

Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.

§ 6.2. Each individual health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year. An institution's budget for a given fiscal year will not be accepted for review unless the institution has already filed its annual report and certified audited financial statement for the previous fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year or within 15 days of being notified by the council of its approval of the charges, whichever is later.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. An institution's proposed amendment or modification to its annually filed schedule of charges shall not be accepted for review unless the institution has complied with all prior filing requirements contained in §§ 6.1 and 6.2 for previous fiscal years. Changes in charges which will have a minimal impact on revenues are exempt from this requirement. *Any change in an institution's charges or cumulative changes in charges that will increase or decrease council-approved budgeted gross patient service*

revenue by less than 1.0% of annual revenue for the remaining portion of the budgeted fiscal year are considered minimal and need not be reported. All other changes must be reported.

§ 6.3:1. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year.

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

§ 6.3:2. Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:

a. The name and principal activity;

b. The date of the affiliation;

c. The nature of the affiliation;

d. The method by which each affiliate was acquired or created;

e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;

f. The total assets;

g. The total revenues;

h. The net profit after taxes, or if not-for-profit, its excess revenues; and

i. The net quality, or if not-for-profit, its fund balance.

§ 6.3:3. The information specified in § 6.3:2 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.

§ 6.3:4. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3:2 shall complete and return the survey to the council by the 31st day of August of each calendar year or 120 days after the hospital's fiscal year end, whichever is later, in which the survey is required to be submitted.

§ 6.3:5. Each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

§ 6.4. All filings prescribed in § 6.1, § 6.2 and § 6.3:2 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

§ 6.7. A late charge of $10 per working day shall be paid to the council by a health care institution that files its

budget, annual report or certified audited financial statement past the due date. The late charge may be waived if a health care institution can show that an extenuating circumstance exists. Examples of extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

§ 6.8. A late charge of $50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of $25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:2 or file the audited consolidated financial statement required by § 6.3:5 or both.

§ 6.10. A late charge of $25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

PART VII.
WORK FLOW AND ANALYSIS.

§ 7.1. The annual report data filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. Hospitals that are part of a hospital system will be analyzed on a systemwide basis. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall received a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Hospitals that are part of a hospital chain may have their filings reviewed on a consolidated basis. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII.
PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.3:1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains

"personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurors, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

NOTICE: The forms used in administering the Virginia Health Services Cost Review Council Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Virginia Health Services Cost Review Council, 805 East Broad Street, 9th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Historical Submission for Acute Care Facilities

Budget Submission for Acute Care Facilities

Historical Submission for Long Term Care Facilities

Budget Submission for Long Term Care Facilities

Historical Submission for Outpatient Surgical Hospitals

Budget Submission for Outpatient Surgical Hospitals

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 400-02-0016. Rules and Regulations for Allocation of Elderly and Disabled Low-Income Housing Tax Credits.**

Statutory Authority: §§ 36-55.30:3 and 58.1-339 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

The amendments (i) expand the rules and regulations for allocation of elderly and disabled low-income housing tax credits to include single family homes and other types of structures having no comparable units in the same property, (ii) make certain changes in the requirements for eligibility of owners, tenants and units under the rules and regulations, (iii) amend certain definitions, and (iv) make other clarifying changes and technical corrections.

VR 400-02-0016. Rules and Regulations for Allocation of Elderly and Disabled Low-Income Housing Tax Credits.

§ 1. Definitions.

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

~~*"Applicant"* means an applicant for tax credits under these rules and regulations and, upon and subsequent to an allocation of such credits, also means the owner of the tax credit unit to whom the tax credits are allocated.~~

"Authority" means the Virginia Housing Development Authority.

"Board" means the Board of Commissioners of the authority.

~~*"Disabled"*~~*"Disability"* means (i) a physical or mental impairment which substantially limits one or more of the major life activities of such individual and includes any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities (the term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism) or (ii) a record of such an impairment; or being regarded as having such an impairment which includes a history of or being misclassified as having a mental or physical impairment that substantially limits one or more major life activities;

or a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation; or a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or none of the impairments defined above but *the individual* is treated by another person as having such an impairment *; provided, however, that any physical or mental impairment described in (i) or (ii) shall be expected to result in death or shall have lasted continuously during the immediately preceding 12-month period or shall be expected to last continuously during the next succeeding 12-month period .*

~~*"Disabled person"* means a person who is disabled as defined herein.~~

~~*"Disabled household"* means a household in which any one or more members are disabled.~~

"Elderly person" means a person who exceeds, by any period of time, 62 years of age.

~~*"Elderly household"* means a household of which the head or the head's spouse is elderly. The household may be two or more elderly persons who are not related or one or more such persons living with someone essential to their care or well-being.~~

"Elderly tenant" means (i) an elderly person or (ii) a household in which any member is an elderly person.

"Eligible ~~applicant~~ owner" means any person meeting the criteria for an eligible ~~applicant~~ *owner* as set forth in the state code and these rules and regulations.

"Eligible tenant" means an elderly tenant or tenant with a disability whose income does not exceed the limit described in these rules and regulations.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"HUD fair market rent" means the rent published by the U.S. Department of Housing and Urban Development for the Section 8 Rental Certificate Program.

"Income" means gross income (including but not limited to all salary, wages, bonuses, commissions, income from self-employment, interest, dividends, alimony, rental income, pensions, business income, annuities, social security payments, cash public assistance, support payments, retirement income and any other sources of cash income) which is being received by the ~~elderly or disabled person or household (excluding~~ *elderly tenant or tenant with a disability or is regularly paid to or on behalf of such tenant by a third party as of the application date. The income of* any person who is living with an ~~elderly or disabled person and who is essential~~ *elderly person or person with a disability for the primary purpose of providing care* to such ~~elderly or disabled person's well-being) as of the application date~~ *person shall be excluded* . All such ~~earnings~~ *income* , provided ~~they are~~ *it is* not temporary, shall be computed on an annual basis to determine income for the purpose of program eligibility.

~~*"Income eligible elderly or disabled person or household"* means an elderly or disabled person or household whose income does not exceed the limits set forth in these rules and regulations.~~

"Market rent" means the amount of rent, as determined by the authority pursuant to these rules and regulations, charged to other tenants for comparable units (other than tax credit units) in the same property or, if there are no such comparable units in the same property, for comparable units in the same market area.

"Owner" means an applicant for tax credits under these rules and regulations and, upon and subsequent to an allocation of such credits, means the owner of the tax credit unit to whom the tax credits are allocated.

"Person with a disability" means a person having a disability as defined in these rules and regulations.

"Program" means the elderly and disabled low-income housing tax credit program described in these rules and regulations.

"State code" means Article 3 of Chapter 3 of Title 58.1 of the Code of Virginia.

"Tax credit rent" means the reduced amount of rent [~~*charge*~~ *charged*] *for the tax credit unit to the eligible tenant. As provided in § 3 hereof, the tax credit rent shall be at least 15% less than the market rent.*

"Tax credits" means the tax credits as described in § 58.1-339 of the Code of Virginia;

"Tax credit unit" means a unit occupied or to be occupied by ~~income~~ eligible ~~elderly or disabled persons or households~~ *tenants* at reduced rents in order *for the owner* to be entitled to *receive* tax credits hereunder.

"Tenant" means a person or household who is applying for occupancy of, or is occupying, a tax credit unit.

"Tenant with a disability" means (i) a person with a disability or (ii) a household in which any member is a person with a disability.

§ 2. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of tax credits pursuant to the state code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the ~~applicant for tax credits~~ *owner* , the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the state code.

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

Notwithstanding anything to the contrary herein, all procedures and requirements in the state code must be complied with and satisfied.

§ 3. General description.

The state code has been amended by adding a section numbered 58.1-339 relating to a tax credit for ~~landlords~~ *owners* providing rent reduction for ~~low-income elderly and disabled persons or households~~ *eligible tenants* .

Beginning January 1, 1991, through December 31, 1993, any individual or corporation receiving an allocation of tax credits pursuant to § 7 hereof shall, subject to the provisions of the state code and these rules and regulations, be entitled to a credit against the tax levied pursuant to § 58.1-320 or § 58.1-400 of the Code of Virginia, provided that the following requirements are satisfied:

1. The individual or corporation is engaged in the business of the rental of dwelling units *(as hereinafter specified)* and *is* subject to the Virginia Residential Landlord and Tenant Act, § 55-248.2 et seq. of the Code of Virginia, ~~whether~~ *either* by virtue of the provisions thereof or by virtue of the ~~applicant's~~ *owner's* providing for the applicability thereof pursuant to § 55-248.5 B of the Code of Virginia;

2. The ~~landlord~~ *owner* provides a reduced rent to ~~income~~ eligible ~~elderly or disabled persons or households~~ *tenants* ; and

3. The rent charged to the ~~income~~ eligible ~~elderly or disabled persons or households~~ *tenants* is at least 15% less than the *market* rent ~~charged to other tenants for comparable units in the same property~~ .

The allowable tax credit amount shall be 50% of the total rent reductions allowed during the taxable year to the ~~income~~ eligible ~~elderly or disabled persons or households~~ *tenants* occupying the tax credit units. The amount of the rent reduction shall be equal to ~~(i)~~ the ~~amount of rent, as determined by the authority, charged to other tenants for comparable units in the same property~~ *market rent* minus ~~(ii)~~ the ~~amount of~~ *tax credit* rent ~~charged for the tax credit unit to the income eligible elderly or disabled person or household. In calculating such rent reduction, it shall be assumed~~ . *For this purpose, the tax credit rent shall include any rental subsidy payable on behalf of the eligible tenant under any governmental or private program.*

If there are comparable units (other than tax credit units) in the same property, the market rent shall be determined by the authority to be the rent charged to other tenants for such comparable units. For the purpose of determining the amount of rent charged to other tenants for comparable units in the same property, the authority shall assume that the other tenants commenced and, if applicable, renewed their leases as of the same date or dates, and for the same term or terms as the ~~income~~ eligible ~~elderly or disabled persons or families~~ *tenants* and at the rents in effect on such date or dates.

If there are no other such comparable units in the same property, then the market rent shall be determined by the authority to be the rent charged for comparable units in the same market area. Such rent shall be (i) the rent most recently charged for the tax credit unit to a person (who may be the eligible tenant to be assisted) unrelated to the owner within the one-year period prior to the date of filing of the application, plus a rental increase in an amount determined by the authority to reflect increases in rents in the market area of such tax credit unit since the date such rent was last charged, or (ii) if no rental history as described in (i) exists, the HUD fair market rent allowed for a comparable unit in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease); provided, however, that the owner may demonstrate to the authority that the rent for a comparable unit in the same market area is higher than (i) or (ii) above, as applicable, and to the extent so demonstrated to the satisfaction of the authority, such higher rent shall be used.

Notwithstanding anything to the contrary herein, the market rent shall in no event exceed 150% of the HUD fair market rent allowed for comparable units in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease).

~~The applicant shall not be entitled to an allocation of tax credits for any unit on which any portion of the rent is paid for the benefit of a tenant under any governmental or private program.~~ If the tax credit unit is subsidized or assisted under any ~~other~~ governmental or private program ~~not providing such rental payments~~ , the comparable units *in the same property or market area, as applicable,* shall include only those units similarly subsidized or assisted.

Because the intent of the state code is to provide tax credits for the rental of dwelling units only, tax credits may not be allocated by the authority for the leasing of

land *only* , including without limitation mobile home lots. *Tax credits may be allocated for the leasing of both a mobile home lot and the mobile home located thereon.*

To be eligible for the program, a dwelling unit must contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Such accommodations may be served by centrally located equipment such as air conditioning or heating. Thus, for example, an apartment containing a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other apartments, would constitute a unit.

In order to satisfy the requirement in § 58.1-339 of the state code that the owner be an individual or corporation engaged in the business of the rental of dwelling units, the owner must intend at the time of application and at all times thereafter to report, for federal income tax purposes, all rental and other income and any related expenses of the tax credit unit with respect to each tax year for which the tax credits are to be claimed for such tax credit unit.

The amount of credit for each individual or corporation for each taxable year shall not exceed $10,000 or the total amount of tax imposed by Chapter 3 of Title 58.1 of the Code of Virginia, whichever is less. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against income taxes of such individual or corporation in the next five taxable years until the total amount of the tax credit has been taken.

Credits granted to a partnership or an electing small business corporation (S corporation) shall be passed through to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

The total amount of tax credits which may be approved by the authority in any fiscal year shall not exceed $1,000,000.

The authority may charge to each ~~applicant~~ *owner* fees in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority. Such fees shall be payable at such time or times as the executive director shall require.

§ 4. Solicitations of applications.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for tax credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

§ 5. Application.

Application for an allocation of tax credits shall be commenced by filing with the authority an application on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the state code and to make the allocation of the tax credits in accordance with these rules and regulations.

The executive director may establish criteria and assumptions to be used by the ~~applicant~~ *owner* in the calculation of amounts in the application, and any such criteria and assumptions shall be indicated on the application form or instructions.

The executive director may prescribe such deadlines for submission of applications for allocation of tax credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such allocations.

The tax credit unit for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such tax credit unit is to be financed by the authority, the application for such financing shall be submitted to and reviewed by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, the allocation of tax credits for tax credit units which the authority may own or may intend to acquire, construct or rehabilitate.

§ 6. Eligibility of tenants and verification.

The occupancy of ~~tax credit~~ units entitled to ~~a~~ tax ~~credit~~ *credits* is limited to ~~elderly or disabled persons or households~~ *elderly tenants or tenants with disabilities* whose ~~income~~ *incomes* , as of initial occupancy of the tax credit unit by such ~~person or household~~ *tenants* (or, if *any* such tax credit unit is occupied by ~~such person or household~~ *such a tenant* on January 1 of the first calendar year for which the tax credits are to be claimed for such tax credit unit, as of such January 1), ~~does~~ *do* not exceed 80% of the median income for the area. Preference in occupancy of tax credit units will be given to ~~elderly or disabled persons or households~~ *eligible tenants* whose ~~income is~~ *incomes are* less than or equal to 50% of the median income for the area. The United States Department of Housing and Urban Development ~~Section 8~~ income limits *for subsidized programs* , as adjusted by family size, will be used in determining such 80% and 50% of median income for the area.

~~Applicants~~ *Owners* shall be required to obtain written income verification for ~~elderly or disabled persons or households~~ *eligible tenants* who occupy or are expected to occupy a tax credit unit. The verification of income must be sent by the owner to each employer or the agency providing benefits along with a stamped, self-addressed return envelope. Such verification should then be retained by the ~~applicant~~ *owner* and a copy submitted to the authority *(together* with ~~the~~ *an executed* confirmation of resident eligibility form *and the verification of age or disability)* at the ~~end of the calendar year~~ *time that the eligible tenant is determined by the owner to be income eligible* . Verification of income must be current as of a date no earlier than 90 days prior to the date set forth in the preceding paragraph as of which the income of the ~~elderly or disabled person or household~~ *eligible tenant* is determined for eligibility purposes.

With respect to tax credits claimed for rental of tax credit units to ~~disabled persons or households, applicants~~ *tenants with disabilities, owners* shall be required to obtain a written verification of disability. Verification of said disability may be obtained from a physician, diagnostic or vocational rehabilitation service center or the Social Security Administration.

With respect to tax credits claimed for rental of tax credit units to elderly ~~persons or households, applicants~~ *tenants, owners* must verify the age of all persons claiming to exceed 62 years of age. Verification of Social Security benefits paid on the person's behalf will be acceptable if a birth certificate cannot be obtained; provided, however, that any person receiving ~~survival~~ *survivor* Social Security benefits who does not exceed 62 years of age or ~~disabled~~ *does not have a disability* is not eligible for ~~tax credit~~ occupancy *of a tax credit unit* .

The initial lease term for all ~~income~~ eligible ~~elderly or disabled persons or households~~ *tenants* occupying a tax credit unit may not be less than a 12-month period.

§ 7. Review and selection of application; allocation of tax credits.

Pursuant to the state code, the state is divided into the following low-income housing tax credit allocation areas, each of which shall be allocated the percent share of tax credits set forth below and in the state code:

Allocation Area 1

Percent Share of Tax Credits: 10.79

Planning District: LENOWISCO

Jurisdictions: Norton City, Lee County, Scott County, Wise County

Planning District: Cumberland Plateau

Jurisdictions: Buchanan County, Dickenson County, Russell County, Tazewell County

Planning District: Mount Rogers

Jurisdictions: Bristol City, Galax City, Bland County, Carroll County, [~~Garyson~~ *Grayson*] County, Smyth County, Washington County, Wythe County

Planning District: New River Valley

Jurisdictions: Radford City, Floyd County, Giles County, Montgomery County, Pulaski County

Allocation Area 2

Percent Share of Tax Credits: 12.09

Planning District: Fifth

Jurisdictions: Clifton Forge City, Covington City, Roanoke City, Salem City, Alleghany County, Botetourt County, Craig County, Roanoke County

Planning District: Central Virginia

Jurisdictions: Bedford City, Lynchburg City, Amherst County, Appomattox County, Bedford County, Campbell County

Planning District: West Piedmont

Jurisdictions: Danville City, Martinsville City, Franklin County, Henry County, Patrick County, Pittsylvania County

Allocation Area 3

Percent Share of Tax Credits: 6.70

Planning District: Central Shenandoah

Jurisdictions: Buena Vista City, Harrisonburg City, Lexington City, Staunton City, Waynesboro City, Augusta County, Bath County, Highland County, Rockbridge County, Rockingham County

Planning District: Lord Fairfax

Jurisdictions: Winchester City, Clarke County, Frederick County, Page County, Shenandoah County, Warren County

Allocation Area 4

Percent Share of Tax Credits: 20.98

Planning District: Northern Virginia

Jurisdictions: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County

Allocation Area 5

Percent Share of Tax Credits: 4.70

Planning District: Rappahannock-Rapidan

Jurisdictions: Culpeper County, Fauquier County, Madison County, Orange County, Rappahannock County

Planning District: Thomas Jefferson

Jurisdictions: Charlottesville City, Albemarle County, Fluvanna County, Greene County, Louisa County, Nelson County

Allocation Area 6

Percent Share of Tax Credits: 5.22

Planning District: Southside

Jurisdictions: South Boston City, Brunswick County, Halifax County, Mecklenburg County

Planning District: Piedmont

Jurisdictions: Amelia County, Buckingham County, Charlotte County, Cumberland County, Lunenburg County, Nottoway County, Prince Edward County

Planning District: Crater

Jurisdictions: Colonial Heights City, Emporia City, Hopewell City, Petersburg City, Dinwiddie County, Greensville County, Prince George County, Surry County, Sussex County

Allocation Area 7

Percent Share of Tax Credits: 12.68

[*Planning District: Richmond Regional*]

Jurisdictions: Richmond City, Charles City County, Chesterfield County, Goochland County, Hanover County, Henrico County, New Kent County, Powhatan County

Allocation Area 8

Percent Share of Tax Credits: 5.15

Planning District: RADCO

Jurisdictions: Fredericksburg City, Caroline County, King George County, Spotsylvania County, Stafford County

Planning District: Northern Neck

Jurisdictions: Lancaster County, Northumberland County, Richmond County, Westmoreland County

Planning District: Middle Peninsula (not including Gloucester)

Jurisdictions: Essex County, King and Queen County, King William County, Mathews County, Middlesex County

Planning District: Accomack-Northampton

Jurisdictions: Accomack County, Northampton County

Allocation Area 9

Percent Share of Tax Credits: 21.69

Planning District: Southeastern Virginia

Jurisdictions: Chesapeake City, Franklin City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Isle of Wight County, Southampton County

Planning District: Peninsula

Jurisdictions: Hampton City, Newport News City, Poquoson City, Williamsburg City, James City County, York County

Planning District: Middle Peninsula

Jurisdictions: Gloucester County

The executive director may further suballocate these allocation areas into allocation subpools based upon one or more of the following factors: geographical areas; types or characteristics of housing, construction, financing, owners, or occupants; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

Tax credits shall be allocated to eligible ~~applicants~~ *owners* on a "first-come, first-served" basis. In the event that the amount of tax credits available within an allocation area or subpool is sufficient for some but not all of eligible applications received by the authority on the same day, then the authority shall select one or more of such applications by lot.

The executive director may exclude and disregard any application which he determines is not submitted in good faith.

The amount of tax credits which may be allocated for tax credit units in any single development shall not exceed $10,000; provided, however, that the executive director may from time to time terminate or suspend such $10,000 limit for such allocation area or areas and for such period of time as he shall deem appropriate to assure full utilization and proper distribution of the tax credits. For the purpose of compliance with such $10,000 limit, the executive director may determine that developments in one or more applications constitute a single development based upon such factors as he may deem relevant, including without limitation the ownership, proximity, age, management, financing and physical characteristics of the developments.

The executive director shall allocate tax credits, in the

manner described above, to eligible ~~applicants~~ *owners* within each allocation area or subpool, if applicable, until either all tax credits therein are allocated or all eligible ~~applicants~~ *owners* therein have received allocations. The amount allocated to each such eligible ~~applicant~~ *owner* shall be equal to the lesser of (i) the amount requested in the application or (ii) the amount, determined by the executive director, to which the eligible ~~applicant~~ *owner* is entitled under the state code and these rules and regulations as of the date of application; provided, however, that in no event shall the amount of tax credits so allocated exceed the amount of tax credits available in the allocation area or subpool from which such tax credits are to be allocated.

Amounts in any allocation area not allocated to any eligible ~~applicants~~ *owners* may not be reallocated to any other allocation areas. Any amounts in any allocation subpools not allocated to eligible ~~applicants~~ *owners* shall be reallocated among the other subpools (within the same allocation area) in which eligible ~~applicants~~ *owners* shall not have received allocations in the full amount permissible under these rules and regulations. Such reallocation shall be made pro rata based on the amount originally allocated to all such subpools with excess applications divided by the total amount originally allocated to all such subpools with excess applications. Such reallocations shall continue to be made until either all of the tax credits within the allocation area are allocated to eligible ~~applicants~~ *owners* in the manner described above or all applications in the allocation area have received allocations.

The executive director determines whether the ~~applicant~~ *owner* and the tax credit units are entitled to tax credits under the state code and these rules and regulations. If the executive director determines that the ~~applicant~~ *owner* or the tax credit units are not so entitled to tax credits, the ~~applicant~~ *owner* shall be so informed and his application shall be terminated. If the authority determines that the ~~applicant~~ *owner* and the tax credit units are so entitled to tax credits, then the executive director shall issue to the ~~applicant~~ *owner* , on behalf of the authority, a commitment for allocation of tax credits with respect to the applicable tax credit units. The allocation shall be subject to the approval or ratification thereof by the authority's board as described below.

The board shall review and consider the analysis and recommendation of the executive director for the allocation of tax credits, and, if it concurs with such recommendation, it shall by resolution approve or ratify the allocation by the executive director of the tax credits to the eligible ~~applicant~~ *owner* , subject to such terms and conditions as the board or the executive director shall deem necessary or appropriate to assure compliance with the state code and these rules and regulations. If the board determines not to approve or ratify an allocation of tax credits, the executive director shall so notify the ~~applicant~~ *owner* .

Upon compliance with the state code and these rules and regulations, the ~~applicant~~ *owner* to whom an allocation is made hereunder shall be entitled to tax credits annually, in such amount as is determined by the authority pursuant to these rules and regulations, for each year beginning in the year for which such allocation is made and ending December 31, 1993, unless terminated or reduced pursuant to these rules and regulations.

The executive director may require that ~~applicants~~ *owners* to whom tax credits have been allocated shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the tax credit unit and its compliance with the application and these rules and regulations. If on the basis of such written confirmation and documentation and other available information the executive director determines that the tax credit unit does not or will not qualify or will not continue to qualify for such tax credits, then the executive director may terminate or reduce the allocation of such tax credits. Without limiting the foregoing, the ~~applicant~~ *owner* shall lease the tax credit units to ~~income~~ eligible ~~elderly or disabled persons or households~~ *tenants* at reduced rents such that the aggregate of such rent reductions shall be no less than the aggregate of the rent reductions set forth in the application. In the event that the ~~applicant~~ *owner* shall fail to so lease the tax credit units, the authority may, upon its determination that the ~~applicant~~ *owner* is unable or unwilling to utilize fully its allocation of the tax credits, terminate or reduce such allocation, as it shall deem appropriate.

The authority shall have the right to inspect the tax credit units and related property and improvements from time to time, and the tax credit units and related property and improvements shall be in a state of repair and condition satisfactory to the authority. The authority may require the ~~applicant~~ *owner* to make necessary repairs or improvements, in a manner acceptable to the authority, as a condition for receiving or qualifying for an allocation of tax credits or for certification to the Department of Taxation as described herein below.

The executive director may establish such deadlines for the ~~applicant~~ *owner* to qualify for the tax credits and to comply with the application and these rules and regulations as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the ~~applicant's~~ *owner's* allocation, to allocate such tax credits to other eligible ~~applicants~~ *owners* .

Any material changes to the condition, use or occupancy of the tax credit unit or in any other representations, facts or information, as contained or proposed in the application, occurring subsequent to the submission of the application for the tax credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with these rules and

regulations and the state code, reduce the amount of tax credits allocated or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the allocation of such tax credits or impose additional terms and conditions with respect thereto.

In the event that any allocation of tax credits is terminated or reduced by the executive director under this section, he may allocate such tax credits (in the amount of such termination or reduction) to eligible ~~applicants~~ *owners* (other than the ~~applicants~~ *owners* whose tax credit allocation was so terminated or reduced) in the first-come first-served manner described above or in such other manner as he shall determine consistent with the requirements of the state code.

If subsequent to receipt of an allocation of tax credits an ~~applicant~~ *owner* shall transfer any of the tax credit units to a transferee which is eligible for such tax credits under the state code and these rules and regulations, such transferee shall thereupon be entitled to the allocation of tax credits for such tax credit units and shall, for the purposes of these rules and regulations, be thereafter deemed the ~~applicant~~ *owner* for such tax credits.

§ 8. Tax credit period.

Each period for which an owner may claim tax credits for any tax credit unit shall commence upon the date that the tax credit unit is occupied by an eligible tenant pursuant to a lease providing for a 12-month term and for the payment of rent in the amount of the tax credit rent. Such period shall not commence prior to the allocation of the tax credits by the authority to the owner, except that if the tax credit unit is so occupied from the first day of the month in which the allocation of tax credits is made, such period shall commence on such first day of the month. Such period shall continue until termination of occupancy as described in § 9 hereof. However, in no event shall any such period commence and continue unless the tax credit unit is and remains in a state of repair and condition satisfactory to the authority [*, all documentation required by § 6 has been and is submitted to the authority*] *in accordance herewith, and all other applicable requirements of the state code and these rules and regulations have been and are satisfied. If the owner shall be entitled to claim tax credits on any tax credit unit for a portion of a month during such period, the rent reduction shall be calculated pro rata based upon the number of days in such month that the owner is so entitled to claim tax credits or, with respect to the termination of occupancy, shall be calculated as provided in § 9 hereof.*

~~§ 8.~~ *§ 9.* Maintenance of records; submission requirements; termination of occupancy.

~~Applicants~~ *Owners* shall be responsible for obtaining and maintaining all documentation required by the authority to evidence that the tax credit units qualify for tax credits under the program. Owners will be responsible for providing this documentation to the authority for review within 30 days following the end of each calendar year *; provided, however, that the documents listed in subdivisions 2 a, b, c and g of this section shall be submitted at the time required by § 6 hereof* . The tax credit unit will not qualify for tax credits if all required documents, in the form required by the authority, are not ~~available~~ *so provided* . Required documentation to be submitted to the authority includes, but is not limited to, the following:

1. A listing (including dates of occupancy) of all tenants currently occupying, or who previously occupied, a tax credit unit entitled to a tax credit for that year.

2. A complete certification package for each ~~income~~ eligible ~~elderly or disabled person or household~~ *tenant* receiving the reduced rent. The certification must include:

a. A completed and executed confirmation of resident eligibility form.

b. Verification of income.

c. Verification of age or disability.

d. A ~~notarized~~ certification from the tenant verifying:

(1) What unit type/size was occupied,

(2) Number of months said unit was occupied,

(3) The amount of rent paid, and

(4) How many months that amount of rent was paid.

e. A certification of the ~~applicant~~ *owner* that preference in occupancy of the tax credit units was given to ~~elderly or disabled persons or households~~ *eligible tenants* whose ~~income is~~ *incomes are* less than or equal to 50% of the median income for the area (the waiting list for tax credit units during the calendar year identifying the persons applying for such units and their incomes shall be maintained by the ~~applicant~~ *owner* and shall be available for inspection by the authority).

f. Rent rolls for the comparable units in the same property as the tax credit units setting forth the rents charged to other tenants , *if rents for such comparable units are to be used to determine the amount of the rent reduction pursuant to § 3 hereof* .

g. ~~A copy~~ *Copies* of leases for each tax credit unit.

In the event of termination of occupancy, the rent reduction shall be calculated pro rata based upon the number of days determined in the following manner. In the event of death of the only ~~elderly or disabled person~~ *elderly person or person with a disability* occupying a tax credit unit, the ~~applicant~~ *owner* must obtain a copy of the death certificate *or must provide other acceptable documentation of death* ; and the number of days for which an ~~applicant~~ *owner* is entitled to tax credits on such deceased person's tax credit unit shall be determined by the date of death. If the ~~elderly or disabled person or household~~ *eligible tenant* abandons the tax credit unit, the earliest of the date the ~~applicant~~ *owner* discovers the tax credit unit is vacant, the date any utility company terminates service on the tax credit unit, or the date 30 days after abandonment will be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the tax credit unit shall not be so abandoned but the ~~elderly or disabled person or persons~~ *eligible tenant* shall not occupy the tax credit unit for a period of 30 days (or such longer period of time as the executive director may approve) , the end of such period shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the lease is terminated for any reason other than those set forth above in this paragraph, the effective date of termination shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit.

§ ~~9.~~ § *10.* Certification to the Virginia Department of Taxation.

On or before March 15 of each calendar year, the authority shall certify to the Virginia Department of Taxation the name of each ~~applicant~~ *owner* entitled to claim a tax credit for the preceding calendar year and the total amount of tax credits which each such ~~applicant~~ *owner* is entitled to claim under the state code and these rules and regulations and shall further certify that each such ~~applicant~~ *owner* claiming a credit provided the rent reductions as authorized under the state code and these rules and regulations. The ~~applicant~~ *owner* shall be entitled to claim tax credits for such preceding calendar year only in the amount for which the authority makes such certifications.

§ ~~10.~~ § *11.* Notification to the Virginia Department of Taxation of noncompliance with state code or these rules and regulations.

If subsequent to the certification in § ~~9~~ *10* the executive director shall become aware of noncompliance with any of the provisions of the state code or these rules and regulations by any ~~applicant~~ *owner* for whom such certification was made and if such noncompliance would result in a reduction in amount of tax credits that such ~~applicant~~ *owner* claimed or could have claimed, the executive director shall, within 90 days, notify the Virginia Department of Taxation of such noncompliance. Such notification shall shall identify the ~~applicant~~ *owner* and shall describe the noncompliance.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Specialized Care Services.**
VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality Care.
VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.
VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate - Allowance for Inflation Methodology Base "Current" Operating Rate (Appendix IV to Nursing Home Payment System).

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: August 12, 1992.

Summary:

These amendments modify specialized care services reimbursement language in response to a federal requirement.

The sections of the State Plan for Medical Assistance which are affected by this amendment are as follows: VR 460-02-3.1300, VR 460-02-4.1940 §f and VR 460-03-4.1944 Appendix IV of the Nursing Home Payment System.

The existing Plan language was determined by the Health Care Financing Administration (HCFA) to be unacceptable because it appeared that for specialized care services, DMAS negotiated rates with specific facilities on a case-by-case basis. HCFA requires that the Plan "describe comprehensively the methods and standards used to establish rates for services." HCFA determined that the Plan required amendment for conformance to these requirements. In addition, HCFA has required DMAS' assurance that the rates for these services are reasonable and adequate to meet the costs of efficiently and economically operated facilities.

DMAS has determined that clarifying existing policy rather than a policy change is indicated. Therefore, Attachment 3.13 C, Attachment 4.19 D §f and Appendix IV to the Supplement to Attachment 4.19 D have been modified to set forth more clearly the agency's current policies on reimbursing for specialized care services.

The modifications made to the final regulations concern Attachment 4.19-D (VR 460-02-4.1940), item f. Reference to transplantation services has been removed from the introductory paragraph which discusses examples of specialized care services. Transplantation services are offered in inpatient hospital facilities. Since nursing facilities do not

provide the scope of services that transplantation patients require, the reference to transplantation as a subservice under specialized care services has been removed.

The remaining changes in subdivisions (1), (2), and (3) enumerate the various provider types which might provide specialized care services, clarify language, and provide that providers' rate increases, instead of occurring at various points in their fiscal years, will occur on July 1, or the Commonwealth's fiscal year. Moving the timing for rate increases makes no difference in the reimbursement amount.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

b. The physician, or physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs that must include daily therapeutic leisure activities.

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, fivedays per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Nursing facilities.

1. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements.

2. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

3. The Department of Medical Assistance Services shall conduct at least annually a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records.

4. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

5. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in Supplement 1 to Attachment 3.1-C, Part 2 (Adult Specialized Care Criteria) or Part 3 (Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. *Further specialized care services requirements are set forth below.*

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.

6. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

7. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

8. Specialized care services.

a. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care

to at least four residents who meet the specialized care criteria for children/adolescents or adults.

b. Providers must be able to provide the following specialized services to Medicaid specialized care recipients:

(1) Physician visits at least once weekly;

(2) Skilled nursing services by a registered nurse available 24 hours a day;

(3) Coordinated multidisciplinary team approach to meet the needs of the resident;

(4) For residents under age 21, provision for the educational and habilitative needs of the child;

(5) For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of six sessions each day, 15 minutes per session, five days per week;

(6) For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of four sessions per day, 30 minutes per session, five days a week;

(7) Ancillary services related to a plan of care;

(8) Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);

(9) Psychology services by a board-certified psychologist related to a plan of care;

(10) Necessary durable medical equipment and supplies as required by the plan of care;

(11) Nutritional elements as required;

(12) A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;

(13) Nonemergency transportation;

(14) Discharge planning;

(15) Family or caregiver training; and

(16) Infection control.

D. Facilities for the Mentally Retarded (FMR) and ıstitutions for Mental Disease (IMD).

1. With respect to each Medicaid-eligible resident in an FMR or IMD in Virginia, a written plan of care must be developed prior to admission to or authorization of benefits in such facility, and a regular program of independent professional review (including a medical evaluation) shall be completed periodically for such services. The purpose of the review is to determine: the adequacy of the services available to meet his current health needs and promote his maximum physical well being; the necessity and desirability of his continued placement in the facility; and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Long-term care of residents in such facilities will be provided in accordance with federal law that is based on the resident's medical and social needs and requirements.

2. With respect to each intermediate care FMR or IMD, periodic on-site inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), shall be conducted. The review shall include, with respect to each recipient, a determination of the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, the necessity and desirability of continued placement in the facility, and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Full reports shall be made to the state agency by the review team of the findings of each inspection, together with any recommendations.

3. In order for reimbursement to be made to a facility for the mentally retarded, the resident must meet criteria for placement in such facility as described in Supplement 1, Part 4, to Attachment 3.1-C and the facility must provide active treatment for mental retardation.

4. In each case for which payment for nursing facility services for the mentally retarded or institution for mental disease services is made under the State Plan:

a. A physician must certify for each applicant or recipient that inpatient care is needed in a facility for the mentally retarded or an institution for mental disease. The certification must be made at the time of admission or, if an individual applies for assistance while in the facility, before the Medicaid agency authorizes payment; and

b. A physician, or physician assistant or nurse practitioner acting within the scope of the practice as defined by state law and under the supervision of a physician, must recertify for each applicant at least every 365 days that services are needed in a facility for the mentally retarded or institution for

mental disease.

5. When a resident no longer meets criteria for facilities for the mentally retarded or an institution for mental disease or no longer requires active treatment in a facility for the mentally retarded, then the resident must be discharged.

E. Home health services.

1. Home health services which meet the standards prescribed for participation under Title XVIII will be supplied.

2. Home health services shall be provided by a licensed home health agency on a part-time or intermittent basis to a homebound recipient in his place of residence. The place of residence shall not include a hospital or nursing facility. Home health services must be prescribed by a physician and be part of a written plan of care utilizing the Home Health Certification and Plan of Treatment forms which the physician shall review at least every 62 days.

3. Except in limited circumstances described in subdivision 4 below, to be eligible for home health services, the patient must be essentially homebound. The patient does not have to be bedridden. Essentially homebound shall mean:

a. The patient is unable to leave home without the assistance of others or the use of special equipment;

b. The patient has a mental or emotional problem which is manifested in part by refusal to leave the home environment or is of such a nature that it would not be considered safe for him to leave home unattended;

c. The patient is ordered by the physician to restrict activity due to a weakened condition following surgery or heart disease of such severity that stress and physical activity must be avoided;

d. The patient has an active communicable disease and the physician quarantines the patient.

4. Under the following conditions, Medicaid will reimburse for home health services when a patient is not essentially homebound. When home health services are provided because of one of the following reasons, an explanation must be included on the Home Health Certification and Plan of Treatment forms:

a. When the combined cost of transportation and medical treatment exceeds the cost of a home health services visit;

b. When the patient cannot be depended upon to go to a physician or clinic for required treatment, and, as a result, the patient would in all probability have to be admitted to a hospital or nursing facility because of complications arising from the lack of treatment;

c. When the visits are for a type of instruction to the patient which can better be accomplished in the home setting;

d. When the duration of the treatment is such that rendering it outside the home is not practical.

5. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

a. Nursing services,

b. Home health aide services,

c. Physical therapy services,

d. Occupational therapy services,

e. Speech-language pathology services, or

f. Medical supplies, equipment, and appliances suitable for use in the home.

6. General conditions. The following general conditions apply to reimbursable home health services.

a. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his or her license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.

b. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The written plan of care shall appear on the Home Health Certification and Plan of Treatment forms.

c. A physician recertification shall be required at intervals of at least once every 62 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long home health services will be needed. Recertifications must appear on the Home Health Certification and Pla

of Treatment forms.

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. The physician orders for durable medical equipment and supplies shall include the specific item identification including all modifications, the number of supplies needed monthly, and an estimate of how long the recipient will require the use of the equipment or supplies. All durable medical equipment or supplies requested must be directly related to the physician's plan of care and to the patient's condition.

f. A written physician's statement located in the medical record must certify that:

(1) The home health services are required because the individual is confined to his or her home (except when receiving outpatient services);

(2) The patient needs licensed nursing care, home health aide services, physical or occupational therapy, speech-language pathology services, or durable medical equipment and/or supplies;

(3) A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and

(4) These services were furnished while the individual was under the care of a physician.

g. The plan of care shall contain at least the following information:

(1) Diagnosis and prognosis,

(2) Functional limitations,

(3) Orders for nursing or other therapeutic services,

(4) Orders for medical supplies and equipment, when applicable

(5) Orders for home health aide services, when applicable,

(6) Orders for medications and treatments, when applicable,

(7) Orders for special dietary or nutritional needs, when applicable, and

(8) Orders for medical tests, when applicable, including laboratory tests and x-rays

6. Utilization review shall be performed by DMAS 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 patients' medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

7. All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by appropriately qualified personnel. The following criteria shall apply to the provision of home health services:

a. Nursing services. Nursing services 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. Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.

c. Rehabilitation services. Services shall be specific and provide effective treatment for patients' conditions in accordance with accepted standards of medical practice. The amount, frequency, and duration of the services shall be reasonable. Rehabilitative services shall be provided with the expectation, based on the assessment made by physicians of patients' rehabilitation potential, that the condition of patients will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with the specific diagnosis.

(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. 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.

(2) 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. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, or an occupational therapy assistant 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, 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) Speech-language pathology services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology.

d. Durable medical equipment and supplies. Durable medical equipment, supplies, or appliances must be ordered by the physician, be related to the needs of the patient, and included on the plan of care. Treatment supplies used for treatment during the visit are included in the visit rate. Treatment supplies left in the home to maintain treatment after the visits shall be charged separately.

e. A visit shall be defined as the duration of time that a nurse, home health aide, or rehabilitation therapist is with a client to provide services prescribed by a physician and that are covered home health services. Visits shall not be defined in measurements or increments of time.

F. Optometrists' services are limited to examinations (refractions) after preauthorization by the state agency except for eyeglasses as a result of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

G. In the broad category of Special Services which includes nonemergency transportation, all such services for recipients will require preauthorization by a local health department.

H. Standards in other specialized high quality programs such as the program of Crippled Children's Services will be incorporated as appropriate.

I. Provisions will be made for obtaining recommended medical care and services regardless of geographic boundaries.

* * *

PART I.
INTENSIVE PHYSICAL REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to improve his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy

2. Physical Therapy

3. Cognitive Rehabilitation

4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II.
INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an intensive rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is

approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be reques ted in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III.
DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment; and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no reimbursement will be provided.

PART IV.
INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an intensive evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V.
CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

§ 5.3. 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 reimbursment shall be provided.

PART VI.
THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII.
DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable

to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII.
REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

Physical therapy services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

C. Occupational therapy.

Occupational therapy services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective

treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

D. Speech-Language therapy.

Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

E. Cognitive rehabilitation.

Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

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 rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

3. Cognitive rehabiitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

4. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

5. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

6. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

Psychology services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

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 qualified psychologist as required by state law;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

Social work services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

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 qualified social worker as required by state law;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

Recreational therapy are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

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 are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. Medically necessary medical supplies, equipment and appliances shall be covered. 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. Payment shall not be made for additional equipment or supplies unless the extended provision of services has been authorized by DMAS. All durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

2. Supplies, equipment, or appliances that are not covered for recipients of intensive physical rehabilitative services 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 appliance 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, for example, an electric wheelchair plus a manual chair; cleansing wipes);

e. 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 non-legend drugs);

f. Home or vehicle modifications;

g. Items not suitable for or used primarily in the home setting (i.e., but not limited to, car seats, equipment to be used while at school);

h. Equipment that the primary function is vocationally or educationally related (i.e., but not limited to, computers, environmental control devices, speech devices) environmental control devices, speech devices).

PART IX.
HOSPICE SERVICES.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or Medicaid, the and elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 9.3. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physician services. Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

4. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

5. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Durable medical equipment and supplies. Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

7. Drugs and biologicals. Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

8. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

9. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

PART X.
COMMUNITY MENTAL HEALTH SERVICES.

§ 10.1. Utilization review general requirements.

A. On-site utilization reviews shall be conducted, at a minimum annually at each enrolled provider, by the state Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). During each on-site review, an appropriate sample of the provider's total Medicaid population will be selected for review. An expanded review shall be conducted if an appropriate number of exceptions or problems are identified.

B. The DMHMRSAS review shall include the following items:

1. Medical or clinical necessity of the delivered service;

2. The admission to service and level of care was appropriate;

3. The services were provided by appropriately qualified individuals as defined in the Amount, Duration, and Scope of Services found in Attachment 3.1 A and B, Supplement 1 § 13d Rehabilitative Services; and

4. Delivered services as documented are consistent with recipients' Individual Service Plans, invoices submitted, and specified service limitations.

§ 10.2. Mental health services utilization criteria.

Utilization reviews shall include determinations that providers meet all the requirements of Virginia state regulations found at VR 460-03-3.1100.

A. Intensive in-home services for children and adolescents.

1. At admission, an appropriate assessment is made and documented that service needs can best be met through intervention provided typically but not solely in the client's residence; service shall be recommended in the Individual Service Plan (ISP) which shall be fully completed within 30 days of initiation of services.

2. Services shall be delivered primarily in the family's residence. Some services may be delivered while accompanying family members to community agencies or in other locations.

3. Services shall be used when out-of-home placement is a risk and when services that are far more intensive than outpatient clinic care are required to stabilize the family situation, and when the client's residence as the setting for services is more likely to be successful than a clinic.

4. Services are not appropriate for a family in which a child has run away or a family for which the goal is to keep the family together only until an out-of-home placement can be arranged.

5. Services shall also be used to facilitate the transition to home from an out-of-home placement when services more intensive than outpatient clinic care are required for the transition to be successful.

6. At least one parent or responsible adult with whom the child is living must be willing to participate in in-home services, with the goal of keeping the child with the family.

7. The provider of intensive in-home services for

children and adolescents shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

8. The billing unit for intensive in-home service is one hour. Although the pattern of service delivery may vary, in-home service is an intensive service provided to individuals for whom there is a plan of care in effect which demonstrates the need for a minimum of five hours a week of intensive in-home service, and includes a plan for service provision of a minimum of five hours of service delivery per client/family per week in the initial phase of treatment. It is expected that the pattern of service provision may show more intensive services and more frequent contact with the client and family initially with a lessening or tapering off of intensity toward the latter weeks of service. Intensive in-home services below the five-hour a week minimum may be covered. However, variations in this pattern must be consistent with the individual service plan. Service plans must incorporate a discharge plan which identifies transition from intensive in-home to less intensive or nonhome based services.

9. The intensity of service dictates that caseload sizes should be six or fewer cases at any given time. If on review caseloads exceed this limit, the provider will be required to submit a corrective action plan designed to reduce caseload size to the required limit unless the provider can demonstrate that enough of the cases in the caseload are moving toward discharge so that the caseload standard will be met within three months by attrition. Failure to maintain required caseload sizes in two or more review periods may result in termination of the provider agreement unless the provider demonstrates the ability to attain and maintain the required caseload size.

10. Emergency assistance shall be available 24 hours per day, seven days a week.

B. Therapeutic day treatment for children and adolescents.

1. Therapeutic day treatment is appropriate for children and adolescents who meet the DMHMRSAS definitions of "serious emotional disturbance" or "at risk of developing serious emotional disturbance" and who also meet one of the following:

a. Children and adolescents who require year-round treatment in order to sustain behavioral or emotional gains.

b. Children and adolescents whose behavior and emotional problems are so severe they cannot be handled in self-contained or resource emotionally disturbed (ED) classrooms without:

(1) This programming during the school day; or

(2) This programming to supplement the school day or school year.

c. Children and adolescents who would otherwise be placed on homebound instruction because of severe emotional/behavior problems that interfere with learning.

d. Children and adolescents who have deficits in social skills, peer relations, dealing with authority; are hyperactive; have poor impulse control; are extremely depressed or marginally connected with reality.

e. Children in preschool enrichment and early intervention programs when the children's emotional/behavioral problems are so severe that they cannot function in these programs without additional services.

2. The provider of therapeutic day treatment for child and adolescent services shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

3. The minimum staff-to-youth ratio shall ensure that adequate staff is available to meet the needs of the youth identified on the ISP.

4. The program shall operate a minimum of two hours per day and may offer flexible program hours (i.e. before or after school or during the summer). One unit of service is defined as a minimum of two hours but less than three hours in a given day. Two units of service are defined as a minimum of three but less than five hours in a given day; and three units of service equals five or more hours of service. Transportation time to and from the program site may be included as part of the reimbursable unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be billable. These restrictions apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled activities.

5. Time for academic instruction when no treatment activity is going on cannot be included in the billing unit.

6. Services shall be provided following a diagnostic assessment when authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker or certified psychiatric nurse and in accordance with an ISP which shall be fully completed within 30 days of initiation of the service.

C. Day treatment/partial hospitalization services shall be provided to adults with serious mental illness following diagnostic assessment when authorized by the physician,

licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse, and in accordance with an ISP which shall be fully completed within 30 days of service initiation.

1. The provider of day treatment/partial hospitalization shall be licensed by DMHMRSAS.

2. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Transportation time to and from the program site may be included as part of the reimbursable unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be covered. These restrictions shall apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled program activities.

3. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state or when other less intensive services may achieve stabilization. Admission and services longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, licensed clinical psycholo gist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse.

D. Psychosocial rehabilitation services shall be provided to those individuals who have mental illness or mental retardation, and who have experienced long-term or repeated psychiatric hospitalization, or who lack daily living skills and interpersonal skills, or whose support system is limited or nonexistent, or who are unable to function in the community without intensive intervention or when long-term care is needed to maintain the individual in the community.

1. Services shall be provided following an assessment which clearly documents the need for services and in accordance with an ISP which shall be fully completed within 30 days of service initiation.

2. The provider of psychosocial rehabilitation shall be licensed by DMHMRSAS.

3. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Transportation time to and from the program site may be included as part of the reimbursement unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be covered. These restrictions apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled program activities.

4. Time allocated for field trips may be used to calculate time and units if the goal is to provide training in an integrated setting, and to increase the client's understanding or ability to access community resources.

E. Admission to crisis intervention services is indicated following a marked reduction in the individual's psychiatric, adaptive or behavioral functioning or an extreme increase in personal distress. Crisis intervention may be the initial contact with a client.

1. The provider of crisis intervention services shall be licensed as an Outpatient Program by DMHMRSAS.

2. Client-related activities provided in association with a face-to-face contact are reimbursable.

3. An Individual Service Plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.

4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP must be developed or revised to reflect the short-term counseling goals by the fourth face-to-face contact.

5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.

6. Crisis intervention services may be provided to eligible individuals outside of the clinic and billed, provided the provision of out-of-clinic services is clinically/programmatically appropriate. When travel is required to provide out-of-clinic services, such time is reimbursable. Crisis intervention may involve the family or significant others.

F. Case management.

1. Reimbursement shall be provided only for "active" case management clients, as defined. An active client for case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or activity or

communication with the client or families, significant others, service providers, and others including a minimum of one face-to-face client contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. The Medicaid eligible individual shall meet the DMHMRSAS criteria of serious mental illness, serious emotional disturbance in children and adolescents, or youth at risk of serious emotional disturbance.

3. There shall be no maximum service limits for case management services.

4. The ISP must document the need for case management and be fully completed within 30 days of initiation of the service, and the case manager shall review the ISP every three months. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be granted up to the last day of the fourth month following the month of the last review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of actual review.

5. The ISP shall be updated at least annually.

§ 10.3. Mental retardation utilization criteria.

Utilization reviews shall include determinations that providers meet all the requirements of Virginia state regulations found at VR 460-03-3.1100.

A. Appropriate use of day health and rehabilitation services requires the following conditions shall be met:

1. The service is provided by a program with an operational focus on skills development, social learning and interaction, support, and supervision.

2. The individual shall be assessed and deficits must be found in two or more of the following areas to qualify for services:

a. Managing personal care needs,

b. Understanding verbal commands and communicating needs and wants,

c. Earning wages without intensive, frequent and ongoing supervision or support,

d. Learning new skills without planned and consistent or specialized training and applying skills learned in a training situation to other environments,

e. Exhibiting behavior appropriate to time, place and situation that is not threatening or harmful to the health or safety of self or others without direct supervision,

f. Making decisions which require informed consent,

g. Caring for other needs without the assistance or personnel trained to teach functional skills,

h. Functioning in community and integrated environments without structured, intensive and frequent assistance, supervision or support.

3. Services for the individual shall be preauthorized annually by DMHMRSAS.

4. Each individual shall have a written plan of care developed by the provider which shall be fully complete within 30 days of initiation of the service, with a review of the plan of care at least every 90 days with modification as appropriate. A 10-day grace period is allowable.

5. The provider shall update the plan of care at least annually.

6. The individual's record shall contain adequate documentation concerning progress or lack thereof in meeting plan of care goals.

7. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be at least four but less than seven hours on a given day. Three units of service shall be defined as seven or more hours in a given day. Transportation time to and from the program site may be included as part of the reimbursable unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be covered. These restrictions shall apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled program activities.

8. The provider shall be licensed by DMHMRSAS.

B. Appropriate use of case management services for persons with mental retardation requires the following conditions to be met:

1. The individual must require case management as documented on the consumer service plan of care which is developed based on appropriate assessment and supporting data. Authorization for case management services shall be obtained from DMHMRSAS Care Coordination Unit annually.

2. An active client shall be defined as an individual

for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers, significant others and other entities including a minimum of one face-to-face contact within a 90-day period.

3. The plan of care shall address the individual's needs in all life areas with consideration of the individual's age, primary disability, level of functioning and other relevant factors.

a. The plan of care shall be reviewed by the case manager every three months to ensure the identified needs are met and the required services are provided. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be given up to the last day of the fourth month following the month of the prior review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of the actual review.

b. The need for case management services shall be assessed and justified through the development of an annual consumer service plan.

4. The individual's record shall contain adequate documentation concerning progress or lack thereof in meeting the consumer service plan goals.

PART XI.
GENERAL OUTPATIENT PHYSICAL REHABILITATION SERVICES.

§ 11.1. Scope.

A. Medicaid covers general outpatient physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services (DMAS).

B. Outpatient rehabilitative services shall be prescribed by a physician and be part of a written plan of care.

§ 11.2. Covered outpatient rehabilitative services.

Covered outpatient rehabilitative services shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service.

§ 11.3. Eligibility criteria for outpatient rehabilitative services.

To be eligible for general outpatient rehabilitative services, the patient must require at least one of the following services: physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy. All rehabilitative services must be prescribed by a physician.

§ 11.4. Criteria for the provision of outpatient rehabilitative services.

All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

A. 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.

B. 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.

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 Subdivision B1 above. The program must 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.

§ 11.5. Authorization for services.

A. General physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation 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. A visit shall be defined as the duration of time that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined in measurements or increments of time.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized by using the Rehabilitation Treatment Authorization form (DMAS-125). 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. Periods of care beyond those allowed which have not been authorized by DMAS shall not be approved for payment.

§ 11.6. Documentation requirements.

A. Documentation of general outpatient rehabilitative services provided by a hospital-based outpatient setting 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; and

7. 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.

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.

§ 11.7. Service limitations.

The following general conditions shall apply to reimbursable physical rehabilitative services:

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. Rehabilitation care is 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.

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

The policy and the method to be used in establishing payment rates for nursing facilities listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs.

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the Program so that eligible persons can receive the medical care and services included in the Plan to the extent these are available to the general population.

b. Participation in the Program will be limited to providers of services who accept, as payment in full, the amounts so paid.

c. Payment for care of service will not exceed the amounts indicated to be reimbursed in accord with the policy and the methods described in the Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.253(b)(2). The state agency has continuing access to data identifying the maximum charges allowed. Such data will be made available to the Secretary, HHS, upon request.

d. Payments for services to nursing facilities shall be on the basis of reasonable cost in accordance with the standards and principles set forth in 42 CFR 447.252 as follows:

(1) A uniform annual cost report which itemizes allowable cost will be required to be filed within 90 days of each provider's fiscal year end.

(2) The determination of allowable costs will be in accordance with Medicare principles as established in the Provider Reimbursement Manual (PRM-15) except where otherwise noted in this Plan.

(3) Field audits will be conducted on the cost data submitted by the provider to verify the accuracy and reasonableness of such data. Audits will be conducted for each facility on a periodic basis as determined from internal desk audits and more often as required. Audit procedures are in conformance with SSA standards set forth in PRM-13-2. Internal desk audits are conducted annually within six months of receipt of a completed cost report from the provider.

(4) Reports of field audits are retained by the state agency for at least three years following submission of the report.

(5) (Reserved.)

(6) Facilities are paid on a cost-related basis in accordance with the methodology described in the Plan.

(7) Modifications to the Plan for reimbursement will be submitted as Plan amendments.

(8) Covered cost will include such items as:

(a) Cost of meeting certification standards.

(b) Routine services which include items expense providers normally incur in the provision of services.

(c) The cost of such services provided by related organizations except as modified in the payment system supplement 4.19-D.

(9) Bad debts, charity and courtesy allowances shall be excluded from allowable cost.

(10) Effective for facility cost reporting periods beginning on or after October 1, 1978, the reimbursable amount will be determined prospectively on a facility by facility basis, except that mental institutions and mental retardation facilities shall continue to be reimbursed retrospectively. The prospective rate will be based on the prior period's actual cost (as determined by an annual cost report and verified by audit as set forth in section d(3)

above) plus an inflation factor. Payments will be made to facilities no less than monthly.

(11) The payment level calculated by the prospective rate will be adequate to reimburse in full such actual allowable costs that an economically and efficiently operated facility must incur. In addition, an incentive plan will be established as described in the payment system supplement 4.19-D.

(12) Upper limits for payment within the prospective payment system shall be as follows:

(a) Allowable cost shall be determined in accordance with Medicare principles as defined in PRM-15, except as may be modified in this Plan.

(b) Reimbursement for operating costs will be limited to regional ceilings.

(c) Reimbursement, in no instance, will exceed the charges for private patients receiving the same services. In accordance with § 1903(a)(2)(B) of the Social Security Act, nursing facility costs incurred in relation to training and competency evaluation of nurse aides will be considered as state administrative expenses and, as such, shall be exempted from this provision.

(13) In accordance with 42 CFR 447.205, an opportunity for public comment was permitted before final implementation of rate setting processes.

(14) A detailed description of the prospective reimbursement formula is attached for supporting detail.

(15) Item 398D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

e. Reimbursement of nonenrolled long-term care facilities.

(1) Nonenrolled providers of institutional long-term care services shall be reimbursed based upon the average per diem cost, updated annually, reimbursed to enrolled nursing facility providers.

(2) Prior approval must be received from the DMAS for recipients to receive institutional services from nonenrolled long-term care facilities. Prior approval can only be granted:

(a) When the nonenrolled long-term care facility with an available bed is closer to the recipient's Virginia residence than the closest facility located in Virginia with an available bed, or

(b) When long-term care special services, such as intensive rehabilitation services, are not available in Virginia, or

(c) If there are no available beds in Virginia facilities.

~~(3) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.~~

f. Specialized care services.

Nothing in this regulation is intended to preclude DMAS from reimbursing for specialized care services, such as rehabilitation, [~~transplantation,~~] ventilator dependent, and AIDS services. Specialized care services shall be provided to patients requiring, but not necessarily limited to, rehabilitation, complex healthcare, [~~transplantation,~~] ventilator dependent and AIDS services.

(1) Reimbursement for rehabilitation, complex healthcare, and ventilator dependent services shall be determined by using as the base period allowable per diem rate the FY [~~1991~~ 1990] average per diem rate of [freestanding rehabilitation hospitals, inpatient rehabilitation units of acute care hospitals, and long-stay] hospitals which are providing rehabilitation services, averaged with the per diem bids of nursing facilities proposing to provide such services and obtained during the same time period.

(2) Reimbursement for services to individuals with AIDS shall be determined by using as the base period allowable per diem rate the FY [~~1991 average Class C PIRS~~ 1989 skilled facility] rate plus the estimated cost of additional services uniquely necessary to the care of AIDS patients. These additional services are nursing services, nonnutritional supplies required for the care of AIDS patients, psychological services, and nutritional elements.

[~~(3) The allowance for inflation for specialized care services rates shall be that in § 2.7 B of the Nursing Home Payment System.~~ The rates will be updated on or about July 1 each year based on the previous 12 months historical inflation. The allowance for inflation shall be based on the percent of change in the moving average of the Skilled Nursing Facility Market basket of Routine Service Cost, as developed by Data Resources, Incorporated, adjusted for Virginia, determined in the first quarter each year.]

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

§ 1. Effective October 1, 1990, the Virginia Medicaid

Program reimbursement system for nursing facilities is the Patient Intensity Rating System.

§ 2. Patient Intensity Rating System (PIRS).

A. PIRS is a patient-based reimbursement system which links a facility's per diem rate to the level of services required by its patient mix. This methodology uses classes that group patients together based on similar functional characteristics and service needs.

B. PIRS recognizes four classes of patients:

1. Class A–Routine I: Patients are classified by their functioning status. Routine I classification includes care for patients with a 0 to 6 Activity of Daily Living (ADL) impairment score.

2. Class B–Routine II: Patients are classified by their functioning status. Routine II classification includes care for patients with moderate or greater ADL impairment. A moderate or greater ADL score ranges from 7 to 12.

3. Class C–Heavy Care: Patients are classified by their high impairment score on functioning status and the need for specialized nursing care. These patients have an ADL impairment score of 9 or more and one or more of the following:

a. Wound/lesions requiring daily care;

b. Nutritional deficiencies leading to specialized feeding;

c. Paralysis or paresis and benefiting from rehabilitation; or

d. Quadriplegia/paresis, bilateral hemiplegia/paresis, multiple sclerosis.

4. ~~Special~~ *Specialized* care: This class includes patients who have needs that are so intensive or nontraditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients. ~~Special~~ *Specialized* care reimbursement ~~is based on selective contracting with facilities capable of providing intensive care~~ *shall be determined according to the methodology set forth in Attachment 4.19 D(f)* .

C. Patients in each class require similar intensities of nursing and other skilled services. Across classes, however, service intensities are quite different. Since treatment cost depends on overall service need, the patient class system has a direct correlation to nursing and therapy costs.

§ 3. Service Intensity Index (SII).

A. The function of a service intensity index is to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes. If the SII value equals 1.20, it indicates that the patient mix in that facility is 20% more resource-intensive than the patient mix in the average Virginia nursing facility.

B. The SII is used to adjust direct patient care cost ceilings and rates for application to individual nursing facilities. Indirect patient care cost ceilings and rates are not adjusted since these costs are not influenced by patient service needs.

C. To calculate the service intensity index:

1. Develop a relative resource costs for patient classes.

a. Average daily nursing resource costs per day for patients in each patient class were determined by using data obtained from (i) the Commonwealth's Long-Term Care Information System (LTCIS) identifying estimates of service needs, (ii) data from a 1987 Maryland time and motion study to derive nursing time requirements for each service, and (iii) KPGM Peat Marwick Survey of Virginia Long-term Care NF's Nursing Wages to determine the resource indexes for each patient class.

b. The average daily nursing costs per day for patients (see subdivision a above) were divided by a state average daily nursing resource cost to obtain a relative cost index.

c. Patients were grouped in three classes and the average relative cost by class is as follows:

Class A–Routine I: .67
Class B–Routine II: 1.09
Class C–Heavy Care: 1.64

The cost for caring for a Class A patient is on the average equal to 67% of the daily nursing costs for the average Virginia nursing facility patient. Class B and C patients are respectively 9.0% and 64% more costly to treat in terms of nursing resources than the average nursing facility patient.

These resource cost values will remain the same until a new time and motion study conducted.

2. Develop an average relative resource cost of all patients in a facility. The result is called a facility score.

a. The number of patients in each class within a facility is multiplied by the relative resource cost value of that class.

b. These amounts are totaled and divided by the number of patients in a facility. For example:

Facility 1:

40 Class A patients x ..... .67 = 26.8
40 Class B patients x .....1.09 = 43.6
20 Class C patients x .....1.64 = 32.8
100 Patients 103.2
Divided by number of Patients 100.0
Facility Score 1.03

The Facility Score for Facility 1 is 1.03.

3. Finally, the service intensity index for a facility is calculated by standardizing the average resource cost measure, across nursing facilities. The resource values up to this point are standardized or normalized across Virginia nursing facility patients but not across Virginia nursing facilities. To accomplish this step, the mean for the relative resource measure across all Virginia facilities is determined and the facility-specific value is divided by this mean.

For example: If the state's mean relative resource measure was .92 across all Virginia facilities, the Service Intensity Index for Facility 1 identified above would be 1.12, which equals 1.03 divided by .92. The 1.12 value indicates that patients in Facility 1 are 12% (1.12-1.00) more costly to treat than patients in the average Virginia nursing facility.

4. The Service Intensity Index will be calculated quarterly, and is used to derive the direct patient care cost ceiling and rate components of the facility's payment rate which will be adjusted semiannually. A semiannual SII is calculated by averaging appropriate quarterly SII values for the respective reporting period.

§ 4. Following is an illustration of how a NF's Service Intensity Index is used to adjust direct patient care prospective operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

A. Assumptions.

1. The NF's fiscal years are December 31, 1991, and December 31, 1992.

2. The average allowable direct patient care operating base rate for December 31, 1991, is $25.

3. The allowance for inflation is 6.0% for the fiscal year end beginning January 1, 1992.

4. The NF's peer group ceiling for the fiscal year end beginning January 1, 1992, is $30.

5. The NF's semiannual normalized SIIs are as follows:

1991 First Semiannual SII - ..... .98
1991 Second Semiannual SII - ..... .99
1992 First Semiannual SII - 1.00

B. Calculation of NF's Direct Patient Care Prospective Ceiling.

1. PIRS adjusted ceiling for the period January 1, 1992, through June 30, 1992:

FYE 1992 Peer Group Ceiling $30.00
FYE 1991 Second Semiannual SII ..... x .99
Facility Ceiling $29.70

2. PIRS adjusted ceiling for the period July 1, 1992, through December 31, 1992:

FYE 1992 Peer Group Ceiling $30.00
1992 First Semiannual SII ..... x 1.00
Facility Ceiling $30.00

C. Calculation of NF's Prospective Direct Patient Care Operating Cost Rate.

1. Prospective Direct Patient Care Operating Cost Base Rate:

FYE 1991 Average Allowable Direct Patient Care
Operating Base Rate $25.00
Allowance For Inflation - FYE 1992 ..... x1.06
..... $26.50

2. Calculation of FYE 1991 Average SII:

First Semiannual Period SII ..... .98
Second Semiannual Period SII ..... .99
Average FYE 1991 SII ..... .985

3. Calculation of FYE 1992 SII Rate Adjustments:

a. Rate adjustment for the period January 1, 1992, through June 30, 1992:

1991 Second Semiannual SII ..... .99
1991 Average SII (From C.2.) ..... .985
Calculation: ..... .99/.985
Rate Adjustment Factor ..... =1.0051
Prospective Direct Patient Care
Operating Cost Base Rate (From C.1.) $26.50
Calculation: ..... $26.50 x 1.0051
Prospective Direct Patient Care
Operating Cost Rate $26.64

b. Rate adjustment for the period July 1, 1992, through December 31, 1992:

1992 First Semiannual SII 1.000
1991 Average SII (From C.2.) ..... .985
Calculation: 1.00/.985
Rate Adjustment Factor ..... =1.0152
Prospective Direct Patient Care
Operating Cost Base Rate $26.50
(From C.1.)
Calculation ..... $26.50 x 1.0152
Prospective Direct Patient Care

Operating Cost Rate ..... = $26.90

D. In this illustration the NF's PIRS Direct Patient Care Operating Reimbursement Rate for FYE 1992 would be as follows:

1. For the period January 1, 1992, through June 30, 1992, the reimbursement rate would be $26.64 since the rate is lower than the NF's PIRS adjusted ceiling of $29.70 (From B.1.).

2. For the period July 1, 1992, through December 31, 1992, the reimbursement rate would be $26.90 since the rate is lower than the NF's PIRS adjusted ceiling of $30.00 (From B.2.).

§ 5. The methodology for applying the allowance for inflation to the NF's base "current" operating rate during the phase-in period as outlined in § 2.8 of the Nursing Home Payment System (VR 460-03-4.1940:1) is as follows:

A. In the following methodology, lst Q is defined as the first calendar quarter, 2nd Q is defined as the second calendar quarter, 3rd Q is defined as the third calendar quarter, and 4th Q is defined as the fourth calendar quarter.

B. NF's with fiscal years ending in the 4th quarter of 1990 shall have, in effect from October 1, 1990, through the end of the provider's 1990 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1990 and 50% of the forecasted inflation from the 4th Q of 1990 through the 4th Q of 1991, to determine the prospective "current" operating rate for the provider's 1991 FY.

The base "current" operating rate, shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1991 and 50% of the forecasted inflation from the 4th Q of 1991 through the 4th Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

C. NF's with fiscal years ending in the lst Q of 1991 shall have, in effect from October 1, 1990, through the end of the provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the lst Q of 1991 and 50% of the forecasted inflation from the lst Q of 1991 through the lst Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the lst Q of 1992 and 50% of the forecasted inflation from the lst Q of 1992 through the lst Q of 1993, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

D. NF's with fiscal years ending in the 2nd Q of 1991 shall have, in effect from October 1, 1990 through the end of the Provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 4th Q of 1990 through the 2nd Q of 1991 and 50% of the forecasted inflation from the 2nd Q of 1991 through the 2nd Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY or until June 30, 1992 which ever is later.

E. NF's with fiscal year's ending in the 3rd Q of 1990 shall have as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the lst Q of 1990 through the 3rd Q of 1990 and 50% of the forecasted inflation from the 3rd Q of 1990 through the 3rd Q of 1991, to determine the prospective "current" operating rate from October 1, 1990, to the end of the provider's 1991 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the lst Q of 1990 through the 3rd Q of 1991 and 50% of the forecasted inflation from the 3rd Q of 1991 through the 3rd Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

§ 6. Definition of terms.

ADL. Activities of Daily Living.

ADL Score. A score constructed by the Virginia Center on Aging of the Medical College of Virginia as a composite measure of patient function in six different ADL areas: bathing, dressing, transferring, ambulation, eating, and continency. A zero score indicates that a patient needs no staff assistance in an ADL area. A score of three indicates the patient requires total assistance in an ADL area. The ADL scores range in value from 0 to 12. Low scores indicate fewer ADL deficiencies and high scores indicate more extensive deficits.

DMAS 95. The multidimensional assessment document that is completed by each nursing facility at admission, and Semiannually thereafter, on all of its Medicaid residents. The DMAS 95 assessment data is used to document patient characteristics and is entered into the

LTCIS for PIRS.

Facility score. An average resource cost measure of all patients in a facility.

LTCIS. DMAS' Long-Term Care Information System. This system captures data used to identify functional and medical characteristics that have major impacts on the level of nursing resource utilization.

Nursing Facility (NF). A facility, other than an intermediate care facility for the mentally retarded, licensed by the Division of Licensure and Certification, State Department of Health, and certified as meeting the participation regulations.

Patient Intensity Rating System. A patient-based (PIRS) reimbursement system which links a facility's per diem rate to the level of services required by its patient mix.

Service Intensity Index (SII). A mathematical index used to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes.

BOARD OF MEDICINE AND BOARD OF NURSING

Title of Regulation: **VR 465-12-1; VR 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.**

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.

Effective Date: August 15, 1992.

Summary:

The General Assembly of Virginia, in 1991, amended §§ 54.1-3401 and 54.1-3408 and added new § 54.1-2957.01 to the Code of Virginia to establish prescriptive authority for nurse practitioners licensed by the Virginia Boards of Medicine and Nursing.

The initial intent was to amend existing regulations, VR 495-01-1 and VR 465-07-1. As consideration was given to the clearest method of establishing these regulations, the decision was made to propose new regulations instead of offering amendments to existing regulations.

These new regulations establish the basis for nurse practitioners to receive approval for prescriptive authority by setting the qualifications and fees for initial and continuing approval. A formulary is established and requirements stated for a practice agreement to be submitted to the boards for approval. Regulations related to supervision, practice sites, and grounds for disciplinary action are included.

VR 465-12-1 and VR 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Boards" means the Virginia Board of Medicine and the Virginia Board of Nursing.

"Committee" means the Committee of the Joint Boards of [~~*medicine*~~ *Nursing*] *and* [~~*nursing*~~ *Medicine*] .

"Formulary" means the listing of categories of drugs which may be prescribed by the nurse practitioner according to these regulations.

"Nurse practitioner" means a registered nurse who has met the additional requirements of education and examination for licensure as a nurse practitioner in the Commonwealth.

"Practice agreement" means a written agreement jointly developed by the supervising physician and the nurse practitioner that describes and directs the prescriptive authority of the nurse practitioner.

"Supervision" means that the physician documents being readily available for medical consultation by the licensed nurse practitioner or the patient, with the physician maintaining ultimate responsibility for the agreed-upon course of treatment and medications prescribed.

§ 1.2. Authority and administration of regulations.

A. Statutory authority.

The statutory authority for these regulations is found in Chapter 29 (§ 54.1-2957.01), Chapter 33 (§ 54.1-3303), and Chapter 34 (§§ 54.1-3401, 54.1-3408) of Title 54.1 of the Code of Virginia.

B. Joint boards of [~~*medicine*~~ *nursing*] *and* [~~*nursing*~~ *medicine*] .

1. The Committee of the Joint Boards [*of Nursing and Medicine*] *shall be appointed to administer these regulations governing prescriptive authority.*

2. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial authorization and biennial renewal to those persons who meet the requirements set forth in these regulations. Questions of eligibility shall be referred to the committee.

3. All records and files related to prescriptive authority for nurse practitioners shall be maintained in the office of the Board of Nursing.

C. Exception to authority to prescribe.

A licensed nurse practitioner who has met the requirements for approval shall have the authority to prescribe within the practice requirements as defined in Part III of these regulations with the exception of those licensed in the category of certified registered nurse anesthetist practitioners for whom these regulations are not applicable.

PART II.
APPROVAL FOR PRESCRIPTIVE AUTHORITY.

§ 2.1. Authority to prescribe, general.

A. No licensed nurse practitioner shall have authority to prescribe certain controlled substances and devices in the Commonwealth of Virginia except in accordance with these regulations and as authorized by the [~~joint~~] boards [~~of medicine and nursing~~] .

B. The boards shall approve prescriptive authority for applicants who meet the qualifications set forth in § 2.2 of these regulations.

§ 2.2. Qualifications for initial approval of prescriptive authority.

An applicant for prescriptive authority shall meet the following requirements:

1. Hold a current, unrestricted license as a nurse practitioner in the Commonwealth of Virginia; and

2. Provide evidence of [~~the satisfactory completion of a graduate level course or 30~~ one of the following:

a. Continued professional certification as required for initial licensure as a nurse practitioner; or

b. Satisfactory completion of a graduate level course in pharmacology or pharmacotherapeutics obtained as part of the nurse practitioner education program within the five years prior to submission of the application; or

c. Practice as a nurse practitioner for no less than 1000 hours and 15 continuing education units related to the area of practice for each of the two years immediately prior to submission of the application; or

d. Thirty] contact hours of education in pharmacology or pharmacotherapeutics acceptable to the boards [~~of Medicine and Nursing~~] taken within five years prior to submission of the application. The 30 contact hours may be obtained in a formal academic setting as a discrete offering or as noncredit continuing education offerings and shall include the following course content:

[~~a.~~ (1)] Applicable federal and state laws;

[~~b.~~ (2)] Prescription writing;

[~~c.~~ (3)] Drug selection, dosage, and route;

[~~d.~~ (4)] Drug interactions;

[~~e.~~ (5)] Information resources; and

[~~f.~~ (6)] Clinical application of pharmacology related to specific scope of practice.

3. Submit a practice agreement between the nurse practitioner and the supervising physician as required in § 3.2 of these regulations. The practice agreement must be approved by the boards prior to issuance of prescriptive authority; and

4. File a completed application and pay the fees as required in § 2.5 of these regulations.

§ 2.3. Renewal of prescriptive authority.

An applicant for renewal of prescriptive authority shall:

1. Renew biennially at the same time as the renewal of licensure to practice as a nurse practitioner in Virginia.

2. Submit a completed renewal application along with the renewal fee as prescribed in § 2.5 of these regulations.

3. Submit with the application for renewal of prescriptive authority a current practice agreement [when there is a change,] which is signed by the nurse practitioner and the supervising physician and which is acceptable to the boards.

§ 2.4. Reinstatement of prescriptive authority.

A. An applicant for reinstatement of lapsed prescriptive authority shall:

1. File the required application and practice agreement as required for renewal in § 2.3; and

2. Provide evidence of a current, unrestricted license to practice as a nurse practitioner in Virginia; and

3. Pay the fee required for reinstatement of a lapsed authorization as prescribed in § 2.5.

4. If the authorization has lapsed for a period of five or more years, the applicant shall provide proof of:

a. Continued practice as a licensed nurse practitioner with prescriptive authority in another state; or

b. Continuing education consisting of 30 contact hours in pharmacology or pharmacotherapeutics.

B. An applicant for reinstatement of suspended or revoked authorization shall:

1. Request a hearing pursuant to the provisions of the Virginia Administrative Process Act to be held before the committee;

2. Present evidence of competence to resume practice as a nurse practitioner with prescriptive authority; and

3. Meet the qualifications and resubmit the application and fees as required for initial authorization in § 2.2 of these regulations.

§ 2.5. Fees for prescriptive authority.

The following fees have been established by the boards:

Initial issuance of prescriptive authority	$50
Biennial renewal	$25
Reinstatement of lapsed authorization	$25
Reinstatement of suspended or revoked authorization	$50
Duplicate of authorization	$10
Return check charge	$15

PART III.
PRACTICE REQUIREMENTS.

§ 3.1. Approved formulary.

A. The approved formulary of drugs which nurse practitioners with prescriptive authority may prescribe, administer, or dispense shall include:

1. Schedule VI drugs and devices with exception of the following:

Radioactive drugs

Ophthalmic aminoglycosides

Ophthalmic steroids

Any compound containing barbiturates

2. No controlled substances defined by the State and Federal Controlled Substances Acts as Schedule I through V.

B. The nurse practitioner may prescribe only those categories of drugs and devices included in the approved formulary and [~~those specific drugs set forth~~] in the practice agreement as submitted for authorization. [The supervising physician retains the authority to restrict certain drugs within these approved categories.]

C. The approved formulary shall be reviewed annually by the committee and shall be sent to the applicant at the time of initial approval of prescriptive authority and with the applications for renewal or reinstatement.

§ 3.2. Practice agreement.

A. A nurse practitioner with prescriptive authority may prescribe only within the scope of a written practice agreement with a supervising physician.

B. A new practice agreement shall be submitted:

1. With the initial application for prescriptive authority; or

2. With the application for each biennial renewal, if there have been any changes in supervision, authorization, or scope of practice; or

3. At any time a change in the primary supervising physician shall occur.

C. The practice agreement shall contain the following:

1. A description of the prescriptive authority of the nurse practitioner within the scope of the approved formulary and the practice of the nurse practitioner.

2. An authorization for categories of [~~those specific~~] drugs and devices within the requirements of the approved formulary as found in § 3.1 of these regulations.

3. The signatures of the primary supervising physician and any secondary physician who may be regularly called upon in the event of the absence of the primary physician.

§ 3.3. Supervision and site visits.

A. Physicians, other than those employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs, shall:

1. Supervise and direct, at any one time, no more than two nurse practitioners with prescriptive authority.

2. Regularly practice in any location in which the licensed nurse practitioner exercises prescriptive authority. A separate practice setting may not be established for the nurse practitioner.

3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a

prescription for an approved drug or device.

4. Regularly practice in the location in which the certified nurse midwife practices, or in the event that the midwife has established a separate office, the supervising physician shall conduct a monthly site visit and review of patient charts.

B. Physicians employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs to provide supervisory services, shall:

1. Supervise and direct, at any one time, no more than four nurse practitioners with prescriptive authority who provide services on behalf of such entities.

2. Regularly practice in such settings or shall make monthly site visits to such settings for chart review and direction.

3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device.

§ 3.4. Disclosure.

A. The nurse practitioner shall include on each prescription written or dispensed his signature and authorization number as issued by the boards.

B. The nurse practitioner shall disclose to patients [*that he is a licensed practitioner and*] *the name, address and telephone number of the supervising physician. Such disclosure may be included on a prescription pad or may be give in writing to the patient.*

[~~*C. The nurse practitioner shall wear a name tag with identification as a licensed nurse practitioner or a certified nurse midwife.*~~]

§ 3.5. Dispensing.

A. A nurse practitioner may dispense only under the orders of a supervising physician who is authorized to dispense. Such orders shall be included in the written practice agreement as submitted with the initial application or the renewal of authorization.

B. Nurse practitioners may dispense only those drugs allowed by the approved formulary.

PART IV.
DISCIPLINE.

The boards may deny approval of prescriptive authority, revoke or suspend authorization, or take other disciplinary actions against a nurse practitioner who:

1. Exceeds his authority to prescribe or prescribes outside of the written practice agreement with the supervising physician.

2. Has had his license as a nurse practitioner suspended, revoked or otherwise disciplined by the boards pursuant to § 5.1 of VR 495-02-1 and VR 465-07-1: Regulations Governing the Licensure of Nurse Practitioners.

§ 4.2. Hearings.

A. The Committee of the Joint Boards of [~~*medicine*~~ *Nursing*] *and* [~~*nursing*~~ *Medicine*] *shall conduct all hearings prescribed herein and shall take action on behalf of the boards.*

B. The provisions of the Administrative Process Act shall govern proceedings on questions of violation of § 4.1 of these regulations.

C. When the license of a nurse practitioner has been suspended or revoked by the joint boards, prescriptive authority shall be suspended pending a hearing simultaneously with the institution of proceedings for a hearing.

D. Any violation of law or of these regulations may result in the revocation or suspension of prescriptive authority and may also result in additional sanctions imposed on the license of the nurse practitioner by the joint boards or upon the license of the registered nurse by the Board of Nursing.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Board of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.**

Statutory Authority: §§ 63.1-25 and 63.1-98 of the Code of Virginia.

Effective Date: August 12, 1992.

Summary:

Pursuant to Public Law 102-171, funds received from the Aroostook Band of Micmacs Settlement Act ar

not to be considered as income or resources in the determination of eligibility for assistance in the Aid to Families with Dependent Children (AFDC) Program. This amendment assures ADC Program compliance with federal law and regulation.

VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Agent Orange payments" means any payment from the Agent Orange Settlement Fund or any other fund established pursuant to the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

"Aid to Dependent Children (ADC) Program" means the program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Allowable reserve" means the type and amount of real and personal property, including cash and liquid assets, which may be retained by the assistance unit without affecting eligibility for financial assistance.

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive an assistance payment.

"Attendance costs" means tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"Emergency" means any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

"Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.

"Native Corporation" means regional, village, urban or group corporations organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage, or distribute lands, funds, and other rights and assets for or on behalf of members of a native group in accordance with the Alaska Native Claims Settlement Act.

PART II.
DISREGARDED INCOME AND RESOURCES.

§ 2.1. Disregarded income.

A. The following income of members of the assistance unit, a parent not included in the assistance unit or anyone whose income is used in determining eligibility or the amount of assistance in the Aid to Dependent Children (ADC) program, shall be disregarded.

B. Income which is disregarded under the following provisions shall not be counted in determining the need for assistance of any individual under any other federal assistance program:

1. Home produce of the assistance unit utilized for their own consumption;

2. The value of food coupons under the Food Stamps program;

3. The value of foods donated under the U.S.D.A. Commodity Distribution Program, including those furnished through school meal programs;

4. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

5. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

6. Grants or loans to any undergraduate students for educational purposes made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Guaranteed Student Loan (including the Virginia Education Loan), PLUS Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

7. Funds derived from the College Work Study Program;

8. A scholarship, loan, or grant obtained and used under conditions which preclude its use for current living costs;

9. Training allowance (transportation, books, required training expenses, and motivational allowance) provided by the Department of Rehabilitative Services (DRS) for persons participating in Rehabilitative Services Programs. This disregard is not applicable to the allowance provided by DRS to the family of the participating individual;

10. Any portion of an SSI payment or Auxiliary Grant;

11. Payments to VISTA Volunteers under Title I, when the monetary value of such payments is less the minimum wage as determined by the Director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-13, the Domestic Volunteer Service Act of 1973;

12. The Veterans Administration educational amount for the caretaker 18 or older is to be disregarded when it is used specifically for educational purposes.

Any additional money included in the benefit amount for dependents is to be counted as income to the assistance unit;

13. Foster care payments received by anyone in the assistance unit;

14. Unearned income received from Title IV, Part B (Job Corps) of the Job Training Partnership Act (JTPA) by an eligible child is to be disregarded as an incentive payment. However, any payment received by any other Job Corps participant or any payment made on behalf of the participant's eligible children) is to be counted as income to the assistance unit;

15. Income tax refunds including earned income tax credit advance payments and refunds;

16. Payments made under the Fuel Assistance program;

17. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs; the Women, Infants, and Children (WIC) program; and the Child Care Food program;

18. HUD Section 8 and Section 23 payments;

19. Unearned income received by an eligible child under Title II, Parts A and B, and Title IV, Part A, of the Job Training Partnership Act (JTPA) is to be disregarded;

20. Funds distributed to, or held in trust for, members of any Indian tribe under Public Laws 92-254, 93-134, 94-540, 97-458, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

21. The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241):

a. Cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per year;

b. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

c. A partnership interest;

d. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

e. An interest in a settlement trust.

22. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 92-114);

23. The first $50 of total child or spousal support payments received each month by an assistance unit prior to the issuance of the first ongoing check;

24. Payments sent to the recipient by the Commonwealth which are identified as disregarded support;

25. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707);

26. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383);

27. Agent Orange payments;

28. Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426);

29. Funds received pursuant to the Maine Indians Claims Settlement Act of 1980 (Public Law (96-420) *and the Aroostook Band of Micmacs Settlement Act (Public Law 102-171)* ;

30. Student financial assistance received under the Higher Education Technical Amendments Act of 1987 made available for attendance costs (Public Law 100-50); and

31. Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392).

§ 2.2. Disregarded resources.

In determining eligibility for financial assistance for the Aid to Dependent Children (ADC) program, all resources shall be considered in relation to the $1,000 allowable reserve, except as specifically disregarded below. These resources shall be disregarded as long as they are kept separate from the allowable reserve. In the event any funds derived from subdivisions 3 through 16 of this section are combined with other resources, they shall be considered in determining eligibility.

1. The value of the food coupons under the Food Stamp Program;

2. The value of foods donated under the U.S.D.A. Commodity Distribution Program;

3. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

4. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

5. Grants or loans to undergraduate students for educational purposes, made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

6. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs, the Women, Infants, and Children (WIC) program, and the Child Care Food program;

7. Payments to VISTA volunteers under Title I, when the monetary value of such payments is less than minimum wage as determined by the director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973;

8. Funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 97-458, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

9. The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241):

a. Cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per year;

b. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

c. A partnership interest;

d. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

e. An interest in a settlement trust.

10. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114);

11. Disregarded support payments which were sent to the recipient by the Virginia Department of Social Services or determined to be a disregard by the eligibility worker;

12. Tools and equipment belonging to a temporarily disabled member of the assistance unit during the period of disability, when such tools and equipment have been and will continue to be used for employment;

13. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster

assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707);

14. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Island Restitution Act (Public Law 100-383);

15. Agent Orange payments;

16. Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426);

17. Funds received pursuant to the Maine Indians Claims Settlement Act of 1980 (Public Law (96-420) *and the Aroostook Band of Micmacs Settlement Act (Public Law 102-171)* ;

18. Student financial assistance received under the Higher Education Technical Amendments Act of 1987 made available for attendance costs (Public Law 100-50); and

19. Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392).

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STR
RICHMOND, VIRGINIA 23
(804) 786-3

June 30, 1992

Mr. Larry D. Jackson, Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229

Re: VR 615-01-029 - Aid to Dependent Children (ADC) Program
- Disregarded Income and Resources.

Dear Mr. Jackson:

This will acknowledge receipt of the above-referenced regulations from the Department of Social Services.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:jbc

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: Due to its length, the following emergency 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 355-18-000. Waterworks Regulations - Surface Water Treatment and Total Coliform.**

Statutory Authority: §§ 32.1-20 and 32.1-170 of the Code of Virginia.

Effective Dates: June 24, 1992 through June 23, 1993.

Request:

In accordance with Virginia Code § 9-6.14:4.1.C.5, the State Health Commissioner, acting pursuant to Virginia Code § 32.1-20, finds that the Surface Water Treatment and Total Coliform Regulations (VR 355-18-001, VR 355-18-003, VR 355-18-004, VR 355-18-005, VR 355-18-006, VR 355-18-007, VR 355-18-008, VR 355-18-009) are necessitated by an emergency situation. The regulations conform the state program to federal law pertaining to the treatment of surface water and to the Total Coliform Rule. The State Health Commissioner is requesting the Governor's approval of these emergency regulations.

/s/ Robert B. Stroube, MD, MPH
State Health Commissioner
Date: May 29, 1992

CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: May 29, 1992

AUTHORIZATION:

/s/ Lawrence Douglas Wilder
Governor
Date: June 9, 1992

FILED WITH:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: June 24, 1992

Preamble:

Purpose: The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the Federal Safe Drinking Water Act and must meet certain USEPA mandates to retain this authority. The purpose of these emergency regulations is to retain primacy by adopting regulations at least as stringent as the federal regulations for total coliforms and surface water treatment. These emergency regulations, which are amendments to the existing Waterworks Regulations to incorporate the federal Surface Water Treatment Rule and Total Coliform Rule, will conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

In accordance with Virginia Code Section 9-6.14:4.1.C.5 the State Health Commissioner, acting pursuant to Virginia Code Section 32.1-20 finds that these regulations are necessitated by an emergency situation.

These regulations are promulgated under Title 32.1, Chapter 6, Article 2 of the 1950 Code of Virginia, as amended, and in conformity with the Administrative Process Act.

Nature of the Emergency: Existing Department of Health regulations for surface water treatment and total coliforms are not consistent with recently adopted federal regulations in these areas. Over 3000 Virginia waterworks are mandated to comply with the federal regulations with potentially severe penalties for noncompliance. The existing state regulations are, thereby, rendered unenforceable. In addition, the Department of Health's status as the designated primacy agency for the Federal Safe Drinking Water Act is threatened since the Department of Health entered into a Primacy Extension Agreement in which the Department agreed to meet all primacy conditions (including having in place enforceable regulations) by December 31, 1992. Virginia waterworks owners are confused and bewildered by the existence of differing state and federal regulations covering the same areas.

Necessity For Action: Every violation of the total coliform regulation (the state's most common violation) and surface water treatment regulation requires the Department to initiate enforcement actions that currently bring the USEPA into Virginia to enforce the federal rule. Without adoption of the emergency regulation, federal involvement in Virginia enforcement activities against Virginia waterworks owners will continue. The emergency rule will allow the Department to: (1) immediately proceed with mandated enforcement actions without federal involvement, and (2) retain primacy.

Summary:

This emergency regulation will allow the Department of Health to retain primacy and implement the requirements of the Federal Safe Drinking Water Act's Total Coliform Rule and Surface Water Treatment

Rule as a Primacy State without direct federal involvement in related activities.

This emergency regulation will be enforced under applicable statutes and will remain in full force and effect for one year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Administrative Process Act.

The State Board of Health will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Copayments for Outpatient Rehabilitation Services.**
VR 460-02-4.1810. Charges Imposed on Categorically Needy for Certain Services.
VR 460-02-4.1830. Charges Imposed on Medically Needy for Certain Services.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 1992, through June 30, 1993.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Copayments for Outpatient Rehabilitation Services. This policy will allow for the equitable application of the copayment policy to therapy services regardless of the location in which they are received.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Copayments for Outpatient Rehabilitation Services. 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: June 4, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 9, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: June 18, 1992

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 23, 1992

DISCUSSION

6. BACKGROUND: The sections of the State Plan affected by this action are Attachment 4.18-A, Copayments for Categorically Needy and Qualified Medicare Beneficiaries, and Attachment 4.19 C, Copayments for the Medically Needy.

The 1992 Appropriations Act directed the Department of Medical Assistance Services (DMAS) to impose copayments on home health services. These services were intended to mean health services rendered in the home setting regardless of the kind of provider. Home health services include nursing, home health aide, speech and language services, physical therapy, and occupational therapy. The only agencies delivering nursing and home health aide services in the home setting are Home Health Agencies. However, therapy services (speech, physical therapy and occupational therapy services) are also offered in the home by Rehabilitation Agencies. Therefore, it was necessary to place a copayment on the in-home therapy services offered by Rehabilitation Agencies as well as those offered by Home Health Agencies.

In developing the implementation plans for complying with this General Assembly mandate, DMAS identified that while Rehabilitation Agencies offer therapy services in the homes of recipients, they also offer these in their offices. If Medicaid imposes a copayment on in-home services then there will be an incentive for Rehabilitation Agencies to shift the location of services from the home to their offices. If this occurs then DMAS will not achieve the savings directed in the Appropriations Act. In order to ensure that the projected savings are achieved, DMAS proposes to impose a copayment on therapy services offered by Rehabilitation Agencies regardless of whether those services are offered in the home or in the office.

In addition to the difficulty achieving the required savings, an issue of equitable treatment of recipients is created if copayments are not imposed on therapy treatments in the offices of Rehabilitation Agencies. Individuals who are homebound and unable to leave their homes for treatment and people who go to hospital outpatient departments will be required to pay copayments, while individuals who are able to go to the offices of the Rehabilitation Agencies will not be required to pay a copayment. In order to resolve this inequity, it is proposed that copayments be imposed on therapy visits rendered by rehabilitation agencies regardless of the place of treatment, home, or office.

Because the Appropriations Act directed DMAS to impose copayments on home health services effective July 1, 1992, and because it is necessary to apply these copayments equitably regardless of location of service delivery, a

emergency regulation will be required. Without this emergency regulation, the requirement for copayments could not be applied consistently across all provider types and locations of service delivery until after a public comment period. This cannot be completed in time for the policy to be effective on July 1, 1992.

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. The Board of Medical Assistance Services authorized the Director on May 5, 1992, to seek the Governor's approval for this emergency regulation action. 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.

Title 42 of the Code of Federal Regulations § 447.50 through § 447.59 provides for the imposition of copayments on any Medicaid covered service except on services to children, institutionalized individuals, on services related to pregnancy or to another medical condition that may complicate the pregnancy or to emergency services. These regulations will not apply to services rendered to children or to medical conditions related to a pregnancy. Therapy services are not defined as emergency services.

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. Therefore, an emergency regulation is needed to meet the July 1, 1992, effective date established by the General Assembly.

8. FISCAL/BUDGETARY IMPACT: This initiative is not expected to result in any new General Fund expenditures by DMAS. The Appropriations Act estimated total savings of $600,000 for the biennium by the imposition of copayments on home health services. This regulation will ensure that those anticipated savings are realized.

9. RECOMMENDATION: Recommend approval of this request for the Director to take an emergency adoption action once approved by the Governor to become effective upon July 1, 1992, to impose a copayment on therapy services provided by Rehabilitation Agencies whether offered in the home or in the office. 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, DMAS would lack the authority to impose copayments on therapy services rendered in the office of Rehabilitation Agencies and would be unable to ensure that it could achieve the savings directed in the Appropriations Act.

10. APPROVAL SOUGHT for VR 460-02-4.1810 and 460-02-4.1830.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-02-4.1810. Charges Imposed on Categorically Needy for Certain Services.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: VIRGINIA

A. The following charges are imposed on the categorically needy *and Qualified Medicare Beneficiaries* for services other than those provided under § 1905(a)(1) through (5) and (7) of the Act.

Service	Type Charge Deduct	Coins	Copay	Amount and Basis for Determination
Inpatient Hospital	*$100*	*-0-*	*-0-*	*State's average daily payment of $594 is used as basis.*
Outpatient Hospital Clinic	*-0-*	*-0-*	*$3.00*	*State's average payment of $136 is used as basis.*
Clinic Visit	-0-	-0-	$1.00	State's average payment of $29 is used as basis.
Physician Office Visit	*-0-*	*-0-*	*$1.00*	*State's average payment of $23 is used as basis.*
Eye examination *Prescriptions*	-0-	-0-	$1.00	State's payment of $30 is used as basis.
~~Pharmacy Services~~	-0-	-0-	$1.00	State's average *per script* of ~~$14.47~~ *$18* is used as payment basis
Home Health Visit	*-0-*	*-0-*	*$3.00*	*State's average payment of $56 is used as basis.*
Other Physician Service	*-0-*	*-0-*	*$3.00*	*State's average payment of $56 is used as basis.*
Rehab Therapy Services (PT, OT, Sp/Lang.)	*-0-*	*-0-*	*$3.00*	*State's average payment of $78 is used as basis.*

VR 460-02-4.1830. Charges Imposed on Medically Needy for Certain Services.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: VIRGINIA

A. The following charges are imposed on the medically needy for services:

Service	Type Charge Deduct	Coins	Copay	Amount and Basis for Determination
Inpatient hospital	~~$30.00~~ *$100.00*	-0-	-0-	State's average *daily* payment of ~~$1,903~~ *$594* is used as basis.
Out-patient hospital clinic	-0-	-0-	~~$2.00~~ *$3.00*	State's average payment of ~~$52~~ *$136* is used as basis.

Clinic visit	-0-	-0-	$1.00	State's average payment of $29 is used as basis.
Physician office visit	-0-	-0-	$1.00	State's average payment of ~~$20~~ *$23* is used as basis.
Eye examination	-0-	-0-	$1.00	State's payment of $30.00 is used as basis.
~~Prescription~~ *Prescriptions*	-0-	-0-	$1.00	State's average *per script* of ~~$17.47~~ *$18* is used
Home Health Visit	-0-	-0-	*$3.00*	*State's average payment of $56 is used as basis.*
Other Physician Service	-0-	-0-	*$3.00*	*State's average payment of $56 is used as basis.*
Rehab Therapy Services (PT, OT, Sp/Lang.)	-0-	-0-	*$3.00*	*State's average payment of $78 is used as basis.*

* * * * * * * *

Title of Regulation: **State Plan for Medical Assistance Relating to Upper Limit for Reimbursement of Physician Services.**
VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates–Other Types of Care.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 1992 through June 30, 1993

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Upper Limit for Reimbursement of Physician Services. This policy will eliminate the use of the Medicare allowance as an upper limit on reimbursement of physician services.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Upper Limit for Reimbursement of Physician Services. 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: June 4, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 9, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: June 17, 1992

5. FILED WITH:

Joan W. Smith
Registrar of Regulations
Date: June 23, 1992

DISCUSSION

6. BACKGROUND: The section of the State Plan affected by this State Plan amendment is Attachment 4.19 B, Methods and Standards for Establishing Payment Rates–Other Types of Care.

Effective January 1, 1992, Medicare implemented a major revision of its fee schedule for physician services. This new fee schedule is not intended to change total Medicare expenditures for physician services but does change amounts paid for many individual services very significantly. Many kinds of surgical and diagnostic services will be reimbursed at a lower rate, while the services of primary care physicians will be reimbursed at a higher rate.

Although on average Virginia Medicaid fees are lower than those of Medicare, there are some instances where the new Medicare fees have been reduced so sharply that they are now lower than those of Virginia Medicaid for the same services. For example, Medicare allows a payment of $670 for routine obstetrical care, including antepartum care, vaginal delivery, and postpartum care. The Medicaid allowed payment is $1200 which is still well below payments made by other third party payers. To simply follow the language of the current state plan would mean reducing payment, sometimes significantly, for many physician services.

Careful evaluation of Medicare rates and consultation with affected groups is necessary to ensure that following the Medicare fee schedule would not adversely affect Medicaid recipients' access to quality care. Therefore until this evaluation has been completed, it is recommended that the State Plan be amended so that Virginia's physician reimbursement arrangements are not disrupted.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to 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.

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. Therefore, an emergency regulation is needed to meet the July 1, 1992, effective date.

8. FISCAL/BUDGETARY IMPACT: This proposed amendment has no fiscal or budgetary impact. It does not change Medicaid's payments to providers, but assures that payment levels currently in place are not found to be in violation of the state plan as a result of changes in federal Medicare reimbursement policy.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective July 1, 1992. 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 eliminate the use of the Medicare allowance as an upper limit on reimbursement of physician services. Continued use of the Medicare allowance as an upper limit could adversely affect Medicaid recipients' access to quality care.

10. Approval Sought for VR 460-02-4.1920.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates–Other Types of Care.

(E.) Acute vital sign changes as specified in the provider manual.

(F.) Severe pain would support an emergency need when combined with one or more of the other guidelines.

(iv.) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(v.) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

(3) Rural health clinic services provided by rural health clinics or other Federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.

(4) Rehabilitation agencies

(5) Comprehensive outpatient rehabilitation facilities

(6) Rehabilitation hospital outpatient services.

e. Fee-for-service providers. (1) Payment for the following services shall be the lower of the State agency fee schedule ; *or* actual charge (charge to the general public) ; ~~or Medicare (Title XVIII) allowances~~ :

(a) Physicians' services (Supplement 1 has obstetric/pediatric fees.) The following limitations shall apply to emergency physician services.

(a) Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with the Code of Virginia, Chapter 10, Title 32.1, §§ 32.1-323 et seq.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency room visit.

(b) Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency rooms and reimburse physicians for non-emergency care rendered in emergency rooms at a reduced rate.

(i) A reduced but all-inclusive reimbursement rate shall be applied by DMAS to services rendered by physicians in emergency rooms which are determined to be non-emergency care.

(ii) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(iii) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (ii) above. Services not meeting certain criteria shall be paid under the methodology of (i) above. Such criteria shall include, but not be limited to:

(A.) The initial treatment following a recent obvious injury.

(B.) An injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms

to the point of requiring medical treatment for stabilization.

(C.) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilipticus, or other conditions considered life-threatening.

(D.) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(E.) Acute vital sign changes as specified in the provider manual.

(F.) Severe pain would support an emergency need when combined with one or more of the other guidelines.

(iv.) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(v.) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

~~(a) Physicians services~~

~~(b) Dentists' services~~

(b) Mental health services including: Community mental health services; Services of a licensed clinical psychologist; Mental health services provided by a physician

~~(d)~~ *(c)* Podiatry

~~(e)~~ *(d)* Nurse-midwife services

~~(f) Durable medical equipment~~

~~(g)~~ *(e)* Local health services

~~(h) Laboratory services (Other than inpatient hospital)~~

~~(i) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to paymetn for handling)~~

~~(j) X-Ray services~~

~~(k) Optometry services~~

~~(l) Medical supplies and equipment~~

(2) Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

(a) Dentists' services

(b) Durable medical equipment

(c) Laboratory services (other than inpatient hospital)

(d) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

(e) X-Ray services

(f) Optometry services

(g) Medical supplies and equipment

(3) Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII and adjusted to disregard offsets attributable to Medicare coinsurance amounts.

* * * * * * * * *

Title of Regulation: **State Plan for Medical Assistance Relating to Reimbursement Adjustment for Non-Emergency Emergency Room Care.**
VR 460-02-4.1920. Methods and Standards Used for Establishing Payment Rates--Other Types of Care.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 1992 through June 30, 1993.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Reimbursement Adjustment for Non-Emergency ER Care, to replace an existing emergency regulation pertaining to the same issue, scheduled to expire June 30, 1992. This new emergency regulation will remain in effect until final regulations become effective July 15, 1992. This policy will enable the department to reduce payments to providers when care rendered in their emergency rooms is not emergency care.

2. RECOMMENDATION: Recommend approval of the department's request to take an emergency adoption action regarding Reimbursement Adjustment for Non-Emergency ER Care. The department has initiated the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: May 27, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 1, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: June 9, 1992

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 11, 1992

DISCUSSION

6. BACKGROUND: The section of the State Plan affected by this proposed regulation is Attachment 4.19 B Methods and Standards for Establishing Payment Rates–Other Types of Care concerning adjusting the reimbursement for non-emergency services when rendered by emergency rooms (ER) and ER physicians.

Inappropriate use of the emergency room for non-emergency primary care has been a problem for hospitals, physicians, and third-party payers. Such inappropriate use results in higher medical costs, decreased efficiency of care and service delivery compared to care delivered by the patient's primary care physician, and the overcrowding of emergency room facilities.

Effective July 1, 1991, (the effective date of the initial emergency regulation which these regulations would supersede), the Department of Medical Assistance Services (DMAS) began implementing a reimbursement reduction for non-emergency services provided in the emergency room setting. The reimbursement reduction is applied to both the facility fee and the physician fee. The intent of the program is to ensure non-emergency services provided in the emergency room are reimbursed at a rate approximating the reimbursement for that service had it been provided in a more appropriate setting; for example, the physician's office. The reimbursement rate may be conditional upon the review of emergency-related diagnosis or trauma diagnosis codes and the necessary documentation supporting the need for emergency services. The appropriate reimbursement rate is assigned by the Medicaid claims processing system, in conjunction with a manual review of selected claims, based upon the International Classification of Diseases, 9th Revision, Clinical Modification coding methodology (ICD-9-CM). Two categories are used: 1) Pay the claim at the existing emergency rate for emergency services; 2) Pay the claim at the non-emergency rate for non-emergency services.

The reimbursement categories are based upon the ICD-9-CM diagnosis code. These codes are determined by the physician's diagnosis and assigned by the facility prior to the submission of the claim. For this program, DMAS assigned ICD-9-CM codes to two lists, one representing diagnosis codes that are true emergencies and the other, diagnosis codes that may be true emergencies if they meet certain criteria. Diagnosis codes that appear on the second list are reviewed to determine the emergency or non-emergency nature of the visit. Diagnosis codes that were not assigned to either list represent diagnoses for which the emergency room is not the most appropriate setting for care.

The review of the diagnosis codes to determine the list to which they were assigned was accomplished by a DMAS work group comprised of experienced physicians and nurse utilization review analysts. Information was obtained from other Medicaid agencies with similar programs in place. In addition, consultation and advice was sought from representatives of hospitals and emergency room physicians through the Virginia Hospital Association (VHA) and the American College of Emergency Room Physicians (ACEP).

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to 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.

DMAS currently has an emergency regulation in place for this issue. It was approved by the Governor on June 15, 1991, and adopted and filed with the Registrar of Regulations on June 19, 1991 to become effective on June 30, 1992. The agency's permanent final regulations cannot become effective before July 15, 1992; therefore, another emergency regulation is required with an effective date of July 1, 1992.

8. FISCAL/BUDGETARY IMPACT: There were 290,934 hospital emergency room claims filed in 1990, or a total payment by Medicaid of $26,349,708. Research done on the utilization of emergency rooms for non-emergency services indicates a range of 11% to 61% exists for non-emergency visits. For this program, DMAS has estimated that 40% of the emergency room visits are for non-emergency services, the percentage most commonly found in the research literature for medical assistance populations. The actual percentage of visits that will be identified as non-emergencies is difficult to determine in advance, as some percentage of the claims that are held for review will be deemed non-emergency claims. In addition, it is anticipated that the distribution of the diagnosis codes will change over time as the program remains in effect.

An all-inclusive fee for both physician and hospital emergency room payment for non-emergency services has been implemented. For all non-emergency claims for services delivered in the emergency room, DMAS pays to the hospital the lesser of the allowed amount (the all-inclusive fee) or the billed amount. All-inclusive is defined as all emergency room and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services. Lab services continue to be reimbursed under the existing system of rates. Claims identified as emergencies are reimbursed under existing rates.

For all non-emergency claims for services delivered by an emergency room physician in the emergency room setting, DMAS pays to the physician the lesser of the allowed amount (the all-inclusive fee) or the billed amount. For physician claims identified as emergencies, reimbursement continues under the existing rates.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective July 1, 1992. From its effective date, this regulation is to remain in force until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to reduce payments to providers for non-emergency care when it is rendered in emergency rooms.

10. Approval Sought for VR 460-02-4.1920.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-02-4.1920. Methods and Standards used for Establishing Payment Rates–Other Types of Care.

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.

b. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

c. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed: such data will be made available to the Secretary, HHS, upon request.

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);

2. The provider's trial balance showing adjusting journal entries;

3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;

4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

5. Depreciation schedule or summary;

6. Home office cost report, if applicable; and

7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

The services that are cost reimbursed are:

(1) Inpatient hospital services to persons over 65 years

of age in tuberculosis and mental disease hospitals

~~(2) Home health care services~~

~~(3)~~ *(2)* Outpatient hospital services excluding laboratory

(a) Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency room and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency hospital services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency room visit.

(b) Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency rooms and reimburse for non-emergency care rendered in emergency rooms at a reduced rate.

(i) With the exception of laboratory services, DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all services [, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B,] rendered in emergency rooms which DMAS determines were non-emergency care.

(ii) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(iii) Services [~~determined~~ performed] by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (ii) above. Services not meeting certain criteria shall be paid under the methodology of (i) above. Such criteria shall include, but not be limited to:

(A.) The initial treatment following a recent obvious injury.

(B.) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(C.) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(D.) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(E.) Services provided for acute vital sign changes as specified in the provider manual.

(F.) Services provided for severe pain when combined with one or more of the other guidelines.

(iv) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(v) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

~~(4)~~ *(3)* Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.

(4) Rehabilitation agencies

(5) Comprehensive outpatient rehabilitation facilities

(6) Rehabilitation hsopital outpatient services.

e. Fee-for-service providers. (1) Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

(a) Physicians' services (Supplement 1 has obstetric/pediatric fees.)

The following limitations shall apply to emergency physician services.

(a) Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates

otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency room visit.

(b) Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency rooms and reimburse physicians for non-emergency care rendered in emergency rooms at a reduced rate.

(i) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services [, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B,] rendered in emergency rooms which DMAS determines are non-emergency care.

(ii) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(iii) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (ii) above. Services not meeting certain criteria shall be paid under the methodology of (i) above. Such criteria shall include, but not be limited to:

(A.) The initial treatment following a recent obvious injury.

(B.) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(C.) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(D.) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(E.) Services provided for acute vital sign changes as specified in the provider manual.

(F.) Services provided for severe pain when combined with one or more of the other guidelines.

(iv) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(v) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

(b) Dentists' services

(c) Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

Mental health services provided by a physician

(d) Podiatry

(e) Nurse-midwife services

(f) Durable medical equipment

(g) Local health services

(h) Laboratory services (Other than inpatient hospital)

(i) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

(j) X-Ray services

(k) Optometry services

(l) Medical supplies and equipment.

(m) Home health services: Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by Supplement 3.

(2) Hospice services payments must be no lower than the amounts using the same methodology used under

part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: **VR 615-35-01. Voluntary Registration of Small Family Day Care Homes–Requirements for Providers.**

Statutory Authority: §§ 63.1-25 and 63.1-196.04 C of the Code of Virginia.

Effective Dates: July 1, 1992 through June 30, 1993.

Summary:

The proposed emergency regulations, Voluntary Registration of Small Family Day Care Homes - Requirements for Providers, establish registration procedures and general information for providers of small family day care homes who voluntarily register. Information on staffing requirements and a self-administered health and safety checklist are included in the regulations. The 1991 General Assembly amended the Code of Virginia and added Section 63.1-196.04 which sets forth broad parameters for the development of a voluntary registration program for unlicensed family day care homes. Program implementation is scheduled for July 1, 1992.

Preamble:

Emergency regulations are needed to respond to HB 1862, passed by the 1991 General Assembly. The legislature mandated the creation of a new voluntary registration program for small family day care homes. The proposed regulations establish requirements for providers of small family day care homes to whom a certificate of registration may be issued by the Commissioner of Social Services for voluntary registration. Implementation of the program is required by July 1, 1992.

VR-615-35-01. Voluntary Registration of Small Family Day Care Homes–Requirements for Providers.

PART I.
INTRODUCTION.

Article 1.
Definitions.

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

"Adult" means any individual 18 years of age or older.

"Age groups"

Infant" means children from birth to 16 months.

"Toddler" means children from 16 months to 31 months.

"Preschooler" means children from 31 months up to the age of eligibility to be enrolled in kindergarten or an equivalent program.

"School age" means children who are eligible to be enrolled in kindergarten or attend public school.

"Age appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.

"Age of eligibility to attend public school" means five years of age or older by September 30.

"Care, protection and guidance" means responsibility assumed by a small family day care home provider for children receiving care in the home, whether they are related or unrelated to the provider.

"Certificate of Registration" means a document issued by the Commissioner to a family day care provider, acknowledging that the provider has been certified by the contracting organization or the Department and has met the Requirements for Voluntary Registration of Small Family Day Care Homes.

"Child" means any individual under 18 years of age.

"Commissioner" means the Commissioner of Social Services.

"Contracting organization" means the agency which has contracted with the Department of Social Services to administer the voluntary registration program for small family day care providers.

"Denial of Certificate of Registration" means a refusal by the Commissioner to issue an initial Certificate of Registration.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the Commissioner in carrying out the responsibilities and duties specified in Chapter 10 (§ 63.1-195) of the Code of Virginia.

"Evaluate" or "evaluation" means the review of a family day care provider by a contracting organization upon receipt of an application for a Certificate of Registration to verify that the applicant meets the Requirements for Providers.

"Family day care provider applicant" or "provider

applicant" means a person 18 years of age or older who has applied for a Certificate of Registration.

"Monitor" or "monitoring visit" means to visit a registered family day care provider and to review the provider's compliance with the applicable requirements described in the Requirements for Providers.

"Parent" means a biological, foster or adoptive parent, legal guardian, or any person with responsibility for, or custody of a child enrolled or in the process of being enrolled in a family day care home.

"Physician" means a person licensed to practice medicine.

"Provider" or "registered family day care provider" means a person who has received an initial or renewed Certificate of Registration issued by the Commissioner. This provider has primary responsibility in providing care, protection, supervision, and guidance for the children in the registered home.

"Provider assistant" means a person 14 years of age or older who has been designated by the provider and approved by the contracting organization to assist the provider in caring for children in the home. The assistant helps the family day care provider in the care, protection, supervision, and guidance of children in a private home.

"Refusal to renew a Certificate of Registration" means the non-issuance of a Certificate of Registration by the Commissioner after the expiration of the existing Certificate of Registration.

"Registration fee" means the payment to a contracting organization by a provider or applicant upon filing application for a Certificate of Registration.

"Registered small family day care home" means any small family day care home which has met the standards for voluntary registration for such homes pursuant to regulations prescribed by the Board of Social Services and which has obtained a Certificate of Registration from the Commissioner of Social Services through a contracting organization.

"Renewal of a Certificate of Registration" means the issuance of a Certificate of Registration by the Commissioner after the expiration of the existing Certificate of Registration.

"Requirements for Providers" sets forth procedures and general information for providers operating small family day care homes who voluntarily register. This includes staffing requirements and a self-administered health and safety checklist.

"Revocation of a Certificate of Registration" means the removal of a provider's current Certificate of Registration by the Commissioner for failure to comply with the applicable Requirements for Providers.

"Small family day care home" means any private family home in which no more than five children, except children related by blood or marriage to the person who maintains the home, are received for care, protection, and guidance during only part of the day. Further, a family day care home which accepts no more than ten children, at least five of whom are of school age and are not in the home for longer than three hours immediately before and three hours immediately after school hours each day, may also voluntarily register as a small family day care home.

"Substitute provider" means a person 18 years or older of age designated by the provider and approved by the contracting organization who is readily available to provide child care in the provider's home in the event the provider becomes ill or encounters an emergency.

"USDA" means United States Department of Agriculture.

Article 2.
Legal Authority.

The Code of Virginia was amended and § 63.1-196.04 was added in the 1991 General Assembly session to include provisions for the voluntary registration of small family day care homes.

PART II.
PROVIDER REGISTRATION AND GENERAL PROCEDURES.

Article 1.
Provider Eligibility.

§ 2.1 A family day care provider and substitute provider, in order to be eligible for a Certificate of Registration, shall be 18 years of age or older.

§ 2.2 A family day care home assistant shall be 14 years of age or older.

§ 2.3 A small family day care provider, assistant(s) and substitute provider shall be able to read, write, understand and carry out the responsibilities in the Requirements for Providers.

Article 2.
Application for Registration.

§ 2.4 A family day care provider applicant for a Certificate of Registration shall submit to the contracting organization a completed application form, which shall include, but not be limited to:

1. The health and safety checklist and statements of assurance as noted in Part III.

2. A tuberculosis test report as noted in Section 2.6.

3. A criminal records check(s) and child protective services central registry clearance(s) as described in Section 2.7.

4. General information as noted in Section 2.5.

5. If appropriate, an approved inspection of the water and septic system from the local health department, as noted in Part III.

§ 2.5 The provider shall also indicate his or her preferences as to whether:

1. the provider is interested in participating in the USDA food program (if the registrant is not currently participating);

2. the provider is willing and able to serve as a substitute provider (after obtaining consent from parents) and is interested in being included on the substitute provider list; and

3. the provider wishes his or her phone number to be included on lists of registered providers who are interested in receiving referrals. Providers not listing phone numbers must provide parents of children in care with their phone number.

§ 2.6 Health information shall be submitted on the small family day care provider, assistant(s) and substitute providers, if any, and any other adult household member who comes in contact with children or handles food served to children. The applicant shall return the completed application form along with a tuberculosis (TB) form which provides written proof of the results of a tuberculosis examination for the applicant, the provider assistant, if any, and all other persons who care for children in the family day care home 15 hours per week or more, as follows:

1. Initial Tuberculosis Examination and Report

a. Within 30 days prior to approval or employment or contact with children, each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.

b. Each individual shall submit a statement that he or she is free of tuberculosis in a communicable form, including type(s) of test(s) used and the result(s).

c. The statement shall be signed by a physician, the physician's designee, or an official of a local health department.

d. The statement shall be filed in the individual's record.

2. Subsequent Evaluations.

a. An individual who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis shall obtain chest x-rays on an annual basis for the following two years.

1) The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.

2) The statements shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

3) The statements shall be filed in the staff member's records.

4) Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.

b. Additional screening is not required for an individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test.

3. At the request of the contracting organization or the Department of Social Services, a report of examination by a physician shall be obtained when there is an indication that the safety of children in care may be jeopardized by the physical or mental health of a specific individual.

§ 2.7 Information certifying that those in contact with children do not have a criminal background. Attachments will include:

1. A Criminal Records Check, as specified in Chapter 10, § 63.1-198.1 of the Code of Virginia, for the provider, provider assistant, if any, the substitute provider, and any adults residing in the home.

2. A Child Protective Services (CPS) Central Registry Clearance for the provider, the provider assistant, if any, the substitute provider, and any adults residing in the home.

Article 3.
Issuance of Certificate of Registration.

§ 2.8 If it is necessary to change any identifying information (name and phone) noted on the Certificate of Registration prior to the end of the two year registration period, the provider shall advise the contracting organization no later than 14 calendar days after the change.

§ 2.9 If the provider changes location he or she shall permit and participate in a second home visit and an

evaluation of the new residence within 30 days of occupying the residence.

§ 2.10 The provider shall not claim in advertising or in any written or verbal announcement to be registered with the Commonwealth of Virginia unless a Certificate of Registration is currently in effect.

Article 4.
Registration Fees.

§ 2.11 At the time the Certificate of Registration is applied for, the provider shall pay a non-refundable registration fee not to exceed $50.00 biennially in the form of a check or money order made payable to the contracting organization. (This does not include the fee for the criminal records or CPS check or for a tuberculosis test.)

§ 2.12 An additional fee shall not be required if a minor change in the information collected, e.g., change in name, occurs before the expiration date of the current Certificate of Registration or if the provider requires a duplicate copy due to loss or destruction of the original.

§ 2.13 An additional fee shall only be charged if a second home visit is required because:

1. the provider changes location (not to exceed $50.00);

2. the original Certificate of Registration was revoked (not to exceed $50.00).

3. completion of a corrective action plan needs to be verified (not to exceed $10.00).

Article 5.
Renewal of a Certificate of Registration.

§ 2.14 The Certificate of Registration shall be subject to renewal upon expiration.

§ 2.15 No later than 45 days prior to the expiration of the current Certificate of Registration, the provider shall submit to the contracting organization a completed renewal application form.

Article 6.
Denials, Revocations, Refusals To Renew and Provider Appeal Procedures.

§ 2.16 A provider's Certificate of Registration may be denied, revoked, or refused renewal for good cause including, but not limited to:

1. Failure to comply with adult-child ratios, staffing requirements, and other specifications set forth in the Requirements for Providers;

2. Use of fraud or misrepresentation in obtaining a Certificate of Registration or in the subsequent operations of the family day care home;

3. Any conduct or activity which adversely affects or presents a serious hazard to the health, safety, and general well-being of an enrolled child, or which otherwise demonstrates unfitness by a provider to operate a family day care home;

4. Refusal to furnish the contracting organization with records; or

5. Refusal to permit a parent of an enrolled child or an authorized representative of the contracting organization or department to gain admission to the family day care home during normal operating hours.

§ 2.17 When a provider is found to be in violation of any of the provisions of Section 2.16 above, the contracting organization shall notify the provider of the violation(s) first orally and then in writing, and shall afford the provider an opportunity to abate the violation(s) within a time frame agreed upon by the contracting organization and the provider.

§ 2.18 If the provider fails to abate the violation(s) or commits a subsequent violation, the contracting organization may recommend to the Commissioner that the Certificate of Registration be denied, revoked, or refused renewal.

§ 2.19 Upon notification of the contracting organization's intent to recommend that a Certificate of Registration be denied, revoked, or refused renewal, a provider may request a review in writing by the contracting organization's appeals committee within 15 days of receipt of notification.

§ 2.20 If a Certificate of Registration is denied, revoked or refused renewal by the Commissioner, the provider may appeal the decision of the Commissioner in accordance with the Administrative Process Act and may request in writing a hearing within 15 days of receipt of notification of the decision.

§ 2.21 The final decision by the Commission may be appealed in accordance with the Administrative Process Act.

§ 2.22 A provider whose Certificate of Registration is revoked shall notify the parent(s) of each child enrolled within 10 days of the action.

Article 7.
Provider Reporting Requirements.

§ 2.23 The provider shall verbally notify the local department of social services or call the toll free number for the Bureau of Child Protective Services immediately whenever there is reason to suspect that a child has been or is being subjected to any kind of child abuse or neglec

by any person.

§ 2.24 The provider shall report the following incidents to the contracting organization as soon as possible but no later than the beginning of the contracting organization's next working day:

1. Any injury that occurs while in the provider's care that results in the admission of a child to a hospital;

2. The death of a child while in the provider's care;

3. Any damage to the provider's home that affects the provider's compliance with the Requirements for Providers;

4. Any occurrence of a reportable disease, as specified in the list of reportable diseases provided by the contracting organization; or

5. The termination of all family day care services by the provider.

6. The provider's decision to surrender the Certificate of Registration in accordance with the Requirements of the Voluntary Registration Program.

Article 8.
Provider Record Requirements.

§ 2.25 The provider's records shall be open for inspection by authorized representatives of the contracting organizations and the department.

§ 2.26 The provider shall maintain on file a signed statement from each parent, affirming receipt of the Information to Parents Statement.

§ 2.27 The provider shall assume responsibility for submitting information on any training completed to the contracting organization.

§ 2.28 The provider shall maintain an individual record for each child enrolled in care. This record shall include:

1. The child's full name (including nicknames, if any), address and birth date;

2. Name, address and telephone number of each parent or other responsible person(s);

3. Name, address and telephone number of each parent's place of employment and their work hours;

4. Name, address and telephone number of one or more persons designated by the parent(s) to be called in case of emergency when a parent cannot be reached during the hours the child is in care;

5. Name, address and telephone number of the child's physician;

6. The child's allergies to medication or drugs, if applicable, and direction for providing medicines to the child;

7. The name of the parent's hospitalization plan and number or medical assistance plan, if applicable;

8. The parent's signed authorization for the child's emergency medical treatment and written consent for giving of medications to the child;

9. The child's date of enrollment in and date of withdrawal from, when applicable, the family day care home;

10. Results of the health examination for each child and up-to-date immunization records for each child unless there is a record of a medical or religious exemption;

11. Names of persons authorized to visit, or call for the child, as well as those who are not to visit or call for the child;

12. A record of any accidents and injuries sustained by a child;

13. The parent's signed authorization to use a substitute provider and his or her name, address, and phone number;

14. The parent's signed authorization to transport children and to take trips out of the immediate community;

15. Any written agreement made between the day care provider and the natural parent, guardian, or other responsible person for each child in care. The agreement may cover hours of care per day, week, or month; cost of care per day, week, or month; frequency and amount of payment per day, week, or month; and any special services to be provided by either party to the agreement.

§ 2.29. The emergency contact information listed in Section 2.28 (1 through 8) above shall be made available to a physician, hospital or emergency care unit in the event of a child's illness or injury.

§ 2.30. Whenever the provider leaves the home with the child(ren), the provider shall have emergency contact information required by Section 2.28.

§ 2.31. The day care home provider shall not disclose or permit the use of information pertaining to an individual child or family unless the parent(s) or guardian(s) of the child has granted written permission to do so, except in the course of performance of official duties and to employees or representatives of the department.

Article 9.

Staffing.

§ 2.32. There shall be one adult to every nine children. This includes children related to the provider by blood or marriage. School age children (related and unrelated) who are ten years of age or older do not count in determining the ratio of children to adults for staffing purposes.

Of the nine children, no more than six may be under school age without an assistant;

Of the children under school age, no more than five may be under 31 months (2 1/2 years of age or younger) with or without an assistant;

Of the children under 31 months, no more than three may be under 16 months without an assistant.

Providers shall sign and submit a notarized statement to the contracting organization attesting to the names, birth dates, and relationships of related children receiving care. If the related children are not the provider's own, the parent(s) or legal guardian(s) shall also sign the statement.

PART III.
HEALTH AND SAFETY CHECKLIST.

§ 3.1. A health and safety checklist shall be completed by providers who apply for voluntary registration. The checklist serves as both a self-review tool for providers and an initial and renewal evaluation method for the contracting organization. Items included on the checklist are those which address the basic health and safety needs of children in care in small family day care homes.

§ 3.2. Before the Certificate of Registration is issued, the provider shall complete the checklist and review the Statements of Assurance.

§ 3.3. If the provider does not meet the criteria on the health and safety checklist at the time of the initial evaluation or monitoring visit, a corrective action plan shall be completed. This will briefly describe the standards not met, the actions to be taken to meet it, the date by which it will be completed and the signature of the provider.

§ 3.4. If the provider does not have indoor running water and a privy, he or she must request an inspection of any other water source and septic system and obtain approval from local health officials.

§ 3.5. If the provider does not have a working telephone, he or she must demonstrate that one is quickly and easily accessible in case of an emergency.

VOLUNTARY REGISTRATION OF SMALL FAMILY DAY CARE HOMES REQUIREMENTS FOR PROVIDERS

VOLUNTARY REGISTRATION HEALTH and SAFETY CHECKLIST

Verify each item that is currently true for your home by inserting a P (Provider) in the first slot provided before the item. The Screener will place an S (Screener) in the second slot when this information is verified during his/her visit to your home. Mark the item N/A if the item is not applicable to your home.

Section 1. I AM PREPARED TO DEAL WITH EMERGENCIES:

___ ___ I have a medical release form from each family to permit emergency care; I also have the names and phone numbers of one or more persons besides the family who may be contacted in case of emergency.

___ ___ I have an operable telephone, or have easy access to one, with a 911 sticker or emergency telephone numbers posted in clear view.

___ ___ My address or equivalent identifying information is easily seen from the street or parking lot.

___ ___ Exit ways, hallways and stairways are always well lit and free of obstructions.

___ ___ I have a first aid kit and an operable flashlight available at all times.

___ ___ I practice fire drills monthly to the point of exit from the home and have an evacuation plan.

___ ___ I have working smoke detectors on floors where children are in care.

Section 2. I TAKE PRECAUTIONS TO PREVENT ACCIDENTS AND INJURIES:

___ ___ I have taken steps to safeguard the outdoor play area used by children in my home from open and obvious hazards, such as: standing water, animal fecal material, construction materials, poison ivy, dangerous lawn and garden tools, tools, and traffic.(Fencing or other barriers might be needed when play area is next to a body of water or busy street).

___ ___ My home is in good repair, with no peeling lead paint.

___ ___ Steps and stairs accessible to children are in good repair with hand or guard rails.

___ ___ I have taken steps to safeguard my home from open and obvious household hazards, such as loose carpeting, unmarked glass doors, and small items that could be swallowed.

___ ___ The service side of an occupied crib is accessible. Crib slats are less than 2 3/8 inches apart.

___ ___ I use screened doors and windows for ventilation.

___ ___ Protective barriers, including but not limited to safety gates, are placed on stairways that are accessible to children. Safety gates that are used will meet the Consumer Product Safety Commission (CPSC) federal standards for juvenile products.

___ ___ Electrical outlets are child-proof in all areas accessible to children. Multi- plug adapters that are used will have fuse safety features.

___ ___ I place barriers around space heaters, fireplaces, wood stoves, and fans when in use.

___ ___ I keep flammable or combustible liquids away from heat sources and out of the reach of children.

___ ___ I keep materials that burn easily (such as newspaper, wood, cloth) at least three feet away from appliances and other heat sources.

___ ___ All portable heating appliances are UL or FM approved.

___ ___ My fireplaces, heating system, and duct work are in good repair.

___ ___ My washer, dryer and dryer vent are kept free of lint.

___ ___ My electrical panel is easily accessible to adults, free of loose connections and frayed wiring, and has no missing fuses. There is no frayed or uninsulated wiring anywhere in the house.

___ ___ I keep medications and toxic household products in areas inaccessible to children and away from food products.

___ ___ I keep dangerous objects, such as knives, out of the reach of children, unless under supervision, e.g., when children are using these objects in planned activities.

___ ___ I ensure that small appliances are not accessible to children, unless under supervision, e.g., when children are using these appliances in planned activities.

Section 3. I TAKE PRECAUTIONS TO PROTECT THE HEALTH OF THE CHILDREN ENTRUSTED TO ME:

___ ___ I keep up-to-date immunization records on each child in care, unless I have a statement of medical or religious exemption.

___ ___ My hands and children's hands are washed with soap before meals and after toileting and diapering.

___ ___ I serve nutritious meals and snacks to children.

___ ___ Rooms used by children are dry, well lit, and kept at least 68 degrees during heating season.

___ ___ My bathrooms have working toilets, tissue, soap, towels and are kept clean.

___ ___ (Or, if no indoor running water, my water source and septic system are approved by my local health inspector.)

___ ___ Drinking water is available to children at all times.

___ ___ I allow only one child to occupy a crib or playpen at a time.

___ ___ My refrigerator is kept at no more than 45 degrees (F), food is kept from spoilage, and children's food brought from home and infant formula is clearly labeled with their name.

___ ___ My home is free of insect and rodent infestation.

___ ___ I agree to provide a smoke-free environment in rooms accessible to children while children are in care.

___ ___ My dogs and cats have up-to-date rabies shots and are kept from food preparation surfaces during meal preparation.

Section 4. I ENCOURAGE CHILDREN TO DEVELOP THEIR OWN SKILLS AND PERSONALITIES:

___ ___ I plan for adequate rest and play for children in care.

___ ___ I encourage children to participate in activities appropriate to their ages and level of development.

___ ___ I never use discipline which would demean or belittle a child and never use physical (corporal) punishment.

Section 5. I AM MINDFUL OF MY RESPONSIBILITIES TO UPHOLD LAWS AND REGULATIONS IMPORTANT TO THE PROTECTION OF CHILDREN:

___ ___ I am at least 18 years of age and have not been convicted of any offenses specified in §63.1-198.1 of the Code of Virginia.

___ ___ My physical and mental condition are such that I am able to care for children.

___ ___ My family day care home is not subject to licensure under state law. I never have more than nine children who receive care, protection and guidance in my home at the same time without an assistant; this includes my own or related children. No more than six of the nine children will be under school age unless I have an assistant; no more than five of the children under school age will be under 31 months even when I have an assistant; no more than three of the children under 31 months will be under 16 months unless I have an assistant. Note: Currently, the Uniform Statewide Building Code permits no more than five children below the age of 31 months without requiring the home to meet the I-2 use group requirements.

___ ___ I never leave children alone with an assistant less than 18 years of age. I make sure children are properly supervised at all times.

___ ___ I make sure that any assistant or substitute provider is familiar with the Requirements for Providers.

___ ___ I report cases of suspected child abuse and neglect and other hazardous situations as described in the Requirements for Providers.

___ ___ I make sure that any adult (18 years of age or older), including any adult household member, who comes in contact with children or will provide ongoing care to children has a tuberculosis (TB) test, criminal records check and child protective services central registry clearance; and I will not allow them to use alcohol or illegal drugs while children are in care.

___ ___ If I transport children, I have a valid driver's license (shown to screener) and make sure any vehicle used to transport children meets the standards set by the Division of Motor Vehicles and is equipped with the proper restraining devices required by law.

___ ___ I will comply with the Requirements for Providers and permit and participate in an evaluation of my home by the department or contracting organization; and, I will maintain the records listed in the Requirements for Providers and make them available for review by an authorized screener.

___ ___ I understand that the contracting organization and the State Department of Social Services stand ready to help me provide good care to children and that I may ask for help or advice as needed.

_____

I, the undersigned, agree to comply with these requirements.

Signature:

_____

Name: (print)

_____

Social Security Number:

_____

Address:_____

_____

Phone Number:(___)____-_____

Days/Hours of Operation:

_____

_____

Corrective Action Plan (if needed):_____

_____

_____

_____

I, _____ (screener), verify that the provider meets the health and safety standards and has agreed to the above requirements in my presence.

Agency conducting evaluation:

_____

_____

Check One:

Initial Verification:_____

Interim Visit:_____

Renewal Visit:_____

Other (Specify):_____

Date:_____

/s/ Larry D. Jackson
Commissioner
Date: May 4, 1992

/s/ L. Douglas Wilder
Governor
Date: June 11, 1992

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: June 15, 1992

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 16, 1992

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI920268

Ex Parte, in re:
Maximum rates of charge and loan ceiling permitted on loans made under the Virginia Consumer Finance Act

ORDER DIRECTING NOTICE AND SETTING A HEARING

The maximum rates of charge and loan ceiling permitted on loans made under the Virginia Consumer Finance Act (Title 6.1, Chapter 6, Code of Virginia) are established, pursuant to Va. Code § 6.1-271, by the Commission. An order dated August 15, 1989, currently permits licensed consumer finance companies to charge the following maximum rates on such loans: 2.75% per month on principal balances not in excess of $800, 2% per month on balances above $800 but not in excess of $2,000, and 1.50% per month on balances above $2,000 through $3,500, the loan ceiling amount.

The Bureau of Financial Institutions submitted its "Biennial Report on the Economic and Other Factors Affecting the Business of Making Consumer Finance Loans" November 26, 1991. Memoranda from the Bureau dated May 15, 1992, have supplemented the November "Report". Based on information in these reports, the Bureau suggests that the Commission consider reducing the maximum rates allowed consumer finance companies.

It appearing appropriate to do so, IT IS ORDERED that the reports and memoranda of the Bureau be filed in this case and that a hearing on the subject of consumer finance rates and ceiling be held September 23, 1992, at 10:00 a.m. in the Commission's Courtroom, Jefferson Building, Bank and Governor Streets, Richmond, Virginia.

IT IS FURTHER ORDERED that any interested person wishing to present evidence at the hearing shall notify the Commission of its intent to participate in the hearing by filing a notice with the Clerk of the Commission not later than July 29, 1992.

All such persons who thus become parties to this proceeding shall pre-file any expert testimony and any evidence of a technical or statistical nature they will offer not later than August 26, 1992. Pre-filing shall be by sending six (6) copies of the materials desired to be presented, with reference to this case style and number, to: Clerk, State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 and mailing a copy to all other parties of record.

Not later than August 26, 1992, the Bureau Staff shall file in like manner any additional statement, information, or evidence it may deem appropriate to the determinations to be made by the Commission in this matter.

The Bureau of Financial Institutions shall promptly send a letter notifying each licensed consumer finance company of the hearing and of the Commission's intention to consider changes in rates and ceiling. The Bureau shall also cause to be published the following notice:

NOTICE TO THE PUBLIC -
INTENTION TO RE-DETERMINE RATES AND CEILING PERMITTED CONSUMER FINANCE COMPANIES

The State Corporation Commission has received a Report from its Bureau of Financial Institutions which recommends that the Commission consider a reduction in the maximum rates permitted lenders under the Virginia Consumer Finance Act (Title 6.1, Chapter 6, Code of Virginia).

Before deciding whether to re-determine consumer finance rates and ceiling, the Commission will hold a hearing on the subject September 23, 1992, at 10:00 a.m. in its Courtroom, Jefferson Building, Bank and Governor Streets, Richmond, Virginia, at which time and place all interested persons may appear and make a statement for the record in the case.

All those who wish to present evidence at this hearing must file a notice of their intent to participate as a party with the Clerk of the Commission not later than July 29, 1992. For further information about how you may participate in this proceeding, call or write Jonathan B. Orne, Assistant General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23209, (804) 786-8671.

Written comments on the subject of consumer finance rates may be submitted to the Bureau of Financial Institutions (attention: Nicholas C. Kyrus) Suite 1101, 701 East Byrd Street, P.O. Box 2AE, Richmond, Virginia 23205, on or before August 12, 1992. Such comments should refer to Case No. BFI920268. All comments received will be passed to the Commission's file in the case.

STATE CORPORATION COMMISSION

The foregoing notice shall be published as display advertising in a newspaper of general circulation in the City of Richmond once a week for two consecutive weeks, with the second publication appearing not later than July 8, 1992. The notice shall be published also in the Virginia Register of Regulations. The Bureau shall compile and report on written comments received, and shall submit evidence that these instructions for notice have been met.

ATTESTED COPIES HEREOF shall be sent to: the

Virginia Financial Services Association, Jeff D. Smith, III, Executive Vice President, 4900 Augusta Avenue, Richmond, Virginia 23230; the Virginia Citizens Consumer Council, Jean Ann Fox, President, 114 Coachman Drive, Tabb, Virginia 23602; the Office of the Attorney General, Edward L. Petrini and David B. Irvin, Assistant Attorneys General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; the Virginia Poverty Law Center, David B. Rubinstein, Esquire, Executive Director, 9 West Main Street, Richmond, Virginia 23220; and to the Commissioner of Financial Institutions.

STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 3, 1990

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE900033

Ex Parte: In the matter of adopting
Rules Governing the Certification of
Notification Centers Pursuant to
§ 56-265.16:1 of the Code of Virginia

FINAL ORDER

Pursuant to § 56-265.16:1 of the Code of Virginia, the Commission drafted a set of proposed Rules Governing the Certification of Notification Centers. By order of May 1, 1990 we directed that public notice be published inviting comments on the proposed rules. Opportunity for a public hearing was offered if anyone requested it. Comments were received from six parties. None requested a hearing. The Comments suggested several meritorious modifications or clarifications to the proposed rules. This order addresses the comments and changes to the proposed rules. The Rules to be adopted are set out in Appendix A, attached hereto.

The Potomac Edison Company wished to be assured that it would receive specific notice of notification center applications for the area in which Potomac Edison serves. It requested that Rule 2 be modified to provide that "Notice of the application shall be given to the general public, to governmental officials, and to operators within the applicant's proposed area as required by the Commission in its initial order docketing the case for consideration." It is essential that utilities be notified of applications for certificates, so such a requirement will be adopted.

Shenandoah Telephone Company submitted extensive comments. In general, Shenandoah was concerned that all of the cost of utility locate services were being borne by utility ratepayers rather than being shared by the excavators who were receiving the benefits of a simplified, one-call notification process. Shenandoah proposed that Rule 2 require a copy of any notification center application for certification to be given to all utilities and owners of underground facilities. As noted above, this will be required.

Shenandoah proposed that Rule 3 be revised to require a showing of the financial viability of an applicant to establish a notification center. While this may be considered during the certification process, the Commission chooses not to write it into the Rules at this time. Shenandoah also wished to revise Rule 4 to require that maps filed by the notification center identify the service territories of the utilities operating within the area proposed to be covered. It also urged that notification centers pass on to each utility only those locate requests which actually fall within the utility's service territory. It would require that the notification center have detailed maps on which they could locate the proposed excavation site and that these maps also include detailed depictions of the utilities serving in that area. Shenandoah gave the example of a notification center operating from a county-wide map which must notify every utility with facilities in that county about a proposed excavation affecting only a small portion of the county. Such a locate request is an unnecessary burden to a utility with only a few facilities in a remote part of the county far from the proposed excavation. Shenandoah also urged uniform prices per notification. It cited instances where some notification centers charge a lower rate per notification to a utility accepting locate requests on a county-wide basis as opposed to utilities accepting locate requests on a more detailed grid basis.

The Commission does not wish to have detailed maps such as those urged by Shenandoah filed with the Commission. Each notification center will be intimately familiar with the service territories of the utilities operating within its area. For the Commission's purposes, though, all that is needed is a state map depicting in general what counties, cities and towns fall within a notification center's certificated territory. This information will be sufficient to direct any citizen to the proper notification center for a given geographic area. The notification centers must, and apparently do, maintain detailed maps from which they can pinpoint the site of a proposed excavation and notify the utilities with nearby underground facilities to go and mark those facilities. If a notification center is not providing sufficient detail about the precise location of a proposed excavation, the utilities working with that notification center need to renegotiate the amount of detail to be furnished.

Shenandoah proposed that Rule 5(f) be modified to require the transmittal of notification requests within one hour of receipt. This objective will probably be achieved, but we do not wish to place it in the rules. It also requested that Rule 5(h) specify the amount of liability insurance coverage for each certificated notification center. This will not be done at this time because we have

no experience on what amounts should be specified. Also, Shenandoah wanted the rules to place liability for any damages to utilities' facilities or excavators' equipment upon the notification center if the center failed to provide adequate information to the utility. Liability should be established by statutory or common law. The Commission should not seek to determine it by the process of making rules.

Shenandoah urges that the notification center be obligated to provide the utility a reasonably accurate description of the proposed excavation site. At a minimum, this should be the street address or house number, where any exist, and, where none exist, the distance and direction to the nearest named or numbered public roads. This suggestion is incorporated into revisions to Rule 5.

Shenandoah notes that proposed Rule 6 would give a monopoly to the notification center certificated to a given geographic area. Shenandoah states that this should carry with it Commission authority for establishing the center's rates and service. The Code does not give the Commission jurisdiction over a center's rates and services. Shenandoah's concerns about the monopoly are addressed below by Washington Gas Light's proposed new rule. Shenandoah suggested that the Commission should reserve the authority to require a notification center to serve an area currently having no notification center service. This would assure that no area of the Commonwealth will be without the protection of a notification center. While this notion is commendable, it appears to be outside the scope of the Commission's jurisdiction under the Code.

Shenandoah also proposed that notification centers have some method to charge excavators for the benefits they receive from a one-call notification center. An alternative to having excavators pick up part of the cost of the notification center would be to require a participating utility to pass along its costs to the person who had requested the locate. Again, it appears to be outside the Commission's authority to assess charges to excavators.

Shenandoah suggests the Commission consider alternative ways of dealing with excessive complaints against a certificated notification center. To revoke certification without having a provider of last resort could leave portions of the Commonwealth where utilities and contractors do not have a central notification center. In the unlikely event that a certificate is ever revoked, an alternate or successor notification center will probably seek the territory of the prior center. The Commission does not appear to have the authority to impose territory on a notification center that does not desire that territory.

Finally, Shenandoah suggests that a notification center inform any excavator requesting a locate of the rules and time frames the utility has to respond to the request. Also, if a utility is to charge a fee to the excavator making the request, the notification center should advise them of that fee. The first suggestion is incorporated into Rule 5.

United Cities Gas Company (United Cities) suggests that Rule 5(d) define emergency service in such a manner that it will be available for true emergencies and not for requesting parties who simply failed to make their request during regular working hours. United Cities also suggested a modification to Rule 5(f) to eliminate the requirement that routine messages be relayed within one hour of receipt if that were to require the maintenance of additional operators or equipment. Instead, it was suggested that messages be queued according to their priority so that high priority messages would be transmitted to utilities first. Finally, United Cities urged the Commission to tailor the notification center rules to avoid expensive and unnecessary operations of the notification centers. Each of these suggestions is worthy but would involve the Commission in more detailed regulation of notification centers than the Code seems to contemplate. Utilities should be able to negotiate these finer points with their notification centers.

The Virginia, Maryland, Delaware Association of Electric Cooperatives ("Association") suggested that Rule 4 specify that the maps to be submitted with the application be of such a detailed grid that the notification center could determine precisely which utility operators had facilities near the site of a proposed excavation. Detailed maps would prevent utilities from receiving unnecessary calls and marking facilities that were in fact nowhere near the proposed excavation. The Association also suggested that the fees, prices and other charges of notification centers be placed on file at the Commission for public inspection. As addressed earlier, detailed maps are to be kept and used by the notification centers. They are not needed at the Commission. The Commission does not desire to have the schedules on file since it does not exercise control over notification center fees.

The Virginia Underground Utility Protection Service, Inc. (Service) is concerned about the expense an applicant would incur to publish notice of its application in newspapers throughout the Commonwealth as well as the cost of mailing notice to a large number of governmental officials. The Service requested that Rule 2 be modified such that an applicant meets all notice requirements simply by filing its application with the Clerk of the Commission. Such notice would not inform the people that need to know about applications. However, the Commission believes it can dispense with publication and provide notice through the Virginia Register and mailings to utilities and local officials.

The Service pointed out what appears to be a typographical error with Rule 5(a) as published in the Commission's Order of May 1, 1990. That Rule provides that a notification center should be reached by a toll-free telephone call from ". . . any point within the Commonwealth; sought by the application." The Service says the last four words should have been omitted. It was intended that the notification center be reached by a toll-free telephone call from any point within the Commonwealth and the correction will be made.

The Service requested that Rule 7 be clarified to confirm the plenary authority of a notification center to terminate service to a participating operator for not abiding by the terms and conditions of participation or membership. For instance, a utility that did not pay its account for services received should be terminated at the sole option of the notification center without an appeal to the Commission. Reinstatement should be at the sole discretion of the notification center based upon the governing documents between the notification center and the utilities. Such provisions should be made clear in the agreements or documents governing the relationship between utilities and the center. The Commission does not need to address this in rules, but will modify Rule 7 to make clear that it does not regulate the relationship between operators and centers.

The Service wished a clarification of Rule 8 to specify the meaning of the term "excessive" complaints. It desired specifying the number of complaints and over what period of time would be considered "excessive" by the Commission. We do not believe a specific definition would cover all the contingencies the Commission might face in the future. The Commission should be free to judge the gravity of complaints on a case by case basis.

The final commentor was Washington Gas Light Company (WGL). The primary concern of WGL was that the notification center for a given area might have the market power to extract monopoly rents if there were no alternative notification centers or no process for the certification of an alternative. WGL did not wish for a private operator of a notification center to have a permanent right to operate that center. To correct this, WGL proposed a new Rule 8 together with a concomitant reference in Rule 6 and the renumbering of old Rules 8 & 9 as 9 & 10, respectively. The new Rule 8, proposed by WGL would read as follows:

> An application for a certificate may be submitted for a geographic area (1) for which a certificate has been previously granted by the Commission, or (2) in which a notification center exempt from the requirements of Virginia Code § 56-265.16:1 is currently operating, if such application is supported by the operators of underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent twelve-month period preceding the filing of the application for which data is available. If the Commission determines that a certificate should be granted to the applicant hereunder, a certificate previously issued for the same geographic area shall terminate as of the effective date of the new certificate.

The concerns of WGL are worthy and will substantially be adopted.

To address the concerns of Potomac Edison, Shenandoah and the Service, Rule 2 is modified to read as follows:

> Notice of the application shall be given to governmental officials and to utility operators within the applicant's proposed area as required by the Commission in its initial order docketing the case for consideration.

Rule 5 is modified to read as follows:

> Each application shall demonstrate that the applicant fully qualifies as a notification center. A notification center is one that,
>
> (a) may be contacted by means of a toll-free telephone call from any point within the Commonwealth;
>
> (b) is open to participation by any operator of underground facilities within the service area sought as set out in § 56-265.15 of the Code of Virginia;
>
> (c) is capable of making the filings required by § 56-265.16:1(C) of the Code of Virginia;
>
> (d) is capable of providing emergency service 365 days a year, 24 hours per day and capable of providing regular service Monday through Friday 7:00 a.m. through 5:00 p.m., excluding designated holidays;
>
> (e) shall maintain such telecommunications equipment necessary to insure a minimum level of response acceptable to the participating operators and to users of the service;
>
> (f) has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by teletype, telecopy, personal computer, or telephone;
>
> (g) is capable of maintaining equipment adequate to voice record all incoming calls and retain such records for a minimum of six years and is capable of recording all transmissions of proposed excavations to member operators and retaining those records for a minimum of six years;
>
> (h) shall maintain an adequate level of liability insurance coverage;
>
> (i) shall maintain detailed maps depicting areas with underground utility facilities and shall be able to pass on to operators the specific site address of a proposed excavation using street addresses where those exist or, where addresses do not exist, the distance and direction to the nearest intersection of named or numbered public roads; and
>
> (j) shall notify those calling about proposed excavations of the time frame within which an operator must respond and mark its facilities.

Rule 6 is modified to read as follows:

Except as provided in Rule 8, only one notification center will be granted a certificate for a given geographic area.

Rule 7 is modified to read as follows:

No certificated notification center shall abandon or discontinue service to the public or any part thereof except with the approval of the Commission and upon such terms and conditions as prescribed. The relationships between centers and operators of underground facilities are governed by their own agreements and not by this Rule or by the Commission.

Rule 8 is substantially the one proposed by WGL and reads as follows:

An application for a certificate may be submitted for any geographic area (1) for which a certificate has been previously granted by the Commission, or (2) in which a notification center exempt from the requirements of Virginia Code § 56-265.16:1 is currently operating, if such application is supported by the operators of the underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent 12-month period preceding the filing of the application for which data is available. If the Commission determines that a certificate should be granted to the applicant hereunder, the certificate previously issued for the same geographic area shall terminate as of the effective date of the new certificate.

Original Rules 8 and 9 shall be renumbered as Rules 9 and 10, respectively.

With these modifications, the Commission finds the rules to be reasonable and in the public interest. Accordingly,

IT IS THEREFORE ORDERED:

(1) That the Rules Governing Certification of Notification Centers attached hereto as Appendix A are hereby adopted and are effective as of the date of this Order; and

(2) That there being nothing further to come before the Commission, this case is dismissed from the docket and the record developed herein shall be placed in the file for ended causes.

ATTESTED COPIES hereof shall be sent by the Clerk of the Commission to Virginia's local exchange companies as shown on the service list attached hereto as Attachment B; the interexchange carriers certificated in Virginia as shown on the service list attached hereto as Attachment C; the electric companies and electric cooperatives certificated in Virginia as shown on the service list attached hereto as Attachment D; the natural gas local distribution companies certificated in Virginia as shown on the service list attached hereto as Attachment E; the water and sewer utilities certificated in Virginia as shown on the service list attached hereto as Attachment F; Mr. Mark C. Christie, Executive Director, Virginia Underground Utility Protection Service, Inc., P.O. Box 23041, Richmond, Virginia 23223; Mr. James L. Holzer, Miss Utility Center, 14504 Greenview Drive, Suite 300, Laurel, Maryland 20708; Mr. Robert B. Woodward, C.A.E., Executive Director, Heavy Construction Contractors Association, P.O. Box 505, Merrifield, Virginia 22116; Mr. Edmund Panzer, Director of Public Works, City of Hampton, 22 Lincoln Street, Hampton, Virginia 23669; Mr. Peter Easter, Easter Associates Inc., 620 Stagecoach Road, Charlottesville, Virginia 22901; Mr. Phil Thompson, General Manager, Miss Utility of Virginia, P.O. Box 6894, Richmond, Virginia 23230; Mr. Christopher E. French, President, Shenandoah Telephone Company, P.O. Box 459, Edinberg, Virginia 22824; Richard D. Gary, Esquire, Hunton & Williams, P.O. Box 1535, Richmond, Virginia 23212; Mr. Gerry Buracker, J. G. Miller, Inc., P.O. Box 22018, Chantilly, Virginia 22022; David Francis, Esquire, Arlington County Attorney's Office, #1 Courthouse Plaza, Suite 403, 2100 Clarendon Boulevard, Arlington, Virginia 22201; the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; the Commission's Office of General Counsel, and to the Commission's Divisions of Energy Regulation and Communications.

Appendix A

RULES GOVERNING CERTIFICATION OF NOTIFICATION CENTERS

PURPOSE

The purpose of these Rules is to facilitate the filing of applications by those desiring to serve as a notification center pursuant to § 56-265.16:1 of the Code of Virginia as amended by House Bill No. 720 of the 1989 Session of the General Assembly, effective July 1, 1990.

Rule 1

An original and fifteen (15) copies of an application for certification shall be filed with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118 Richmond, Virginia 23216 and shall contain all the information and exhibits required herein.

Rule 2

Notice of the application shall be given to governmental officials and to utility operators within the applicant's proposed area as required by the Commission in its initial order docketing the case for consideration.

Rule 3

An applicant shall submit information which identifies itself, including (a) its name, address and telephone number (b) its corporate ownership (c) the name, address and telephone number of its corporate parent or parents, if any, (d) a list of its officers and directors, or if the applicant is not a corporation, a list of its principals and their directors if said principals are corporations, and (e) the names, addresses and telephone numbers of its legal counsel.

Rule 4

Each application shall be accompanied by maps depicting the areas of the Commonwealth in which the applicant proposes to act as a notification center. These maps and certificates for notification centers, when granted, will be retained on file in the Commission's Division of Energy Regulation.

Rule 5

Each application shall demonstrate that the applicant fully qualifies as a notification center. A notification center is one that,

(a) may be contacted by means of a toll-free telephone call from any point within the Commonwealth;

(b) is open to participation by any operator of underground facilities within the service area sought as set out in § 56-265.15 of the Code of Virginia;

(c) is capable of making the filings required by § 56-265.16:1(C) of the Code of Virginia;

(d) is capable of providing emergency service 365 days a year, 24 hours per day and capable of providing regular service Monday through Friday 7:00 a.m. through 5:00 p.m., excluding designated holidays;

(e) shall maintain such telecommunications equipment necessary to insure a minimum level of response acceptable to the participating operators and to users of the service;

(f) has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by teletype, telecopy, personal computer, or telephone;

(g) is capable of maintaining equipment adequate to voice record all incoming calls and retain such records for a minimum of six years and is capable of recording all transmissions of proposed excavations to member operators and retaining those records for a minimum of six years;

(h) shall maintain an adequate level of liability insurance coverage;

(i) shall maintain detailed maps depicting areas with underground utility facilities and shall be able to pass on to operators the specific site address of a proposed excavation using street addresses where those exist or, where addresses do not exist, the distance and direction to the nearest intersection of named or numbered public roads; and

(j) shall notify those calling about proposed excavations of the time frame within which an operator must respond and mark its facilities.

Rule 6

Except as provided in Rule 8, only one notification center will be granted a certificate for a given geographic area.

Rule 7

No certificated notification center shall abandon or discontinue service to the public or any part thereof except with the approval of the Commission and upon such terms and conditions as prescribed. The relationships between centers and operators of underground facilities are governed by their own agreements and not by this Rule or by the Commission.

Rule 8

An application for a certificate may be submitted for any geographic area (1) for which a certificate has been previously granted by the Commission, or (2) in which a notification center exempt from the requirements of Virginia Code § 56-265.16:1 is currently operating, if such application is supported by the operators of the underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent 12-month period preceding the filing of the application for which data is available. If the Commission determines that a certificate should be granted to the applicant hereunder, the certificate previously issued for the same geographic area shall terminate as of the effective date of the new certificate.

Rule 9

Excessive complaints against a certificated notification center or violations of these Rules shall be grounds for suspension or revocation of the notification center's certificate. In all proceedings pursuant to this Rule, the Commission shall give notice to the notification center of the allegation against it and shall provide the center with an opportunity to be heard concerning those allegations prior to the suspension or revocation of the center's certificate.

Rule 10

The Commission may conduct hearings as necessary to

grant, amend, suspend, or revoke certificates and as necessary to enforce these Rules or the provisions of Chapter 10.3 of Title 56 of the Code.

..... Attachment B

TELEPHONE COMPANIES IN VIRGINIA

Mr. Joseph E. Hicks, President
Amelia Telephone Corporation
P. O. Box 158
Leesburg, Alabama 35983

Mr. Raymond L. Eckels, Manager
Amelia Telephone Corporation
P. O. Box 76
Amelia, Virginia 23002

Mr. M. Dale Tetterton, Jr., Manager
Buggs Island Telephone Cooperative
P. O. Box 129
Bracey, Virginia 23919

Ms. Sue B. Moss, President
Burke's Garden Telephone Exchange
P.O. Box 428
Burke's Garden, Virginia 24608

Mr. J. Thomas Brown
Vice President & Division Manager
Central Telephone Company of Virginia
P. O. Box 6788
Charlottesville, Virginia 22906

Mr. Hugh R. Stallard, President
and Chief Executive Officer
Chesapeake & Potomac Telephone Company
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Mr. James R. Newell, Manager
Citizens Telephone Cooperative
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

Mr. James S. Quarforth, President
Clifton Forge-Waynesboro Telephone Company
P. O. Box 2008
Staunton, Virginia 24401

Mr. Clarence Prestwood, President
Contel of Virginia, Inc.
9380 Walnut Grove Road
P. O. Box 900
Mechanicsville, Virginia 23111-0900

Mr. J. M. Swatts
State Manager - External Affairs
GTE South
P.O. Box 4338
Bluefield, West Virginia 24701

Mr. Thomas R. Parker
Associate General Counsel
Law Department
GTE South
P.O. Box 110 - Mail Code: 7
Tampa, Florida 33601-0110

Mr. Elmer E. Halterman, General Manager
Highland Telephone Cooperative
P.O. Box 340
Monterey, Virginia 24465

Mr. L. Ronald Smith
President/General Manager
Mountain Grove-Williamsville
Telephone Company
P. O. Box 105
Williamsville, Virginia 24487

Mr. Joseph E. Hicks
New Castle Telephone Company
P.O. Box 158
Leesburg, Alabama 35983

Mr. K. L. Chapman, Jr., President
New Hope Telephone Company
P. O. Box 38
New Hope, Virginia 24469

Mr. W. Richard Fleming, Manager
North River Telephone Cooperative
P. O. Box 236, Route 257
Mt. Crawford, Virginia 22841-0236

Mr. Stanley G. Cumbee, General Manager
Pembroke Telephone Cooperative
P. O. Box 549
Pembroke, Virginia 24136-0549

Mr. E. B. Fitzgerald, Jr.
President & General Manager
Peoples Mutual Telephone Company, Inc.
P. O. Box 367
Gretna, Virginia 24557

Mr. Ira D. Layman, Jr., President
Roanoke & Botetourt Telephone Company
Daleville, Virginia 24083

Mr. James W. McConnell, Manager
Scott County Telephone Cooperative
P. O. Box 487
Gate City, Virginia 24251

Mr. Christopher E. French
President
Shenandoah Telephone Company
P. O. Box 459

Edinburg, Virginia 22824

Mr. William K. Smith, President
United Inter-Mountain Telephone Company
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Mr. Dennis H. O'Hearn, Vice President
Virginia Hot Springs Telephone Company
P. O. Box 699
Hot Springs, Virginia 24445

..... Attachment C

INTER-EXCHANGE CARRIERS

Mr. Terry Michael Banks, Vice President
AT&T Communications of Virginia
Three Flint Hill
3201 Jermantown Road, Room 3B
Fairfax, Virginia 22030-2885

Mr. James S. Quarforth, President
CF-W Network, Inc.
P. O. Box 2008
Staunton, Virginia 24401

Mr. James R. Newell, Manager
Citizens Telephone Cooperative
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Mr. Dallas Reid
Contel of Virginia, Inc.
1108 East Main Street, Suite 1108
Richmond, Virginia 23219

Ms. Gail P. Charles, Director of Marketing
Institutional Communications Company - Virginia
2000 Corporate Ridge
McLean, Virginia 22102

Mr. William F. Marmon, Jr.
MCI Telecommunications Corp. of Virginia
Mid-Atlantic Division
1200 South Hayes Street
Arlington, Virginia 22202

Mr. Allen Layman, Executive Vice President
Roanoke & Botetourt Telephone Company
P. O. Box 174
Daleville, Virginia 24083

Mr. Christopher E. French
President & General Manager
Shenandoah Telephone Company
P. O. Box 459
Edinburg, Virginia 22824

Peter H. Reynolds, Director
SouthernNet of Va., Inc.
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

Mr. Charles A. Tievsky, Manager
Legal and Regulatory Affairs
TDX Systems, Inc.
1919 Gallows Road
Vienna, Virginia 22180

Ms. Helen Hall
Regulatory Affairs Manager
U.S. Sprint Communications Company
2002 Edmund Halley Drive
Reston, Virginia 22090

Mr. Joseph Kahl
Manager, Regulatory Affairs
Communications Services of Virginia
One Harmon Plaza
Secaucus, New Jersey 07096

..... Attachment D

Electric Cooperatives in Virginia

Mr. Vernon N. Brinkley
Manager
A&N Electric Cooperative
Post Office Box 288
Parksley, VA 23421

Mr. Hugh M. Landes
General Manager
B-A-R-C Electric Cooperative
Millboro, VA 24460

Mr. W. L. Tucker, Jr.
Manager
Central Virginia Electric Cooperative
Lovingston, VA 22949

Mr. J. M. Reynolds
General Manager
Community Electric Cooperative
Post Office Box 267
Windsor, VA 23487

Mr. Gerald H. Groseclose
General Manager
Craig-Botetourt Electric Cooperative
Post Office Box 265
New Castle, VA 24127

Mr. John Bowman
General Manager
Mecklenberg Electric Cooperative
Chase City, VA 23924

Mr. Charles R. Rice, Jr.
Manager

Northern Neck Electric Cooperative
Post Office Box 288
Warsaw, VA 22572

Mr. Harry K. Bowman
Manager
Northern Virginia Electric Cooperative
Post Office Box 2710
Manassas, VA 22110

Mr. Gene G. Carr
General Manager
Prince George Electric Cooperative
Waverly, VA 23890

Mr. Cecil E. Viverette, Jr.
Executive Vice President & General Manager
Rappahannock Electric Cooperative
Post Office Box 7388
Fredericksburg, VA 22404-7388

Mr. William R. Fleming
Manager
Shenandoah Valley Electric Cooperative
Box 8
Dayton, VA 22821

Mr. John C. Anderson
General Manager
Southside Electric Cooperative
Crewe, VA 23930

..... Attachment D

Electric Companies in Virginia

Mr. Joseph H. Vipperman, President
Appalachian Power Company
Post Office Box 2021
Roanoke, VA 24009

Mr. James R. Wittine
General Manager Regulatory Practice
Delmarva Power & Light Company
800 King Street
Post Office Box 231
Wilmington, Delaware 19899

Mr. Harold E. Armsey, Manager
Old Dominion Power Company
Post Office Drawer 658
Norton, VA 24273

Mr. Elmer B. Kaelin, President
The Potomac Edison Company
Downsville Pike
Hagerstown, Maryland 21740

Dr. James T. Rhodes, President
Virginia Power Company
Box 26666
Richmond, VA 23261

..... Attachment E

Gas Companies in Virginia

Commonwealth Gas Services, Inc.
Mr. Thomas E. Harris, President
800 Moorefield Park Drive
P.O. Box 35800
Richmond, Virginia 23218

Commonwealth Gas Pipeline Corp.
Mr. John W. Stancik, President
800 Moorefield Park Drive
P.O. Box 35800
Richmond, Virginia 23218

Commonwealth Public Service Corp.
Mr. Carlton Smith, Vice President &
General Manager
P.O. Box 589
Bluefield, West Virginia 24701

Roanoke Gas Company
Mr. Edward C. Dunbar, President
P.O. Box 13007
Roanoke, Virginia 24011

Shenandoah Gas Company
Mr. Kenneth G. Behrens,
General Manager
P.O. Box 2400
Winchester, Virginia 22601

Southwestern Virginia Gas Company
Mr. Allan McClain, President
P.O. Drawer 5391
Martinsville, Virginia 24115
United Cities Gas Company
Mr. Gene Koonce, President &
General Manager
5300 Maryland Way
Brentwood, Tennessee 37027
or
Mr. A. E. (Bill) Johnson
Senior Vice President
P.O. Box 60
Johnson City, Tennessee 37605

Virginia Natural Gas
Mr. W. F. Fritsche, Jr.
President & CEO
5100 East Virginia Beach Blvd.
Norfolk, Virginia 23502

Washington Gas Light Company
Northern Virginia Natural Gas
Shenandoah Gas Company
Mr. Patrick J. Maher, President
1100 H. Street, N.W.

Washington, D. C. 20005
or
Ms. Patricia M. Woolsey
Vice President
Northern Virginia Natural Gas
6801 Industrial Road
Springfield, Virginia 22151

..... Attachment F

Water and Sewer Companies in Virginia

Alpha Water
Sydnor Hydrodynamics, Inc.
c/o Charles S. Verdery
Vice President
Alpha Water
2111 Magnolia Street
Richmond, Virginia 23261

Aqua Systems, Inc.
c/o R. L. Magette
Box 423
Smithfield, Virginia 23430

Aquarius Water Systems, Inc.
c/o Don Liscomb
Route 3
Luray, Virginia 22835

Aubon Water Company
c/o G. Ray Boone, President
215 N. Main Street
Rocky Mount, Virginia 24151

Battery Park Artesian Water Company
c/o Hazel K. Spady
P.O. Box 57
Battery Park, Virginia 23304

Beechwood Water Company, Inc.
c/o Clyde Prillaman
223 Plantation Drive
Collinsville, Virginia 24078

Big Caney Water Corporation
c/o Mr. Mike Lawrence
P.O. Box 7
McClure, Virginia 24269

Bluefield Valley Water Works Company
c/o H. Allen Baumgarner
Box 593
Charleston, West Virginia 25322

Blue Ridge Utility Company
c/o William Ortts
Route 3, Box 455
Edinburg, Virginia 22824

Blue Ridge Water Agency, Inc.
c/o Mr. Harry Hobson
P.O. Box 87
Route 616
Blue Ridge, Virginia 24064

Caroline Utilities, Inc.
c/o Charles S. Verdery
Sydnor Hydrodynamics, Inc.
Box 27186
Richmond, Virginia 23261

Charles M. Blythe Water Company, Inc.
c/o Ms. Hilda B. Blythe
Route 2, Box 82
Franklin, Virginia 23851

Crawford Water Company
c/o J. Philip Knopp, President
22 Terry Court
Staunton, Virginia 24401

Dale Service Corporation
c/o Norris Sission
13901 Jefferson Davis Highway
Woodbridge, Virginia 22191

Daleville Water Company
c/o Willis Hopkins, President
P.O. Box 307
Daleville, Virginia 24083

Eagle Rock Water Company
c/o Mr. Hunter
P.O. Box 182
Eagle Rock, Virginia 24085

Echo Village Sewer Company
c/o T. G. Adams
Route 3, Box 247
Winchester, Virginia 22601

Glen Wilton Water Corporation
c/o C. M. Reynolds, III
Post Office Box 57
Glen Wilton, Virginia 24438

Harbour East Sewerage Company
c/o Paul A. Pederson
P.O. Box 640
Chester, Virginia 23831

Highland Lake Water Works, Inc.
c/o Mr. Bryon Lambert
Cecilia R. Aron: Contact Person
Drawer 9
Union Hall, Virginia 24176

Hoges Chapel Water Service Corporation
c/o Mrs. P. N. Medley
Route 1, Box 39
Pembroke, Virginia 24136

Idlewood Water Company
c/o Mr. Wayne Yeatts
Route 4, Box 80A
Moneta, Virginia 24121

Indian River Water Company
c/o Marvin Simon or
C. G. Harris, Vice President
3400 Building, 397 Little Neck Road
Virginia Beach, Virginia 23452

James River Service Corporation
c/o Mr. Charles S. Verdery
P.O. Box 27186
Richmond, Virginia 23261

Kilby Shores Water Company
c/o R. L. Magette, President
P.O. Box 432
Smithfield, Virginia 23434

Lake Holiday Estates Utility Company
c/o Carl H. Simms, President
P.O. Box 89-A
Cross Junction, Virginia 22625

Lake Monticello Service Company
c/o Gary Ellis
397 Jefferson Drive
Palmyra, Virginia 22963

Land 'Or Utility Company, Inc.
c/o Mary Loving (President) or
William Benner (General Manager)
Box 100
Ladysmith, Virginia 22501

Long Hollow Water Development Company
Mr. Clinton Hayes, President
Route 1, Box 506
Buena Vista, Virginia 24416

Lundie Utilities, Inc.
c/o Charles L. Lundie, President
3833-A South Crater Road
Petersburg, Virginia 23805

Manakin Water and Sewerage Corporation
c/o Margaret Will Claud, President
4421 Park Avenue
Richmond, Virginia 23221

Marshall Water Works, Inc.
c/o David L. Ferguson, President
Box 171
Marshall, Virginia 22115

Massanutten Public Service Company
c/o David H. Demaree, Vice President
2335 Sanders Road
'orthbrook, Illinois 60062

Monta Vista Water Company, Inc.
c/o T. C. Clark
Post Office Box 25
Stanleytown, Virginia 24168

Mountainview Water Company, Inc.
Mr. Rich Marmaduke
Mr. Stewart W. Hubbell
701 First Street, S.W.
Roanoke, Virginia 24016

Montvale Water, Inc.
c/o Mr. A. C. Hollins, President
Mrs. Jessie P. Richards
P.O. Box 155
Montvale, Virginia 24122
S. E. Moran Utilities, Inc.
c/o Mr. S. E. Moran, President
Route 2, Box 1019
Ms. Maggie Moran (Contact)
Barrett, Virginia 24055

Occoquan Sewer, Inc.
c/o 2335 Sanders Road
Northbrook, Illinois 60062
Occoquan Water, Inc.
c/o Mr. Patrick J. O'Brien
2335 Sanders Road
Northbrook, Illinois 60062

Peacock Hill Service Company
P.O. Box 11
Ivy, Virginia 22445
or
c/o Blanche Berman
672 Kearsarge Circle
Charlottesville, Virginia 22901

Piedmont Water Company, Inc.
c/o Mr. & Mrs. Curtis Oakes
Route 4, Box 284
Martinsville, Virginia 24112

Pocahontas Water Works, Inc.
c/o F. P. Cerutti
P.O. Box 2109
Charleston, West Virginia 25328

Po River Water and Sewer Company
c/o Mr. Bruce Swatout, President
or John Lillicotch, General Manager
P.O. Box 18197
Irvine, California 92713
or Jessie Heflin (Po River Office)

Powhatan Water Works, Inc.
c/o Mr. Charles S. Verdery
Box 27186
Richmond, Virginia 23261

Presidential Services

c/o Mr. Richard F. Marilley, President
1303 Capulet Court
McLean, Virginia 22102

Public Service Company of Virginia, Inc.
c/o Joseph M. Casero, P.E.
P.O. Box 304
Greenwood, Virginia 22943

Rainbow Forest Water Corporation
c/o O. J. Frink, Jr.
P.O. Box 13006
2788 Colonial Avenue, S.W., Suite 111
Roanoke, Virginia 24030

Read Mountain
c/o James A. Beavers
P.O. Box 20069
Roanoke, Virginia 24018-0503

Reston Lake Anne Air Conditioning Corporation
Douglas A. Cobb
P.O. Box 277
Great Falls, Virginia 22066

Riverlake Water Company
c/o Paul Genovese
804 Morgan Trail
Virginia Beach, Virginia 23464
Rockbridge Rural Water Agency, Inc.
c/o Deborah Hubbard
Route 1, Box 50X
Glasgow, Virginia 24555

Sanville Utilities Corporation
c/o R. N. Anthony, President
P.O. Box 532
Bassett, Virginia 24055

Shawnee-Land Utilities Company
c/o Don Lamborne
Mountain Falls Route, Box 808
Winchester, Virginia 22601

Smith Mountain Water Company
c/o David Wilson, President
Ms. Jean Sauls
Route 3, Box 90
Moneta, Virginia 24121

South Anna Service Corporation
c/o Scott Jones
4910 Evelyn Byrd Road
Richmond, Virginia 23225

Syndor Hydrodynamics, Inc.
Box 27186
Richmond, Virginia 23261

T-L Water Company
c/o Larry Lamb, President
Mary Lamb, Secretary
P.O. Box 217
Standardsville, Virginia 22973

Thomas Bridge Water Corporation
c/o Mr. James W. Irving
or Elizabeth S. Ewald (Office Person)
Route 3, Box 533
Marion, Virginia 24354

Tidewater Water Company of:
1. Isle of Wight
2. James City
3. Southampton
4. Suffolk
c/o R. L. Magette or Mrs. Renolds
Box 423
Smithfield, Virginia 23430

Tinkerview Water Company
c/o Nancy Firestone
P.O. Box 428
Troutville, Virginia 24175

Trail's End Utility Company, Inc.
c/o Thomas W. Young, General Manager
or Dallas Swan (Registered Agent)
TDR Enterprises, Inc.
Accomac, Virginia 23301

Valley Ridge Water Company
c/o D. H. Scott (Registered Agent)
Box 204
Selma, Virginia 24422
or
H. R. Stancil (President)
Valley Ridge
Route 2, Box 288
Covington, Virginia 24426

Virginia American Water Company
(Alexandria & Prince William County)
c/o David Legg, Manager
or Cheryl Snyder, Customer Service
2223 Duke Street
Alexandria, Virginia 22310

Virginia American Water Company
(Hopewell Area)
210 North Second Avenue
Hopewell, Virginia 23860

Virginia Suburban Water Company
c/o Joyce Creel, Business Manager
P.O. Box 897
Warsaw, Virginia 22572

- Bay Quarter Water Company
c/o Joyce Creel, Business Manager
P.O. Box 897
Warsaw, Virginia 22572

- Corrotoman Water Company
c/o Joyce Creel, Business Manager
P.O. Box 897
Warsaw, Virginia 22572

- Sherwood Forest Water Company
c/o Joyce Creel, Business Manager
P.O. Box 897
Warsaw, Virginia 22572

- Stratford Harbour Water Company
c/o Joyce Creel, Business Manager
P.O. Box 897
Warsaw, Virginia 22572

Water Distributors, Inc.
c/o Dewrey E. Holdaway
3342 Clara Road
Roanoke, Virginia 24018

Waterford Waterworks
c/o Jim Buck, President
Harry F. Hambrick, Jr., Esquire (Laywer)
P.O. Box 1706
Roanoke, Virginia 24008

Wilderness Water & Utility Company, Inc.
c/o John P. Verry, President
5201 Leesburg Pike, Suite 1107
Falls Church, Virginia 22041

Williamsburg Court Water Company
c/o B. Willis Hopkins
Route 1, Box 460
Daleville, Virginia 24083

Windsor Water Company, Inc.
c/o Herman Taliaferro
1707 Hepinstall Avenue
Smithfield, Virginia 23430

Woodhaven Water Company
c/o Linda Lindenmuth (Secretary/Treasurer)
P.O. Box 68
Quinton, Virginia 23141

York Public Utilities Corporation
c/o Jay L. Levinson
P.O. Box B-L
Williamsburg, Virginia 23187

PROPOSED REGULATION

MARINE RESOURCES COMMISSION

Title of Regulation: **VR 450-01-0045. Public Participation Guidelines.**

Statutory Authority: §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.
(See Calendar of Events section
for additional information)

Summary:

These guidelines set forth the manner in which the Habitat Management Division of VMRC, consistent with the other agencies within the Natural Resources Secretariat, will ensure that interested parties have the necessary information to participate in the formation and development of guidelines or general permits in conformance with the Virginia Administrative Process Act.

VR 450-01-0045. Public Participation Guidelines.

~~§ 1. Authority.~~

~~Section 28.1-27 and Chapter 2.1 (§ 62.1-13.1 et seq.) of Title 62.1 of the Code of Virginia.~~

~~§ 2. Purpose.~~

~~These guidelines establish the manner in which the Habitat Management Division will solicit public input prior to and during the guideline or general permit development process, from formation and promulgation, to final adoption.~~

~~§ 3. Proposed guideline/general permit.~~

~~All proposals prior to formation and drafting will be submitted to the commission for authorization to proceed with the public review process.~~

~~§ 4. Procedures.~~

~~A. Mailing list.~~

~~1. The division will develop a list of parties interested in the development of guidelines and general permits.~~

~~2. A list of appropriate newspapers and other relevant media will be maintained.~~

~~B. Advisory committee.~~

~~The Habitat Management Advisory Committee established in response to Senate Joint Resolution No. 133, 1987 Session, will be consulted in the development of new or revised guidelines or general permits.~~

~~§ 6. Notice of intended regulatory action.~~

~~1. Whenever the division intends to promulgate a general permit or guidelines or make substantial change to existing guidelines, a notice of intended regulatory action will be:~~

~~a. Published in the Virginia Register of Regulations~~

~~and~~

~~b. Mailed to all parties on the mailing list.~~

~~2. The notice of intended regulatory action will include:~~

~~a. The type of regulatory action being considered,~~

~~b. The title of the document,~~

~~c. The purpose of the proposed document,~~

~~d. The last date for submittal of written comments and the person to receive comments,~~

~~e. The statutory authority for the proposed action,~~

~~f. Other pertinent information, and~~

~~g. A contact person for additional information.~~

~~D. Public meetings in the formulation stage.~~

~~1. The division may schedule public meetings to receive public views and comments and answer questions on contemplated actions.~~

~~2. Reasonable notice of any public meetings will be:~~

~~a. Published in the Virginia Register of Regulations,~~

~~b. Mailed to all parties on the mailing list, and~~

~~c. Advertised in appropriate newspapers.~~

~~3. The division may consolidate notice of any public meetings scheduled with the notice of intended regulatory action.~~

~~E. Proposals that emerge from the public formulation process described above will be placed on an appropriate commission agenda for authorization to proceed through the complete regulatory promulgation process as outlined in the Administrative Process Act.~~

§ 1. Authority.

Sections 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia.

§ 2. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources or his designee.

"Division" means the Habitat Management Division of the Commission.

"Person" means an individual, corportaion, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

Unless specifically defined in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 3. General.

A. The procedures in § 4 of this regulation shall be used by the division for soliciting the input of interested persons in the initial formation and development, revision, or repeal of guidelines or general permits in accordance with the Administrative Process Act. This regulation does not apply to regulations exempt from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the commission, the procedures in § 4 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

§ 4. Public participation procedures.

A. The division shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment, or repeal of guidelines or general permits.

B. Whenever the commission so directs or upon its own initiative, the division may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The commissioner may appoint an ad hoc advisory group to assist the division in the drafting and formation of proposals. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The commission shall issue a notice of intended regulatory action (NOIRA) whenever the division considers the adoption, amendment or repeal of any general permit or guideline.

1. The NOIRA shall include at least the following:

a. A brief statement as to the need for regulatory action,

b. A brief description of alternatives available, if any, to meet the need,

c. A request for comments on the intended regulatory action, to include any ideas to assist the division in the drafting and formation of any proposed regulation developed pursuant to the NOIRA,

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The division shall hold at least one public meeting when considering the adoption of new guidelines or general permits. In the case of a proposal to amend or repeal existing guidelines or general permits, the commissioner, in his sole discretion, may dispense with the public meeting.

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRA's under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The division shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the division may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group had been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the commission.

G. Upon approval of the draft proposed guideline or general permit by the commission, the division may, at its discretion, publish the NOPC and the proposal for public comment.

H. The NPOC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained, and name, address and telephone number of the individual to contact for further information about the proposed guideline or general permit.

2. A description of provisions of the proposed guideline or general permit.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. Statement of purpose. Why the guideline or general permit is proposed and the desired end result or objective of the guideline or general permit.

b. Estimated impact.

(1) Number and types of regulated entities or persons.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the guideline or general permit. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed guideline or general permit on a typical member(s) of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the guideline or general permit is designed to produce.

c. An explanation of need for the proposed guideline or general permit and potential consequences that may result in the absence of the guideline or general permit.

d. An estimate of the impact of the proposed guideline or general permit upon small businesses, as defined in § 9-199 of the Code of Virginia, or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed guideline or general permit addresses, and a statement why the agency believes that the proposed guideline or general permit is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the guideline or general permit, the agency will evaluate it for effectiveness and continued need.

5. The time, date and location of at least one public hearing held in conformance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed guideline or general permit. The hearing(s) may be held at any time during the public comment period. In those cases in which the commission elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia. The hearing(s) may be held in such location(s) as the commission determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register of Regulations.

J. The division shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the State Capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The division shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the commission. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

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FINAL REGULATION

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations

However, the Commission is required to publish the full text of final regulations.

Title of Regulation: **VR 450-01-0077. Pertaining to the Taking of Hard Clams.**

Statutory Authority: §§ 28.1-23 and 28.1-180 of the Code of Virginia.

Effective Date: June 15, 1992.

Preamble:

This regulation establishes the procedure for obtaining authorization to patent tong hard clams in nonrestricted (clean) areas by clammers who possess special permits to harvest clams in restricted (polluted) areas. It restricts permitted clammers to work only polluted bottom, or notify VMRC Operations and work only clean bottom. This regulation further establishes a maximum size limit for clams in restricted areas.

VR 450-01-0077. Pertaining to the Taking of Hard Clams.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant ot the authority contained in §§ 28.1-23 and 28.1-180 of the Code of Virginia.

B. Section 28.1-179 of the Code of Virginia specifies that it shall be unlawful for any person, firm, or corporation to take, catch, transport, sell, offer for sale, remove, receive, keep or store shellfish from condemned areas, or relay shellfish taken from such areas, until the Commission has issued a special permit which the permittee must carry when engaged in such operation.

C. The effective date of this regulation is June 15, 1992.

D. This regulation replaces Emergency Regulation VR 450-01-0077 which was promulgated and made effective May 1, 1992.

§ 2. Purpose.

The purpose of this regulation is to prohibit clammers who possess permits to harvest relay clams from working in clean waters, without first obtaining authorization from VMRC Law Enforcement. The possibility of mixing relay clams with clean clams will therefore be eliminated. In addition, a maximum size limit is established for the conservation of brood stock.

§ 3. Special permit restrictions.

A. During the relay season, it shall be unlawful for any person possessing a permit for relay clam harvest as required by § 28.1-179 of the Code of Virginia, to harvest clams from clean waters without first obtaining authorization from the VMRC Law Enforcement Operations Office.

B. Any clammer who has been issued a permit for relay clams, shall notify VMRC Operations before their boat leaves the dock, either by marine radio (channel 17) or by telephone (1-800-541-4646 or 247-2265/2266), of their intent to patent tong clams in a nonrestricted area on that day. Each permitted clammer shall provide Operations with their name, relay permit number, boat name, present location (for possible verification), departure time, destination and buyer to whom the clams will be sold.

C. Each permitted clammer shall also notify VMRC Operations at the time their boat returns to the dock as well as their catch count.

§ 4. Chowder clam defined, allowance for chowder clams.

A. "Chowder clam" means any hard clam that can not pass through a 2-7/8 inch diameter culling ring.

B. It shall be unlawful to possess any amount of hard clams taken from restricted areas which consists of more than 10% chowder clams by number. The 10% allowance shall be measured form each container or pile of clams. If the 10% allowance for chowder clams is exceeded, then the clammer shall only be required to return all chowder clams from the inspected harvest to restricted area waters.

C. Refusal of the harvester to return the clams to the water as ordered by a Marine Patrol Officer shall constitute a violation of this regulation.

§ 5. Penalty.

As set forth in § 28.2-23 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor, except as described in § 4 B.

/s/ William A. Pruitt
Commissioner

EXECUTIVE ORDER NUMBER FORTY-SIX (92) (REVISED)

GOVERNOR'S COMMISSION ON CAMPAIGN FINANCE REFORM, GOVERNMENT ACCOUNTABILITY, AND ETHICS

Whereas, it is a sound practice to provide periodic review of the process used to elect our public officials as well as the laws and rules defining and governing their conduct, and

Whereas, this review should not be restricted to actions carried out solely in the conduct of their official capacity but should also include a review of the conduct of their business or professional practice, if those areas are impacted by their official duties, and

Whereas, such periodic review of these processes, laws and rules will serve to demonstrate to the citizens of the Commonwealth that their government is always prepared to make positive changes that will enhance the Commonwealth's reputation for integrity; and

Whereas, such a review, if done now, can lead to any necessary improvements in time for the 1993 elections,

Now, therefore, by virtue of the authority vested in me as the Governor under Article V of the Constitution of Virginia and Chapter 5.8, Title 2.1 of the Code of Virginia, and subject always to my continuing ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Campaign Finance Reform, Government Accountability, and Ethics.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The general responsibility of the Commission shall be to determine whether reforms are needed in the Constitution, statutes, or regulations of this Commonwealth, or any other official action of any branch of the government of Virginia that addresses the areas of the conduct and financing of political campaigns. It shall also be the Commission's responsibility to review the accountability of public officials, both in terms of how they exercise their official duties and how their official obligations might affect the way they exercise their responsibilities in certain aspects of their private sector involvement.

The Commission shall also determine whether there is a need to expand the types of activities which may not be adequately covered at the present time.

Such funding as is necessary for the fulfillment of the Commission's business during the term of its existence will be provided by the Office of the Governor. Total expenditures to support the Commission's work are estimated to be $25,000.

Such staff support as is necessary for the conduct of the Commission's business during the term of its existence will be provided by the Governor's Policy Office and such other executive branch agencies as the Governor may from time to time designate. An estimated 5,000 hours of staff support will be required to assist the Commission.

The Commission shall be comprised of no more than 15 members, appointed by the Governor and shall serve at his will. The chairman and vice-chairman, likewise, shall be appointed by the Governor and shall serve at his will.

Members of the Commission shall serve without compensation, but shall receive actual expenses incurred in the discharge of their official duties.

The Commission shall hold such public hearings as are necessary to assure the general public has an opportunity to provide its suggestions and recommendations on the subjects under review.

The Commission shall complete its examination, research and study and report its recommendations to the Governor no later than December 1, 1992.

This executive order will become effective upon its signing and will remain in full force and effect until May 4, 1993, unless amended or rescinded by further executive order.

This Executive Order rescinds Executive Order Forty-Six (92) issued the 5th day of May, nineteen hundred and ninety-two.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 2nd day of June, 1992.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER FORTY-EIGHT (92)

CREATING GOVERNOR'S COMMISSION ON VIOLENT CRIME

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and, including, but not limited to, Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Violent Crime.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the specific duty of advising the Governor on: how the Commonwealth could further address and reduce the escalating frequency and impact o

violent crime, particularly crimes of murder, aggravated assault, rape and other serious sex offenses; the causes of and offenders responsible for violent crime; the role of firearms and firearms trafficking in violent crime; and violent crime committed by juveniles. The Commission shall pay particular attention to violent crime, its causes and impacts for large urban areas and the potential for violent crime to develop into mass violence. The Commission shall also explore opportunities for cooperation among jurisdictions and between the public and the private sectors.

In making its recommendations, the Commission shall consider the following strategies, among others, for the reduction of violent crime and the fear of crime in Virginia: (1) to prevent crime from occurring in the first place; (2) to solve crime when it occurs and to strengthen the criminal justice system through new laws, procedures, resources and techniques which will expedite verdicts, provide meaningful sanctions and protect the rights of all persons; and (3) to reduce criminal recidivism by equipping offenders with skills and perspectives to return to society as productive citizens. The Commission shall make legislative and budget recommendations for the Governor's consideration for the 1993 and 1994 sessions of the General Assembly, having due regard for Virginia's financial projections.

The Secretary of Public Safety shall serve as Chair of the Commission and the Governor's Special Assistant for Drug Policy will serve as Co-Chair. Members of the Commission shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of no more than 15 members, including state and local representatives of criminal justice agencies and the courts, local officials, corrections officials, a legislative representative, the Office of the Governor, and others. My initial appointments are attached as Appendix I of this executive order.

Such funding as is necessary for the fulfillment of the Commission's responsibilities during the term of its existence shall be provided by federal anti-crime grant funds and by the Secretary of Public Safety. Other support as is necessary for the conduct of the Commission's business during the term of its existence may be provided by such executive branch public safety agencies as the Governor may from time to time designate. Total expenditures for the Commission's work are estimated to be $25,000.

Such staff support as is necessary for the conduct of the Commission's business during the term of its existence will be provided by the Office of the Secretary of Public Safety or provided by such executive branch agencies as the Governor may from time to time designate. An estimated 5,000 hours of staff support will be required to assist the Commission.

Members of the Commission shall be reimbursed only for reasonable and necessary expenses incurred in the performance of their official duties.

The Commission shall complete its examinations of these matters and report to the Governor no later than June, 1993. It may issue interim reports and make recommendations at any time it deems necessary.

This Executive Order shall become effective June 15, 1992, and shall remain in full force and effect until June 14, 1993, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 11th day of June, 1992.

/s/ Lawrence Douglas Wilder
Governor

APPENDIX I
EXECUTIVE ORDER NUMBER FORTY-EIGHT (92)
INITIAL APPOINTMENTS TO THE GOVERNOR'S
COMMISSION ON VIOLENT CRIME

The Honorable Robert B. Ball, Sr.
Member, Virginia House of Delegates

V. Stuart Cook
Sheriff, Hanover County

Lt. Colonel Carl R. Baker
Director, Bureau of Criminal Investigations
Virginia State Police

The Honorable Lindsay G. Dorrier, Jr.
Director, Virginia Department of
Criminal Justice Services

The Honorable Helen F. Fahey
Commonwealth Attorney
Arlington, Virginia

Mr. Jorman D. Granger
Deputy Chief of Staff
Governor's Office

Mr. Clarence L. Jackson, Jr.
Chairman, Virginia Parole Board

Mr. Charles J. Kehoe
Director, Virginia Department of
Youth & Family Services

The Honorable J. Dean Lewis
Juvenile Court Judge
Fredericksburg, Virginia

Pat G. Mennetti
Chief of Police, City of Hampton

Mr. Edward W. Murray

Director, Virginia Department of Corrections

Mr. Robert B. Northern
Special Assistant for Drug Policy
Governor's Office

The Honorable O. Randolph Rollins
Governor's Secretary of Public Safety

The Honorable Richard Cullen
United States Attorney
United States Department of Justice

The Honorable Buford M. Parsons, Jr.
Circuit Court Judge, Henrico County

EXECUTIVE ORDER NUMBER FORTY-NINE (92)

CREATING GOVERNOR'S COMMISSION ON INTERCOLLEGIATE ATHLETICS

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and, including, but not limited to, Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Intercollegiate Athletics.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission will have the specific duty of advising the Governor on ways of improving athletic operations on Virginia's high school, college and university campuses. In the hope of establishing clear guidelines for college and university control of athletics programs, the Commission will address the topics of: financial control with respect to athletic programs, gender equity, and academic performance of athletes at the middle school, high school and collegiate levels.

Members of the Commission shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of no more than 15 members, including administrators in and out of athletic departments, finance officials, coaches and student-athletes, and others. The Secretary of Education, the Chairman of the State Council of Higher Education, and the President of the Board of Education will serve as Ex Officio members. My initial appointments are attached as Appendix I of this executive order. I appoint the President of The College of William and Mary, Timothy J. Sullivan, as Chair of the Commission.

Such funding as is necessary for the fulfillment of the Commission's responsibilities during the term of its existence shall be provided by the Secretary of Education and other executive branch education agencies as needed. Total expenditures for the Commission's work are estimated to be $25,000.

Staff and other support as is necessary for the conduct of the Commission's business during the period of its existence will be provided by the Department of Planning and Budget, the State Council of Higher Education for Virginia, the Secretary of Education and such other executive branch agencies with education related purposes as the Governor may from time to time designate. An estimated 1,040 hours of staff support will be required to assist the Commission.

Members of the Commission shall be reimbursed only for reasonable and necessary expenses incurred in the performance of their official duties.

The Commission shall complete its examination of these issues and report to the Governor no later than November 15, 1992. It may issue interim reports and make recommendations at any time it deems necessary.

This Executive Order shall be effective June 8, 1992, and shall remain in full force and effect until April 15, 1993, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 11th day of June, 1992.

/s/ Lawrence Douglas Wilder
Governor

APPENDIX I
EXECUTIVE ORDER NUMBER FORTY-NINE (92)
INITIAL APPOINTMENTS TO THE
GOVERNOR'S COMMISSION ON INTERCOLLEGIATE ATHLETICS

Timothy J. Sullivan, President-Elect, College of William and Mary (Chair)

Zoe Anastas, Student-Athlete, James Madison University

Calvin Hill, Vice President, Baltimore Orioles

Steve Horton, Assistant Athletic Director, Virginia Polytechnic Institute and State University

Terry Kirby, Student-Athlete, University of Virginia

James Koch, President, Old Dominion University

George Lancaster, Basketball Coach, Highland Springs High School, Henrico County

Elizabeth D. Morie, Superintendent, City of Lexington Public Schools

Bob Patterson, Principal of William Byrd High School

in Vinton and President of the Virginia High School League

Deborah A. Ryan, Women's Basketball Coach, University of Virginia

Leonard W. Sandridge, Executive Vice President, University of Virginia

Maurice W. Scherrens, Executive Vice President for Finance and Planning, George Mason University

Eugene Trani, President, Virginia Commonwealth University

Belle Wheelan, President, Central Virginia Community College

Harrison Wilson, President, Norfolk State University

James P. Jones, President of the State Board of Education; Robert L. Burrus, Jr., Chairman of the State Council of Higher Education; and Secretary James W. Dyke, Jr., will serve as ex-officio members of the Commission.

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: **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.**

Governor's Comment:

I concur with the adoption of these regulations. I recommend that SEAA reevaluate these regulations soon after the issuance of federal regulatory changes and the reauthorization of the High Education Act.

/s/ Lawrence Douglas Wilder
Governor
Date: July 2, 1992

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **VR 460-02-3.1400. Methods of Providing Transportation.**

Governor's Comment:

I approve of the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: June 18, 1992

BOARD OF MEDICINE

Title of Regulation: **VR 465-04-01. Regulations Governing the Practice of Respiratory Therapy Practitioners.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: June 17, 1992

BOARDS OF MEDICINE AND NURSING

Title of Regulation: **VR 465-12-1 and 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.**

Governor's Comment:

I approve of the form and the content of this regulation.

/s/ Lawrence Douglas Wilder
Governor
Date: June 18, 1992

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

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

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments and the Department addressing concerns raised by the Office of the Attorney General.

/s/ Lawrence Douglas Wilder
Governor
Date: June 19, 1992

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: **VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.**

Governor's Comment:

I concur with the form and content of this proposal. My

final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: June 10, 1992

The Legislative RECORD

vol. II / no. 1 Published in the Commonwealth of Virginia june 1992

THIS ISSUE . . .

1 *Joint Commission on Health Care*

3 *The Governor's Leadership Summit on Health Care*

5 *HJR 74: Commission to Stimulate Personal Initiative to Overcome Poverty*

7 *Commission on Early Childhood and Child Day Care Programs*

9 *HJR 177: Joint Subcommittee Studying School Drop Out and Self-Esteem*

Joint Commission on Health Care

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May 27, 1992, Richmond

The initial meeting of the Joint Commission on Health Care, established pursuant to SB 501 and HB 1032 of the 1992 Session, included the election of Senator Stanley C. Walker and Delegate Ford C. Quillen as chairman and vice chairman, respectively; a review of the 1992 legislation of the Health Care Commission; and briefings on state expenditures on health care, the health insurance status of Virginians, and the Commonwealth's grant proposal to the Robert Wood Johnson Foundation.

The joint commission continues the work of the Commission on Health Care for All Virginians under a reconstitution as a legislative agency with legislator membership.

Virginia's Health Care Expenditures

In 1991, approximately $12 billion was spent on health care in the Commonwealth. Of that amount, an estimated $1 billion originated from the Virginia general fund for annual health care related expenditures:

- Medicaid: $626.9 million (equally matched by the federal government)
- State Employee Program: $114.5 million
- Community Health Services: $101.1 million
- Medical Schools' Indigent Care Appropriations: $95.9 million
- State/Local Hospitalization Program: $10.9 million
- Indigent Health Care Trust Fund: $8.4 million

This issue marks the beginning of the second year of publication of the *Legislative Record.*

Designed to supplant traditional minutes of legislative commission and joint subcommittee proceedings, to provide wider and more timely dissemination of information, and to reduce costs and paperwork, the *Legislative Record* supplies concise summaries of legislative studies to all Virginia legislators.

The *Legislative Record* was originated in the spring of 1991 as a pilot project, pursuant to a directive of the Joint Rules Committee. A survey of members of the General Assembly, conducted in the fall of 1991, revealed overwhelming support for both the concept and execution of the newsletter.

The comments and suggestions of members of the General Assembly are always welcome and appreciated.

E. M. Miller, Jr., Director

DIVISION OF LEGISLATIVE SERVICES

Jane N. Kusiak, deputy staff director of the House Appropriations Committee, stated that despite these expenditures, data gathered in a poll conducted by the Survey Research Laboratory at Virginia Commonwealth University revealed that approximately 1 million Virginians are uninsured and have no health coverage from any source, public or private. Additionally, an estimated 500,000 are underinsured.

Health Insurance Status of Virginia's Population

As background information on the purpose of 1992 commission-sponsored legislation, Ms. Kusiak briefed the joint commission on the current health insurance status of Virginia's population:

- 6.7% of Virginians have Medicare coverage
- 8.6% of Virginians have CHAMPUS/ CHAMP VA coverage
- 36.7% of Virginians have self-funded benefit plans
- 5.6% of Virginians have Medicaid coverage
- 27.1% of Virginians have commercial insurance coverage
- 15.3% of Virginians are uninsured

Recently adopted legislation addresses population-specific problems of health care access and cost.

Among the 1992 actions increasing service access for Virginia's uninsured population are expansions of Medicaid eligibility, the Governor's Child Health Initiative, which will finance care for 35,000 additional children, and a budget amendment to reform Medicaid through a public-private partnership of the joint commission, the money committees, the secretary of health and human resources and service providers. This plan is to yield a minimum of $5 million in the first year and $12 million in the second year in general fund savings through implementation of multiple initiatives, such as a statewide managed care plan for Aid to Families with Dependent Children families and related recipients.

Small business market insurance reforms enacted to enhance the accessibility and affordability of health insurance for those Virginia employers with 50 or fewer employees include provisions for limitations on preexisting conditions, guaranteed renewable coverage, and no exclusion within a group. Additionally, the Bureau of Insurance will establish operational plans for a small employer reinsurance pool for Virginia, effective July 1, 1993.

Key legislation to enlarge health manpower includes the Commonwealth's medical schools' emphasizing the education of primary care physicians and allocating more resources to these physicians' education and establishment of annual primary care medical scholarships for students from Southwest Virginia who commit to practicing in a medically underserved area of the Southwest and who attend the School of Medicine of East Tennessee State University. Currently, primary health care medical scholarships are provided to students at the Medical College of Virginia, the University of Virginia's School of Medicine, and the Medical College of Hampton Roads.

To enhance the quality of health services within the Commonwealth, the State Board of Health will establish standards for designations of levels of care in neonatal services. Further, the Virginia Medical Facilities Certificate of Public Need program was also expanded and strengthened.

Health care cost-containment strategies are addressed through revision of the Virginia Health Services Cost Review Council's focus from rate review to determination of the efficiency and effectiveness of health care providers. A patient-level data base is to be established by the secretary of health and human resources. The secretary is also to study physician ownership and financial interest in certain health care facilities and patient referral patterns to these facilities.

Robert Wood Johnson Foundation Grant Application

Governor L. Douglas Wilder and the Joint Commission on Health Care have submitted a proposal to the Robert Wood Johnson Foundation for "A Virginia State Initiative for Universal Health Insurance Coverage." This proposal, whose purpose is to provide an essential health services plan to all Virginians, supports a four-year effort of the Health Care Commission to develop broad-based reform strategies for the financing, delivery, and provision of health care in the Commonwealth.

The Commonwealth requested approximately $1 million for project support in its grant application. Under the Virginia proposal, Phase I activities to be implemented include universal catastrophic coverage and income tax credits; provision of affordable health insurance for all Virginians; and initiatives to strengthen the direct delivery system. The joint commission was advised of the site visit of foundation representatives to be held June 1 for greater discussion and review of the Virginia proposal.

Thirty-seven states submitted grant applications; those states being awarded foundation grants will be notified in early August.

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The Honorable Stanley C. Walker, *Chairman*

Legislative Services contact: Lillian W. Raible

The Governor's Leadership Summit on Health Care

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June 7-9, 1992, Chantilly

The Governor's Leadership Summit on Health Care, jointly sponsored with the Joint Commission on Health Care, gathered legislators, health care providers, insurers, and business and consumer representatives to focus on means to improve health care access, cost containment, and financing.

Following Secretary of Health and Human Resources Howard M. Cullum's comments on the summit's premise and goals and joint commission chairman Senator Stanley C. Walker's welcome, a videotape, produced by the joint commission, opened the summit. The video, reiterating the summit's theme, "Health Care Reform: What is Virginia's Role?" offered an overview of the nation's and the Commonwealth's present health care delivery system; outlined the strengths, limitations, and possible initiatives to effect reform; and served as a catalyst for discussion. That discussion typified the interactions of the approximately 100 participants with various invited national and state health experts throughout the three-day meeting.

Kathryn M. Langwell, deputy assistant director for health, Congressional Budget Office, provided an overview and analysis of health care cost trends and the success of various cost containment options. A reactor panel comprised of Secretary Cullum and insurance, provider, and business representatives offered information on cost containment strategies currently utilized or under consideration by their respective organizations.

Within his address to the summit, Governor L. Douglas Wilder announced his appointment of former Delegate J. Samuel Glasscock as convener and moderator of the essential health services panel. The 12-member panel of medical experts and citizens, established pursuant to commission-sponsored SB 506 of the 1992 Session, will identify health services that should be available to all Virginians, regardless of circumstances.

The essential health services program and a standard health services program could be used as initial steps toward design of a Virginia universal access program. The programs are to be developed by the panel using cost/benefit analyses, reviewed by the health and insurance industry through the work of the Advisory Commission on Mandated Insurance Benefits, and submitted, after extensive public comment, to the joint commission, the Governor, and the 1993 General Assembly. Directives include the panel's immediate convening and its expiration on January 31, 1993.

Governor Wilder also announced his appointment of Mark Warner to spearhead the development of the Virginia Health Care Foundation, established pursuant to commission-sponsored SJR 117 of the 1992 Session. The Governor stated that the foundation, a public/private partnership, will support local community primary care and health education initiatives and "will seek to develop broad, statewide private sector and community support to supplement state actions to bring primary care to the many underserved areas of the state." The Commonwealth currently has 69 identified medically underserved areas, and as determined by the State Department of Health under the directives of SJR 179 of the 1991 Session, approximately 300 physicians are needed in underserved areas in the state.

State Initiatives

State initiatives to improve access to health care were presented by Senate Majority Leader Bill Bradbury of Oregon; Gary J. Clarke, assistant secretary for Medicaid, Florida Department of Health and Rehabilitative Services; Representative Lee Greenfield of Minnesota; and Jane N. Kusiak, deputy director of Virginia House Appropriations Committee. In describing their respective states' innovations, all presenters agreed that, lacking federal initiation of health care reform, states aptly serve as demonstration models and are appropriate laboratories for experimentation.

Oregon, the first state to guarantee basic health care to all those living in poverty, has, through an extensive, statewide process, determined a list of priority treatments for which the state will pay. The Oregon plan elects to provide essential services and access to health care for all poor people rather than pay for many expensive high technology procedures.

Minnesota's Health-Right Bill, another comprehensive statewide initiative, lays "a new foundation for the delivery and financing of health care." Representative Greenfield, one of the "Gang of Seven" responsible for the legislation, delineated the components of the bill and described its multiple financing strategies, including a 2% gross revenue tax—money received for inpatient or outpatient services, not charges or billings—on hospitals effective January 1, 1993. Revenues from Medicare, Medicaid, GAMC, the Children's Health Plan and Health-Right are excluded. Hospitals are specifically allowed to pass the tax on to payers for one year (until this provision sunsets). Small rural hospitals are, however, allowed to get the value of their tax back in grants if the tax would

force them to close. Effective January 1, 1994, a 2% gross revenue tax on licensed health care providers will be imposed with the same exclusions cited previously.

Generated by concerns for Florida's 2.5 million uninsured, the Florida Health Plan ensures access to basic health care for all Floridians by December 31, 1994, and emphasizes managed care in public and private plans, assuring every Floridian of a family physician. To effect that action, several and various public initiatives, private sector initiatives, and market and structural reforms will be implemented.

Like all states, Virginia currently plays multiple roles in the provision of health care—insurance regulator, direct provider, financier, developer/trainer of health care professionals, and catalyst for community-based reform. Following a review of past Commonwealth initiatives to enlarge access and those recently enacted by the 1992 General Assembly, Ms. Kusiak described the process necessary to establish an essential benefit package for all Virginians. The challenges to implement the package include development of a consensus on which services should be included, exploration of the most cost-effective provision of the essential benefits, resolution of the program's impact on mandated benefits, and balancing the interests of the provider community with individual needs. The program holds the potential for serving as a foundation for universal access.

Louis F. Rossiter, co-director of the Office of Health Policy and Research of the Medical College of Virginia at Virginia Commonwealth University, discussed options for financing expanded access to health care within the Commonwealth. Dr. Rossiter's review included "play or pay," tax credits linked to the essential benefit package, provider taxes, and "sin taxes" (i.e., excise taxes on cigarettes, tobacco, or alcohol to fund health care access).

In closing the summit, Senator Walker stated that systemic changes in reforming Virginia's health care delivery system were possible, that he was optimistic they would occur, but that they would require a "collaboration and cooperation" from all the components involved in the provision and delivery of health services in the state, adding "no meaningful steps can be taken without a consensus."

Reminding participants of the radical changes effected in Virginia's educational system during the late 1960s, Senator Walker cited the groundswell of support across Virginia that initiated those changes and observed a similar groundswell for demands for health care reform had begun in the Commonwealth.

Characterizing the summit as productive and highly interactive, the joint commission chairman urged "all players to come to the table as we have done in this summit" and to continue the open dialogue, recognizing that solving the access problem in 1992 in Virginia means doing more with less.

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Legislative Services contact: Lillian W. Raible

Coal and Energy Commission Works to Save $110 million Grant

The Coal and Energy Commission voted on June 17 to establish a special subcommittee whose purpose would be to help a Virginia-based independent power producer save a $110 million federal grant. According to representatives from Coastal Power Production Company, federal grant moneys awarded Coastal by the U.S. Department of Energy (DOE) for construction of an electrical generating facility in the Southwest Virginia coalfields are in jeopardy. James Van Lanen, Coastal's CEO, told the commission that Coastal's 1991 award hinges on utility commitments to purchase the power produced by the proposed mine-mouth facility. The facility would use advanced coal gasification technologies under study by the Energy Department.

Van Lanen said that the grant requires proof of a power-purchase agreement by September 1992; to date, no utility has signed such an agreement with Coastal. The nine-member subcommittee, led by Commission Chairman A. Victor Thomas, intends to meet with Coastal representatives and representatives of prospective utility purchasers, including Virginia Power. Several commission members urged the special subcommittee to meet as quickly as possible to avert loss of the federal funds.

The commission also received testimony at the June 17 meeting about pending federal energy legislation's likely impact on Virginia; achievements under Governor Wilder's state energy plan; and the State Corporation Commission's recent conservation and load management order. A full report on this important commission meeting will be featured in the July issue of this publication.

HJR 74: Commission to Stimulate Personal Initiative to Overcome Poverty

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June 3, 1992, Richmond

Citing the need to "develop a plan, by January 1, 1998, to eliminate poverty through commitments to macro-economic policies promoting full employment, to state programs whose goals are the migration of individuals out of poverty, and to multi-faceted efforts to stimulate personal responsibility and initiatives to escape poverty," the Commission to Stimulate Personal Initiative to Overcome Poverty convened on June 3. The commission, composed of state officials from multiple branches of government and representatives of business and antipoverty groups, elected Lieutenant Governor Donald S. Beyer, Jr., as Chairman and Delegate C. Richard Cranwell as Vice Chairman.

The genesis of this study is the escalating and endemic poverty of Virginians who suffer from low educational attainment, lack of marketable job skills, and long-term unemployment. For the welfare population, dependence upon social programs is cyclical and increases with downturns in the economy. Nationally, one child in four is born into poverty, and by the year 2000, the number will rise to one in three. Fifty percent of all single-parent families live in poverty. Social programs are hard hit during times of recession, when demand for mental health and intervention services escalates. Although actual welfare dollars have increased over the past five years, the dollar has decreased in value, thereby limiting the buying power of the client.

Blueprint for Progress

To accomplish its goals, the commission agreed with Chairman Beyer that a global approach to eliminating poverty is the most viable method. While improving the current social services system would be considered a part of its purpose, the commission recognizes that neither its efforts nor improvements in the social services system alone can eliminate poverty. The elimination of poverty requires the development of a blueprint for progress, the goal of the commission.

Current Programs

Against this general background, Secretary of Health and Human Resources Howard M. Cullum provided the commission information about current poverty programs.

■ The number of **Aid to Families with Dependent Children (AFDC)** recipients in Virginia grew by 17.9% in just 14 months and will continue to rise until the economy improves. Virginia ranks 30th in the nation for maximum levels of payment, and a child receives less under AFDC than he would from either Supplemental Security Income (SSI) or foster care.

■ **Food stamps** provide coupons that allow a client to purchase an adequate diet. Most public assistance recipients, depending upon their needs, receive payments from more than one program. For instance, 90% of AFDC recipients receive food stamps. In October 1991, the federal government released figures indicating that 10% of Americans depend on food stamps, compared with two percent in 1970. Although food stamps are funded with 100% federal money, states and localities must pay 50% of the administrative costs. As with other public assistance recipients, the educational and employment levels of food stamp recipients are rising, and more middle to upper class individuals are now requesting assistance.

■ **Medicaid** provides health care to the poor and is an entitlement program (i.e., it must provide services to eligible persons). For the 1993 fiscal year, $1.6 billion has been appropriated to reimburse hospitals and professionals for services. Between 1985 and 1992, Medicaid costs grew by 193% — three times faster than any other state program — and consumed approximately 13% of the entire state budget. While AFDC and similar clients made up 72% of the Medicaid population, they accounted for only 29% of the expenditures. The aged and disabled population, as a result primarily of nursing home costs, accounted for 71% of the expenditures. Even though Medicaid consumes a large percentage of state funds, Virginia's per capita payments rank only 41st nationally.

■ To address the issue of adequate housing, the 1988 General Assembly formed the **Virginia Housing Partnership Fund**, which has provided over $100 million in loans and grants for such programs as emergency home repair, emergency shelters, and the prevention of homelessness. In 1990, the General Assembly also passed a check-off on the state income tax return for contributions to meet the housing needs of disabled, elderly, or homeless individuals in the Commonwealth.

■ Established by the General Assembly in 1982, the **Virginia Enterprise Zone Program** assists business development and expansion in

targeted areas designated as economically depressed. Incentives offered by the state to these zones last for 20 years and include options such as local tax relief and regulatory flexibility as well as assistance with infrastructure development. There are currently 18 designated zones across the state administered through the Virginia Department of Housing and Community Development.

■ Recognizing the strong link between student poverty and academic achievement, the **Governor's Commission on Educational Opportunity** has proposed cost-effective programs, such as preschool, at-risk and early intervention, community involvement, school meals, and alternatives to traditional grade retention. Specific programs to address jurisdictional needs must be considered as well. For example, 15,000 students in Virginia do not speak English as their native language, and many of them live in poverty. The need for these programs becomes more compelling when one considers that the United States was the most literate nation in the world in 1969; it ranked 49th in 1989.

■ Virginia's **Community Service Block Grant Program** funds local Community Action Agencies to help low-income individuals improve their quality of life and become self-sufficient. Programs are designed by local jurisdictions to meet individual needs, and services include community and economic development, education, assistance to the elderly, employment assistance, and health and nutrition projects. These programs depend heavily upon contributions and donations from the community.

■ **General Relief**, a state program offered in localities depending upon the availability of funds, helps individuals who may not qualify for federal assistance. Most clients are unattached children, the temporarily unemployed, or the mentally or physically disabled who remain chronically unemployable.

■ The Governor's Employment and Training Department administers the **Job Training and Partnership Act**, which establishes programs to prepare youths and unskilled adults for work. One program, Opportunity Knocks, is a community service/conservation program for disadvantaged youths, who participate in such activities as constructing and renovating low income housing, working in state parks, and helping the elderly.

■ Initiated in 1965, **Project Head Start** prepares preschool children of low-income families for school. The program's four components comprise education, health, parental involvement, and social services. Although the Head Start's accomplishments have been well documented, 44 areas of the state lack programs.

■ To increase the amount of funding available for the purchase of child care, Congress enacted the **Child Care Development Block Grant** in 1991. These funds are administered through four state agencies as well as independent, non-state programs.

■ The **Job Opportunities and Basic Skills (JOBS) Program** incorporates new federal regulations that require job training and job search for the client to be eligible for assistance. AFDC clients who are not specifically exempted must participate in order to receive training, which leads to self-sufficiency.

Other Studies Incorporated

In order to develop a plan to eliminate poverty, the commission agreed that community involvement in early, comprehensive services is the beginning as well as the end. To complement this mission, several other studies from the 1992 Session were incorporated into the purview of the commission. The evaluation of the use of debit cards and electronic benefit transfer (HJR 203), the optimization of current resources to enable public assistance clients to become self-reliant (HJR 251), and the evaluation of certain restrictions on AFDC participants (HJR 139) all address vital aspects of the public assistance system and will be rolled into this study.

Subcommittees

To further expedite its work, the commission has divided into five subcommittees, which will study macro systems, income assistance programs, non-income assistance programs, personal or individual responsibility of youth, and personal and individual responsibility of adults. Subcommittees will meet in conjunction with full commission meetings as well as at other times deemed necessary to complete tasks.

Future Meetings

The commission has also scheduled several meetings around the state to hear public testimony and visit programs that have demonstrated the ability to move individuals and families off of public assistance. Meetings are currently scheduled in Norton, Roanoke, Alexandria, Newport News, and Northampton County. For further information on individual meetings, contact Judy Divers, Office of the Secretary of Health and Human Resources, (804) 786-7765.

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The Honorable Donald S. Beyer, Jr., Lieutenant Governor, *Chairman*

Legislative Services contact: E. Gayle Nowell

Commission on Early Childhood and Child Day Care Programs

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March 4, 1992, Richmond

Providing access to affordable, quality early childhood education and child day care programs has been characterized as one of the most important issues facing the Commonwealth in the 1990s, because the need for these programs continues to escalate as a result of the increasing numbers of single parent households and working mothers. Originally established in 1987 pursuant to HJR 299 as a joint subcommittee, the Commission on Early Childhood and Child Day Care Programs was codified in 1991 to provide continuity in legislative oversight for this most important subject (see § 9-291.1).

The commission held its first 1992 meeting on March 4, during the final days of the 1992 Session, to receive testimony on child abuse in day care settings. Serious concerns had been generated as a result of child abuse complaints relating to an unlicensed family day care home.

Licensing, Vigilance, and Community Awareness

During this meeting, Secretary of Health and Human Resources Howard M. Cullum expressed willingness to cooperate with the commission in resolving the issues. Larry D. Jackson, commissioner of social services, described the department's role in investigating complaints. The department has statutory and regulatory authority to license certain entities and to investigate complaints of child abuse. Investigation findings are reported to the appropriate commonwealth's attorney and to the central registry. The department can also investigate allegations that nonlicensed agencies or homes are operating in violation of the licensure laws. Findings of noncompliance with licensure requirements usually result in voluntary compliance; however, the department may issue warnings, conduct hearings or seek injunctions against noncompliant entities. Local departments are responsible for investigating abuse allegations in legally nonlicensed facilities.

Complaints of child abuse are given serious consideration. A single complaint may indicate dangerous underlying problems. Mr. Jackson stated that licensure may prevent abuse because certain standards must be met and unannounced inspections may serve as a deterrent. However, regulation does not guarantee safety. He explained that education of providers, teachers, and parents on selecting and monitoring child care, hiring staff, and recognition of abuse and how to handle children who may be experiencing abuse are important elements in prevention. The department is presently implementing a parent hotline to receive

In 1990, HB 1035, a joint subcommittee proposal providing for substantial reform of the licensure laws relating to child care, was enacted. As approved by the General Assembly, HB 1035 had a delayed effective date of July 1, 1992, in order to give ample notice to child care providers of the pending requirements and to provide time for promulgation of necessary regulations. In 1991, regulations proposed by the Child Day-Care Council to implement HB 1035 created significant discussion. Many apprehensions were expressed by local government agencies, such as parks and recreation departments and public schools, as well as other groups. These and other concerns about the effects of licensing various entities that would be licensed for the first time under HB 1035 resulted in the introduction of a number of child care bills during the 1992 Session, many of which granted licensure exemptions for certain groups. All of the licensure exemption bills, as well as some other child care bills, were carried over to the 1993 Session. In order to provide a forum for comprehensive and objective review of the issues related to these carryover bills, the proposed regulations, and the amendments included in HB 1035, SB 498 and HB 857 were enacted during the 1992 Session as emergency legislation to defer the effective date of the HB 1035 provisions from July 1, 1992, to July 1, 1994. Further, SB 497, another commission initiative, increased the membership of the Child Day-Care Council by three members representing groups that would be licensed under the presently delayed law; and SJR 114 served as the vehicle for clarifying the commission's charge to review these issues, including appropriate licensure, training, and scope of regulation.

complaints and to play information tapes and hopes to expand its parent and provider education services. The commissioner declared that the primary concern in evaluating licensure laws and regulations should be whether the law or regulation is good for children. He concluded that licensure alone does not prevent abuse in child care settings and that consumer vigilance and community awareness are necessary to ensure the safety of children. Before adjournment of this first meeting, the commission resolved to vigorously pursue the study of the issues related to HB 1035, the carry-over legislation, and the safety of children.

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May 27, 1992, Richmond

Following preliminary remarks by Chairman Walker, emphasizing the importance of the commission's work, the second 1992 meeting began with an overview of the commission's charge. The commission has a two-pronged purpose: to provide recommendations addressing the need for quality programs and development of affordable and accessible services and to provide a forum for continuing the review and study of the issues related to early childhood and child day care programs. Among its broad statutory powers and duties are development of mechanisms for funding developmental early childhood and child day care programs; promotion of parental, state and local, public-private sector, and corporate involvement in and support of early childhood and child day care programs; minimizing the potential for competition between the Commonwealth and the private sector; and recommending any statutory, regulatory, or policy changes deemed necessary to ensure quality, affordable, and accessible early childhood and child day care programs.

The issues addressed in 1992 carry-over legislation (HB 707, HB 762, HB 776, HB 1026, HB 1085, SB 344, SB 380, SB 466) were also reviewed. These bills addressed such matters as exemptions from licensure, scope of regulation, and fees. The carry-over bills, it was noted, also included many technical, nonsubstantive amendments.

Agency Collaboration

Ray C. Goodwin, deputy commissioner of social services, spoke to the commission on agency collaboration. Mr. Goodwin described interagency meetings to review the present situation and to develop consensus. He stated there was strong consensus in these meetings that child day care should be statutorily defined to clearly describe a comprehensive public policy toward children and the appropriate protection of their well-being, to recognize the unity between child day care and early childhood education, and to acknowledge that child care may be to supplement care normally provided by a temporarily absent parent or may be necessary in the delivery of some other service, such as education or recreation. The interagency group has also recognized the importance of intensifying public education, identified issues, and endorsed the convening of focus-groups.

In his closing remarks, Mr. Goodwin stated that department personnel have been meeting with representatives of groups potentially affected by HB 1035, including parks and recreation programs, community services boards, Montessori programs, and parent-cooperative preschools. A number of programs have voluntarily applied for licensure. Mr. Goodwin reminded the commission that requirements for voluntary registration of family day care providers will be implemented in July and remarked on the success of the provider scholarship program initiated last summer. A statewide provider training and career development plan is being prepared in collaboration with the Council on Child Day Care and Early Childhood Education.

Impact of Proposed Regulations on Licensed Programs

Mary Spangenthal, chairman, Child Day-Care Council, reviewed the status of the proposed child day-care center regulations (for licensed center-based programs). Ms. Spangenthal expressed her support for the work of the commission and her belief that its work will benefit the children of Virginia. She emphasized that the council's proposed regulations relate to center-based day care only, particularly in view of the deferment of HB 1035, which included provisions regulating other entities. The council, she said, had learned the importance of getting information out to the public and providers, listening carefully to concerns, and remaining flexible. The focus should, however, always be on the best interests of children. Ms. Spangenthal advised the commission that three ad hoc advisory committees had been established, consisting of representatives of groups that would be regulated pursuant to HB 1035 and already regulated groups. Two sets of regulations, based on ages of children in care, have been developed.

The council is presently considering options for action on the proposed regulations, among which are to approve the regulations for those entities already required to be licensed or to delay approval pending any changes to the provisions of HB 1035. Reasons for approving the regulations with revisions are that the council was given a mandate to develop regulations for various programs, has worked to accomplish this mandate, and would like closure. Further, revised regulations would provide for easier processing of applications from programs seeking voluntary licen-

sure in lieu of the present regulations, which require the department to use allowable variances. Approval of regulations now could also eliminate confusion when any of the provisions of HB 1035 become effective. Ms. Spangenthal stated concern that consistent use of allowable variances for entities volunteering to be licensed would result in a de facto dual system of licensure. Conversely, she noted that arguments for delaying approval of the proposed regulations include avoidance of misunderstandings and adding to the confusion, avoidance of multiple revisions of the regulations within a short period, and providing time for input from the new council members added by SB 497. Ms. Spangenthal invited comments and encouraged the commission to move forward actively to provide fairness to providers and protections for children.

Proposed Work Plan

The study status report and the proposed work plan were presented to the commission. The study history and progress were described, including the significance of HB 1035 and its related issues. Issues to be considered in 1992 include, but are not limited to, how child care should be defined in the law; the appropriate role of regulation for early childhood programs in public and private schools, summer camps, and parks and recreation programs; and potential conflicts in law relating to registration or licensure of certain programs.

The preliminary work plan adopted by the commission consists of intensive meetings focused on specific issues culminating in deliberations on possible solutions. The commission's third meeting, planned for July, will center on the development of a definition of day care and the appropriate role of regulation vis-a-vis government-operated programs.

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The Honorable Stanley C. Walker, *Chairman*

Legislative Services contact:
Brenda H. Edwards

HJR 177: Joint Subcommittee Studying School Drop Out and Self-Esteem

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May 4, 1992, Richmond

With the advent of a world economy, high drop out rates in the United States and Virginia are viewed as crises demanding solutions because of the substantial costs to society and the significant threat to national and state productivity. The Joint Subcommittee Studying School Drop Out and Ways to Promote the Development of Self-Esteem Among Youth and Adults began its 1992 study on May 4 with renewed commitment to reducing the number of students dropping out of Virginia's schools.

The joint subcommittee received a study status report detailing the complexity and severity of the drop out problem and describing previous years' study activities and initiatives. Beginning in 1989, statewide dropout prevention programs have been funded through target grants, with priority given to those localities with the highest dropout rates (Project YES: Youth Experiencing Success). Although the joint subcommittee sponsored major legislation in 1990 designed to promote prevention by extending the competitive grants program to all schools on a noncompetitive basis and establishing the Programs for Persons At-Risk (PPAR), one of the primary issues to be addressed this year will be the funding for these programs.

Other 1992 study issues relate to the impact of the Literacy Passport Program on school drop outs, the collection of data on the demography of the drop out problem, development of an effective system for evaluating Project YES programs, and statewide implementation of the prevention and retention programs.

Drop Out Rates

New statistics presented by the Department of Education indicate a decline in Virginia school dropout totals as follows:

1988-1989	20,772 (4.8%)
1989-1990	17,045 (4.0%)
1990-1991	14,424 (3.4%)

Analysis of dropouts by grade indicates a significant reduction in numbers; however, for some grades the percentage of total dropouts

increased (e.g., in 1988-89, 26% of all dropouts were from the ninth grade; in 1989-90 and 1990-91, 27% were ninth graders, although the actual numbers declined from 5,464 to 3,936). These discrepancies may be attributable to lower total enrollments in the relevant grades.

Dropout statistics by race/ethnic categories exhibit declines in some categories and increases in others. For example, in 1988-89, 65% of dropouts were white, 31% were black, and 2% were Hispanic. In 1990-91, 60% were white, 34% were black, and 4% were Hispanic. Despite the percentage increase for black students, the actual number of black students dropping out decreased from 6,454 in 1988-89 to 4,838 in 1990-91. Fluctuations in student populations may affect these data. These statistics still indicate that, in Virginia, the majority of dropouts are white (not of Hispanic origin) and that black students (not of Hispanic origin) represent the next largest dropout group. Statistics on dropouts by gender continue to demonstrate that males drop out at a higher rate than females (e.g., 1990-1991 figures show that 58% of dropouts are male and 42% are female).

Statistics on dropouts by reason afford proof that poor achievement continues to be the primary reason for dropping out. Other frequent reasons for dropping out, in order of prevalence, are inappropriate behavior, moving from the area, family circumstances, obtaining or seeking employment, poor health, and financial difficulties.

Project YES

The joint subcommittee also received a report from the members of the Project YES evaluation team. The Department of Education is being assisted with this evaluation by Michael Baizerman of the University of Minnesota. A comprehensive, community-based program, it was emphasized, is the key to decreasing dropouts. Schools provide only one dimension of the solution for the social problems causing dropouts. Any plan for decreasing the dropout rates must be sensitive to the needs and development of children and must be a partnership effort involving the schools and the whole community.

PPAR

A review of the design for the development of the comprehensive plan for persons at-risk, a preliminary step towards implementation of PPAR, was given. As required by HB 1006 of 1990, a joint subcommittee initiative, the Department of Education has begun development of the "plan to provide age appropriate educational, social, health, and related support services for any student who has been identified as at-risk of poor academic performance, school failure, health, mental health, and family problems, substance abuse, poverty, and repeated grade retention, or who has been suspended, expelled, or who is a chronic truant or habitually absent from school, or who is a pregnant or parenting teenager, or a school dropout" (see § 22.1-279.2).

Upon adopting, with modifications, the proposed 1992 study plan, the joint subcommittee resolved to intensify its study through conducting three comprehensive work sessions, with each meeting focused on specific issues. The joint subcommittee plans to complete its 1992 work in December.

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The Honorable Franklin P. Hall, *Chairman*

Legislative Services contact: Brenda H. Edwards

SB 412/HB 1186 and SB 333/HB 642: Workers' Compensation Insurance Subcommittee

A special subcommittee of members from the Senate Commerce and Labor Committee and House Corporations, Insurance and Banking Committee met in Richmond to discuss legislation carried over until the 1993 Session relating to the regulation of workers' compensation insurance rates.

A review of the June 11 meeting will be in the next issue of the *Legislative Record*. The next meeting of the special subcommittee is scheduled for July 14 in House Room C of the General Assembly Building in Richmond.

Capital Punishment

In the wake of the widespread media coverage of the Roger Keith Coleman execution and the concerns voiced by many citizens about Virginia's procedures for judicial review of capital cases, House Courts of Justice Chairman James F. Almand appointed a subcommittee to study those issues.

The subcommittee, chaired by Delegate Clifton A. Woodrum, held its first meeting at the Capitol on June 17, 1992. Members of the subcommittee took the opportunity to identify specific areas of inquiry and discuss a work plan for the remainder of the year. Topics to be discussed include:

- Scope of the automatic appellate review of cases resulting in a death sentence;
- Appropriateness of applying the contemporaneous objection rule in death cases;
- Various procedural default mechanisms, including Virginia *Code* § 8.01-654 B (2);
- Effect of the so-called "21-day" rule in limiting review of evidence alleged to be newly discovered;
- The role, if any, of the writ of *coram nobis*; and
- A review of the statutory requirements for the qualifications of court-appointed counsel in capital cases.

The chairman directed staff to confer with the advocates of various positions on these issues and others with relevant expertise. Based upon information gathered in those meetings, a background report will be prepared for the subcommittee's use at its next meeting, probably in mid-August.

Chairman Woodrum has noted that the purpose of the subcommittee is not to discuss whether the death penalty is an appropriate punishment in Virginia. Nonetheless, the subcommittee has already generated significant interest and appears sure to continue to do so as it moves ahead with its work.

COMPLETED STUDIES

The proceedings of the following legislative commissions and joint subcommittees were reported in the 1991 volume of the Legislative Record. All have completed their work or have been reconstituted as noted below. Numerous other studies were continued by the 1992 General Assembly, and their deliberations will be reported in future issues of this newsletter.

SJR 118: Commission on Health Care for All Virginians. Continued as the Joint Commission on Health Care (SB 501/HB 1032).

SB 566/HB 1163: Fugitive Coal Dust. Continued as a Joint Subcommittee Studying Measures to Reduce Emissions from Coal-Carrying Railroad Cars (SJR 1).

HJR 205: Commission Studying State and Local Infrastructure Needs and Revenue Resources. Final Report: House Document 51, 1992.

HJR 251: Oil and Gas Drilling Under the Chesapeake Bay. Report: House Document 55, 1992. Continued as Joint Subcommittee Studying Oil Drilling in Tidewater Virginia (HJR 95).

HJR 300: A.L. Philpott Southside Economic Development Commission. Final Report: House Document 45, 1992. Continued to monitor implementation of recommendations (HJR 71).

HJR 310: Regulation of Underground Injection Wells. Subcommittee's work completed.

HJR 312: Second Injury Fund Subcommittee. Final Report: House Document 14, 1992.

HJR 337: Joint Subcommittee Studying Comparative Price Advertising. Report in process.

HJR 418: Joint Subcommittee Studying Mechanics' Lien Laws. Report in process.

HJR 433: Joint Subcommittee Studying the Measures Necessary to Assure Virginia's Economic Recovery. Final Report: House Document 37, 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.

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.

CALENDAR OF EVENTS

Symbols Key
† Indicates entries since last publication of the Virginia Register
♿ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

† **July 20, 1992 - 8 a.m.** – Open Meeting
† **July 21, 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 and disposition of enforcement cases; (iv) conduct routine board business; and (v) review comments from NOIA.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 30, 1992 - 1 p.m. – Public Hearing
1100 Bank Street, 2nd Floor Boardroom, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services will consider adopting regulations entitled: **VR 115-02-02:1. Rules and Regulations Governing the Prevention, Control and Eradication of Tuberculosis in Bovidae, Cervidae, and Capridae in Virginia** and repealing existing regulations entitled **VR 115-02-02. Rules and Regulations Governing the Prevention, Control and Abatement of Bovine Tuberculosis of Cattle in Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae (not just cattle), (b) all cervidae (many of the deer), and (c) all capridae (goats); (ii) considering alternative ways of disposing of tuberculosis-infected animals; and (iii) a proposal to shorten the time in which a report must be made to the State Veterinarian when tuberculosis is suspected.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until September 8, 1992.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

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September 30, 1992 - 1 p.m. – Public Hearing
1100 Bank Street, Washington Building, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services will consider adopting regulations entitled: **VR 115-02-03:1. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Bovidae in Virginia** and repealing existing regulations entitled **VR 115-02-03. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of all classes of bovidae (not just cattle), (ii) a proposal to add definitions to the regulation to be specific in terms of precisely which bovidae must be tested for brucellosis, (iii) a proposal to expand instances in which a test for brucellosis is required, not just when there is a change of ownership.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until September 8, 1992.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

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September 30, 1992 - 1 p.m. – Public Hearing
1100 Bank Street, Washington Building, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services will consider adopting regulations entitled: **VR 115-02-12:1. Rules and Regulations Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds in Virginia** and repealing existing regulations entitled **VR 115-02-12. Rules and Regulations Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds in Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions governing the importation of cervidae–most varieties of deer; (ii) repealing provisions requiring a permit for the importation of psittacine (parrot-like) birds and repealing provisions requiring that they be treated for psittacosis; (iii) repealing provisions requiring South American camelids of the genus Lama to be tested for bluetongue; (iv) requiring rabies vaccination for cats entering the Commonwealth; (v) adding importation requirements for bison, to treat them more consistently with cattle; and (vi) relaxing certain requirements pertaining to feeder cattle.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until September 8, 1992.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

Virginia Peanut Board

July 16, 1992 - 11 a.m. – Open Meeting
Cooperative Extension Office, Courtland, Virginia. ♿

A meeting to (i) review the chairman's report; (ii) review the 1992-93 budget; and (iii) elect officers for 92-93.

Contact: Russell C. Schools, Program Director, P.O. Box 149, Capron, VA 23829, telephone (804) 658-4573.

Virginia Soybean Board

† **July 15, 1992 - 12:30 p.m.** – Open Meeting
Corbin Hall Farm, Saluda, Virginia.

A meeting to review funding and project proposals.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Pesticide Control Board

July 17, 1992 - 10 a.m. – Open Meeting
July 18, 1992 - 9 a.m. – Open Meeting
Omni Charlottesville Hotel, 235 West Main Street, Charlottesville, Virginia. ♿

Committee meetings will be held on July 17. The full board will meet to conduct general business on July 18.

Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda at 9 a.m., July 18, 1992.

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.

STATE AIR POLLUTION CONTROL BOARD

July 17, 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 Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), which are found in Rules 5-5 and 6-1, respectively. The proposed amendments will update as well the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The proposed amendments will incorporate the 1991-1992 edition of the American Conference of Governmental Industrial Hygienists' Handbook which forms the basis for the toxic pollutant rules, and three NSPS which were promulgated by EPA between July 1, 1990 and June 30, 1991.

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

Written comments may be submitted until July 17, 1992, to Director of Program Development, Department of Air

Pollution Control, P.O. Box 10089, Richmond, Virginia.

Contact: Karen Sabasteanski, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

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July 31, 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 Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation amendments concern provisions covering new and modified stationary source permits. The proposed amendments revise the permit regulations for nonattainment areas (i) by redefining the definitions of "major stationary source," "net emissions increase," "nonattainment pollutant," and "significant"; (ii) by adding provisions concerning offsets, including the new offset ratios required; (iii) by adding provisions regarding de minimis increases and modification alternatives; and (iv) by making sources of nitrogen oxides subject to the same requirements as sources of volatile organic compounds. The proposed amendments also revise the permit regulations by expanding the opportunity for public participation for major source and major modification permit applications. Provisions have been added to the permit regulations concerning conformity with certain local ordinances, shutdown and reactivation of sources, transfer of permits, and revocation and enforcement of permits. The amendments also provide increases in some of the levels used to exempt certain sources.

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

Written comments may be submitted until July 31, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

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July 15, 1992 - 10 a.m. – Public Hearing
Board of Supervisors Meeting Room, 205 Academy Drive, N.W., Abingdon, Virginia.

July 15, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Valley of Virginia Regional Office, Executive Office Park, Suite D, 5338 Peters Creek Road, Roanoke, Virginia.

July 15, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Central Virginia Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia.

July 15, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Northeastern Virginia Regional Office, 300 Central Road, Suite B, Fredericksburg, Virginia.

July 15, 1992 - 10 a.m. – Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

July 15, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia.

July 15, 1992 - 10 a.m. – Public Hearing
Richard Byrd Library, Meeting Room, Fairfax County, 7250 Commerce Street, Springfield, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation amendments require owners of gasoline dispensing facilities, pumping more than 10,000 gallons per month, in certain localities in the Richmond and Northern Virginia areas to install and operate Stage II vapor recovery systems. An exemption has been allowed for facilities pumping 50,000 gallons per month or less that are owned by independent small business gasoline marketers. Stage II systems must be installed between January 1, 1993, and November 15, 1994, depending on date of facility construction and amount of gasoline pumped monthly.

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

Written comments may be submitted until July 31, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia.

Contact: Ellen Snyder, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177.

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July 22, 1992 - 10 a.m. – Public Hearing
Board of Supervisors Meeting Room, 205 Academy Drive, N.W., Abingdon, Virginia.

July 22, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Valley of Virginia Regional Office, Executive Office Park, Suite D, 5338 Peters Creek Road, Roanoke, Virginia.

July 22, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Central Virginia

Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia.

July 22, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Northeastern Virginia Regional Office, 300 Central Road, Suite B, Fredericksburg, Virginia.

July 22, 1992 - 10 a.m. – Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

July 22, 1992 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia.

July 22, 1992 - 10 a.m. – Public Hearing
Richard Byrd Library, Meeting Room, Fairfax County, 7250 Commerce Street, Springfield, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation amendments concern provisions covering emission standards for volatile organic compounds (VOC) and nitrogen oxides (NOX) from stationary sources located in certain localities in the Northern Virginia, Richmond and Hampton Roads areas. The proposal (i) will require owners of stationary sources to report the levels of emissions from the sources in order to assess compliance with emission and air quality standards and (ii) will require owners of specified major stationary sources to limit VOC and NOX emissions to a level resultant from the use of reasonably available control technology (RACT) and necessary for the protection of public health and welfare.

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

Written comments may be submitted until July 31, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia.

Contact: Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

† **July 27, 1992 - 9 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia.

A meeting to (i) discuss public participation procedures, (ii) consider two open burning ordinances; and (iii) hear a status report on the work of the Advisory Board on Air Pollution.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-2722.

† **July 30, 1992 - 6:30 p.m.** – Open Meeting
Wickham Building, Board of Supervisors Meeting Room, Hanover, Virginia.

A meeting to receive public comment on the issue of Purgo, Inc. application to construct and operate a soil remediation facility at their location on Route 1, 2.5 miles north of the Route 30 intersection. Comments may be written or oral.

Contact: Mr. Gary Graham, Environmental Engineer, Department of Air Pollution Control, Region 5, Arboretum V, 9210 Arboretum Parkway, Richmond, VA 23236-3472, telephone (804) 323-2409.

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† **August 26, 1992 - 7 p.m.** – Public Hearing
State Water Control Board Office Building, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend **VR 120-01. Regulations for the Control and Abatement of Air Pollution - Public Participation Procedures (Appendix E).** The regulation amendments revise the public participation guidelines to: allow for supplemental public participation, change and expand the information provided in the notice of intended regulatory action and notice of public comment, and require the preparation of additional supporting documentation and analyses.

STATEMENT

Purpose: The purpose of the proposed amendments is to change the board's regulations concerning regulatory public participation to: (i) establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

Substance: The major provisions of the proposal are summarized below and would amend the current public participation guidelines as follows:

1. Allow for supplemental public participation to gain additional input or to meet federal requirements.

2. Require the notice of intended regulatory action (NOIRA) to include (i) a statement as to the need for regulatory action; (ii) a description of alternatives available, if any, to meet the need; (iii) a request for comments on the intended regulatory action, including

ideas to assist in the formation of the regulation; and (iv) a request for comments on the costs and benefits of the alternatives or other alternatives.

3. Require an expanded notice of public comment (NOPC) to include (i) notice of the opportunity to comment on the proposal; (ii) a description of the provisions of the proposal which are more restrictive than applicable federal requirements and why; (iii) a request for comments on the costs and benefits on the proposal; and (iv) a statement that a certain analysis has been conducted and is available for viewing by the public upon request.

4. Require an analysis of the following to be conducted: (i) a statement of purpose; (ii) a statement of estimated impact, including number and types of regulated entities or persons affected, projected cost to regulated entities for implementation and compliance, projected cost to the department for implementation and enforcement, and beneficial impact the regulation is designed to produce; (iii) an explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation; (iv) an estimate of the impact of the proposed regulation upon small businesses; (v) a discussion of alternative approaches that were considered to meet the need and a statement as to why the proposed regulation is the alternative that places the least burden upon the regulated entities; and (vi) a schedule for evaluating the regulation within two years of the effective date.

Issues: In addition to the issue of whether or not the board should adopt the proposed guidelines, public participation to date has raised among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of proposed regulatory actions?

Basis: The legal basis for the proposed regulation amendments is the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

Impact: No fiscal impact on affected entities or the public is expected from the proposed regulation since the guidelines only impose requirements on the department and board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation. It is not expected that the regulation amendments will result in any cost to the department beyond that currently in the budget.

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

Written comments may be submitted until September 14, 1992.

Contact: Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240, telephone (804) 786-5789.

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† **September 2, 1992 - 10:00 a.m.** - Public Hearing
State Capitol Building, House Room One, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend **VR 120-01. Regulations for the Control and Abatement of Air Pollution (PARTS I and II).** The regulation amendments clarify the provisions relating to (i) making case decisions with regard to process, (ii) statutory basis and appeals; (iii) establish criteria for determining confidential information; and (iv) update various provisions to conform to code changes.

STATEMENT

Purpose: The purpose of the proposed amendments is to change the board's regulations concerning general provisions to clarify and update administrative and case decision making provisions to support the emission standards and other provisions which limit air pollution.

Substance: The major provisions of the proposal are summarized below:

1. Revise the provisions relating to making case decisions to:

a. Clarify the decision making process;

b. Clarify the statutory basis for procedures for conducting associated hearings and proceedings; and

c. Clarify the process for appealing decisions.

2. Establish criteria for determining confidential information.

3. Update various provisions to conform to code changes.

Issues: The following needs have been identified that provide a basis for amending the regulation:

1. The provisions of § 120-02-09 which are used to make case decisions, particularly those involving review of program actions, result in a process which is slow, cumbersome and resource intensive. Uniform procedures for making case decisions and conducting any associated hearing are needed. Procedures need to be developed to ensure consistency and minimize

the administrative burden so that swift and effective decisions can result. Regulation changes are also needed to let the public and regulated community know the process that will be used to make case decisions. The regulations need to be updated to minimize the administrative burdens that render the process ineffective.

2. The provisions of § 12-02-30 which establish the procedures for the availability of information to the public are in need of criteria for making the determinations as to which information should be considered confidential.

The issue is whether the regulation should be amended to meet the needs identified above or remain as is. The alternatives identified by the agency are to either (i) amend the regulation to meet the needs identified above and improve its clarity and effectiveness or (ii) not amend the regulation and leave the provisions cited outdated, ineffective and vague.

Basis: The legal basis for the proposed regulation amendments is the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

Impact: Little fiscal impact on affected entities or the public is expected from the proposed regulation since it imposes requirements mainly on the department and board. Regulated entities and the public should benefit from the proposed regulation in that the procedures for making case decisions and conducting any associated hearings will be clearly defined. The procedures will ensure consistency and minimize the administrative burden so that swift corrective action may be taken when conditions warrant. The public and regulated community will be able to determine the process that will be used to make case decisions. The current regulations will be updated to minimize the administrative burdens that render the process ineffective. The procedures for the availability of information to the public will have criteria for making the determinations as to which information should be considered confidential. It is not expected that the regulation amendments will result in any cost to the department beyond that currently in the budget.

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

Written comments may be submitted until close of business September 14, 1992.

Contact: Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240, telephone (804) 786-5789.

GOVERNOR'S COUNCIL ON ALCOHOL AND DRUG ABUSE PROBLEMS

† **July 24, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Speaker's Conference Room, Sixth Floor, Richmond, Virginia.

The council will continue its study of a proposed ban on the retail sale of grain alcohol.

Contact: Amy M. Curtis, Staff Assistant for Drug Policy, Office of the Governor, P.O. Box 1475, Richmond, VA 23212, telephone (804) 786-2211 or (804) 371-8015/TDD

COMMISSION FOR THE ARTS

† **July 20, 1992 - 11 a.m.** – Open Meeting
Bloemendaal, 7000 Lakeside Avenue, Richmond, Virginia.

A quarterly business meeting.

Contact: Wanda T. Smith, Executive Secretary Sr., 203 Governor Street, Richmond, VA 23219-2010, telephone (804) 225-3132.

ASAP POLICY BOARD - VALLEY

July 13, 1992 - 8:30 a.m. – Open Meeting
Augusta County School Board Office, Fishersville, Virginia.

A regular meeting to conduct business pertaining to (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

Contact: Mrs. Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or in Waynesboro (703) 943-4405.

AUCTIONEERS BOARD

† **July 14, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct regulatory review and other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

July 16, 1992 - 9:30 a.m. – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia.

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-7390.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **July 17, 1992 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 Belvidere Street, Conference Room 2, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-4751.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

July 30, 1992 - 10 a.m. – Open Meeting
State Water Control Board Room, 4900 Cox Road, Innsbrook, Glen Allen, Virginia. ♿ (Interpreter for deaf provided upon request)

A meeting to 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 July 23, 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 ☎

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† **August 26, 1992 - 7:00 p.m.** - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to a repeal VR 173-01-00 Public Participation Guidelines and adopt regulations entitled: **VR 173-01-00:1. Public Participation Guidelines.** The purpose of the proposed action is to repeal VR 173-01-00 Public Participation Guidelines and adopt VR 173-01-00:1 Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Chesapeake Bay Local Assistance Board, and (iii) require the performance of certain analyses.

STATEMENT

Basis and statutory authority: Section 9-6.14:7.1. of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board to adopt rules and procedures for the conduct of its business. Section 10.1-2107 requires the board to consider economic and social costs and benefits that can be expected to result from its regulatory actions.

Substance and purpose: The purpose of the proposed action is to adopt Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that either a summary or a copy of comments received in response to the NOIRA be submitted to the board. In addition, the proposal requires that certain analyses be performed, a statement of the performance of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed Public Participation Procedures since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Issues: In addition to the issue of whether or not the board should adopt the proposed guidelines, public participation review has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of proposed regulatory actions?

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia

Written comments may be submitted until 4 p.m. September 14, 1992.

Contact: C. Scott Crafton, Chesapeake Bay Local Assistance Board, Suite 701, 805 E. Broad Street, Richmond, Virginia 23219, telephone (804) 225-3440 or 1-800-243-7229.

Central Area Review Committee

July 13, 1992 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room A, 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

July 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 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

July 16, 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 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 ☎

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **July 14, 1992 - 9 a.m.** – Public Hearing
Virginia Housing Development Authority, Conference Room 1, 601 South Belvidere Street, Richmond, Virginia. ♿

A public hearing on child care and development block grant. Public comments will be received.

Contact: Mary Ellen Verdu, Executive Director, Virginia Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-8603.

DEPARTMENT OF COMMERCE

† **August 5, 1992 - 10 a.m.** – Public Hearing
Department of Commerce, Room 395, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to repeal its existing regulation, **VR 190-01-1.** and adopt regulations entitled: **VR 190-01-1:1. Rules and Regulations Governing Employment Agencies.** The proposed regulation requires the licensure of employment agencies and the registration of individuals who act as employment counselors at those businesses. This regulation applies to approximately 42 licensed employment agencies and approximately 200 employment counselors. There is no requirement under the current regulation that employment counselors be registered and therefore the figure of 200 employment counselors is an estimate based upon information received from the industry.

The proposed regulation separates entry, renewal and reinstatement requirements. It also separates standards of conduct from standards of practice. The regulation has been completely rewritten and reorganized. Certain requirements for receipts, records and contracts deleted from the statute are included in the proposed regulation. Fees throughout the regulation have been adjusted in order to conform with the requirements of § 54.1-113 of the Code of Virginia to assure that the expenses of this program are adequately covered by revenues generated from the

regulants. Other increases or decreases in fees are explained in the appropriate text.

STATEMENT

Preliminary statement of basis, purpose, impact and summary: Pursuant to Chapter 13 (§ 54.1-1300 et seq.) of Title 54.1 of the Code of Virginia and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Department of Commerce proposes to repeal its existing regulation VR 190-01-1 and promulgate a new regulation governing employment agencies.

1. Proposed § 1.1 defines terms used in the regulation. Terms not used in the regulation and terms defined by § 54.1-1301 of the Code of Virginia have been deleted. There will also be no additional impact on the department as definitions alone cause no impact.

2. Proposed § 2.1 states the entry requirements for licensure as an employment agency and also includes information found in current §§ 1.3 and 2.1. The amount of the fee has been decreased from $300 to $150 for each new license in response to the provisions of § 54.1-113 of the Code of Virginia which require that fees cover the cost of administering the program. The impact is a decrease of $150 in the fee to apply for a license.

3. Proposed § 2.2 rewords current § 3.3 and increases the amount of the bond from $5,000 to $10,000. This requirement assures the protection of the public as required by the Code of Virginia. The impact on current licensees is the cost to increase the amount of the bond currently posted by each licensee.

4. Proposed § 2.3 A establishes procedures for the designation of a controlling person by each licensed employment agency. This requirement is mandated by § 54.1-1303. There is no additional impact on licensees as designation of a controlling person is part of the license application process under current regulation.

5. Proposed § 2.3 B establishes procedures for persons licensed pursuant to current regulation to maintain a current license by designating a controlling person without making a new application for licensure. The impact on current licensees is $25, the fee for changing the designation of a controlling person.

6. Proposed § 2.4 establishes procedures for the change of a controlling person. The impact is $25, the fee for such a change.

7. Proposed § 2.5 A establishes procedures for registration as an employment counselor. The requirement of minimum age is included. The impact is $45, the application fee for registration.

8. Proposed § 2.5 B allows an individual seeking registration as an employment counselor to act as such for up to 30 days while his application is pending. The impact on the department in issuing a letter of conditional registration is covered by the application fee for registration as an employment counselor.

9. Proposed § 2.5 C establishes procedures for individuals currently acting as employment counselors to be deemed registered upon application and payment of the fee. The impact on individuals seeking registration is $45, the fee for such registration.

10. Proposed § 2.6 requires that a licensee or registrant be in good standing if licensed or registered in another jurisdiction. This regulation will only affect those applicants licensed or registered in another jurisdiction. Department staff will evaluate the eligibility of an applicant who has had his license or registration suspended, revoked or surrendered as a result of his activities in another jurisdiction. This regulation will protect the public from applicants who have failed to comply with the laws and regulations of other jurisdictions.

11. Proposed § 2.7 rewords current § 2.2 and requires that an applicant report any previous criminal conviction for a felony or misdemeanor involving fraud, misrepresentation or theft to the department. This information will be evaluated by department staff with each application. The public is protected by disclosure of this information as it relates to the prior activities of persons seeking licensure as an employment agency or registration as an employment counselor.

12. Proposed § 3.1 revises current § 1.4 in that the date of expiration of all licenses and registrations is changed from January 1 to January 31 of each year. There is no additional impact on either licensees and registrants or the department.

13. Proposed § 3.2 revises current § 1.4 and establishes procedures for renewal. The cost to the department to process renewal applications is reflected in the renewal fee.

14. Proposed § 3.3 establishes renewal fees. The renewal fee for a license has been reduced from $170 to $100. The impact on licensees is the decrease of $70 in this fee. The renewal fee for a registration is $25. This is a new fee and will impact all registrants seeking renewal.

15. Proposed § 3.4 clarifies the authority of the department to deny renewal for the same reasons as it may deny an application. The public is protected by the assurance that only qualified licensees and registrants are granted renewal.

16. Proposed § 4.1 revises current § 1.5 and establishes the reinstatement procedure if a license or

registration is not renewed in a timely manner. Proposed § 4.1 A clarifies the requirement that licensees and registrants who fail to renew within 30 days after expiration must apply for reinstatement. The impact is the same as in item 12.

17. Proposed § 4.1 B establishes a fee of $100 for reinstatement of a license and a fee of $25 for reinstatement of a registration. The proposed regulation makes clear that applicants for reinstatement must meet the requirements for renewal. The impact on licensees is a fee decrease of $140. The fee for reinstatement of registration is a new fee and will impact all registrants seeking reinstatement.

18. Proposed § 4.1 C clarifies current § 1.5 and states that after 6 months a licensee or registrant who has failed to seek reinstatement must apply as a new applicant and meet all respective entry requirements. There is no impact on licensees and registrants who renew in a timely manner.

19. Proposed § 4.1 clarifies the authority of the department to deny reinstatement for the same reasons as it may deny an application or renewal. The public is protected by the assurance that only qualified licensees and registrants are granted reinstatement.

20. Proposed § 5.1 A has been added to prohibit the transfer of a license to a person other than the original applicant. No impact is anticipated as this subsection is informational in nature.

21. Proposed § 5.1 B has been added to prohibit the transfer of a registration to an individual other than the original applicant. The impact is the same as in item 20.

22. Proposed § 5.2 requires a licensee or registrant to report to the department any change of name or address within a specified time. This will assure that the department can contact a licensee or registrant at valid address when necessary. A requirement has been added that any name change of a licensee be accompanied by certified true copies of documents which support the name change. This requirement will allow the department to assure that the licensee has merely changed its name and has not become a new legal entity.

23. Proposed § 5.3 A states that any change in ownership or organization of a licensee which does not result in the creation of a new legal entity be reported to the department within 30 days of the occurrence of the change. This requirement ensures that the department has accurate records for all licensees.

24. Proposed § 5.3 B states that a change in ownership or organizational structure which results in a new entity requires a new license. This requirement impacts only those entities which undergo such changes and ensures that the department has accurate records for all licensees.

25. Proposed § 5.4 revises current § 1.2 and § 5.4 A makes clear the requirement that each licensee maintain an office located within the Commonwealth. Section 5.4 B requires that every license and registration be conspicuously displayed. There will be no additional impact on licensees or the department.

26. Proposed § 5.5 B rewords that part of current § 3.2 requiring that the name and address of the department be included in every contract. The impact is the same as in item 25.

27. Proposed § 5.5 C replaces current § 3.1 and establishes minimum elements for all contracts as authorized by § 54.1-1302.1 of the Code of Virginia. Most licensees will find it necessary to revise current contracts. The public is protected by the mandated disclosures which allow a client to make an informed decision concerning an employment contract before signing it.

28. Proposed § 5.5 D establishes minimum elements for initial contracts as authorized by § 54.1-1302.1 of the Code of Virginia. The impact is the same as in item 27.

29. Proposed § 5.5 E and proposed § 5.5 F establish minimum elements for position acceptance contracts as authorized by § 54.1-1302.1 of the Code of Virginia. Certain requirements previously included in the statute are now set out in the regulation. The impact is the same as in item 27.

30. Proposed § 5.6 A states the "one-twelfth rule" for refunds mandated by § 54.1304 D of the Code of Virginia. There is no additional impact on licensees or registrants.

31. Proposed § 5.6 B outlines circumstances when a client is due a refund from an employment agency. No impact on licensees or registrants is anticipated as this subsection is informational in nature.

32. Proposed § 5.6 C replaces current § 3.12 and contains a nonexclusive list of circumstances which are deemed no fault of the client. The impact is the same as in item 31.

33. Proposed § 5.6 D rewords current § 3.13 and states that a client is not due a refund when he misrepresents his qualifications. The impact is the same as in item 31.

34. Proposed § 5.6 E rewords current § 3.10 and states that all refunds shall be made within 30 days

from the date due. There is no additional impact on licensees or registrants.

35. Proposed § 5.7 establishes the minimum elements for receipts given clients by employment agencies. Certain requirements previously included in the statute are now set out in the regulation. The impact is the same as in item 34.

36. Proposed § 5.8 establishes the minimum elements for records kept by employment agencies. Certain requirements previously included in the statute are now set out in the regulation. The impact is the same as in item 34.

37. Proposed § 6.1 states the applicable statute and regulation which, if violated, provide grounds for disciplinary action. This regulation protects the public from misconduct by licensees or registrants and gives the department the authority to take disciplinary action.

38. Proposed § 6.2 A rewords current § 3.4 and requires that all advertising include the name and address of the employment agency. There is no additional impact on licensees or registrants.

39. Proposed § 6.2 B replaces current § 3.5 and requires all advertising to be truthful and contain no false or misleading statements. The impact is the same as in item 38.

40. Proposed § 6.2 C rewords current § 3.6 and states that no employment agency shall advertise its services as free if the client is to assume liability for its services. The impact is the same as in item 38.

41. Proposed § 6.3 establishes the procedures for inspection of employment agency records. Certain requirements previously included in the statute are now set out in the regulation. The impact is the same as in item 38.

Statutory Authority: § 54.1-1302 of the Code of Virginia

Written comments may be submitted until September 11, 1992.

Contact: David E. Dick, Assistant Director, Department of Commerce, Employment Agencies, 3600 W. Broad Street, Richmond, Virginia 23230, telephone (804) 367-2194.

STATE BOARD FOR COMMUNITY COLLEGES

July 22, 1992 - Time to be determined – Open Meeting
Monroe Building, 101 North 14th Street, 15th Floor, Board Room, Richmond, Virginia.

A state board committee meeting.

July 23, 1992 - 9 a.m. – Open Meeting
Monroe Building, 101 North 14th Street, 15th Floor, Board Room, Richmond, Virginia.

A regularly scheduled state board meeting. Agenda available by July 8, 1992.

Contact: Joy Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

† **August 26, 1992 - 7 p.m.** - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Conservation and Recreation intends to adopt regulations entitled: **VR 215-00-00. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to adopt VR 215-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 215-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Board, and require the performance of certain analyses.

STATEMENT

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations.

Issues: In addition to the issue of whether or not the board should adopt the VR 215-00-00. Regulatory Public Participation Procedures, public participation to date has

raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of the proposed regulatory actions?

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed VR 215-00-00. Regulatory Public Participation Procedures since the regulations only impose requirements on the board. Regulated entities and the public should benefit from the proposed action in that the procedures used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia

Written comments may be submitted until September 14, 1992.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond Virginia 23219, telephone (804) 786-4570.

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† **August 26, 1992 - 7 p.m.** - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to a repeal **VR 215-01-00, Public Participation Guidelines** and adopt regulations entitled: **VR 217-00-00. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation. The purpose of the proposed action is to repeal VR 215-01-00, Public Participation Guidelines and adopt VR 217-00-00 Regulatory Public Participation Procedures, which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 217-00-00. Regulatory Public Participation Procedures (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Department, and (iii) require the performance of certain analyses.

STATEMENT

Issues: In addition to the issue of whether or not the department should adopt VR 217-00-00. Regulatory Public Participation Procedures, public participation to date has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of proposed regulatory actions?

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (Department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law; and, to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed VR 217-00-00, Regulatory Public Participation Procedures since the regulations only impose requirements on the department. Regulated entities and the public should benefit from the proposed action in that the procedures used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until September 14, 1992.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219, telephone (804) 786-4570

Upper James Scenic River Advisory Board

† **July 15, 1992 - Noon** – Open Meeting
Sunnybrook Inn, Hollins, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

† **July 15, 1992 - 9 a.m.** – Open Meeting
3600 West Broad Street, Conference Room 1, Richmond, Virginia. ♿

A meeting to address policy and procedural issues as well as other routine business matters. The meeting is open to the public; however, a portion of the board's discussions may be conducted in Executive Session.

Contact: Florence R. Brassier, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8557.

VIRGINIA COUNCIL ON COORDINATING PREVENTION

July 17, 1992 - 10 a.m. – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ♿

A meeting to present the 1992 Awards for Prevention and reports made on prevention-related studies and system reform.

Contact: Sharyl Adams, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530.

BOARD OF CORRECTIONS

July 15, 1992 - 10 a.m. – Open Meeting
August 19, 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

July 16, 1992 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ♿

The committee will continue 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

† **July 27, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

† **July 28, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Regulatory review.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

BOARD OF DENTISTRY

August 14, 1992 - 8 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

Informal conferences.

August 7, 1992 - 8 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

Formal hearings.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

† **August 6, 1992 - 9:30 a.m.** – Open Meeting
General Assembly Building, 6th Floor, Richmond, Virginia. ♿

Work session of the commission to develop recommendations based on public input from public hearings.

Contact: Paul Grasewicz, Assistant Director, Department of Housing and Community Development, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 786-7893.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

July 30, 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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July 29, 1992 - 6 p.m. – Public Hearing
School of Education, Virginia Commonwealth University, Oliver Hall, Room 4084, 1015 West Main Street, Richmond, Virginia.

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 270-01-0052, Standards for Approval of Teacher Preparation Programs in Virginia,** and adopt new regulations entitled **VR 270-01-0052:1. Regulations Governing Approved Programs for Virginia Institutions of Higher Education.** The proposed regulations state the criteria for the approval of programs to train teachers, administrators, and other school personnel in Virginia colleges and universities. The current regulations, VR 270-01-0052, Standards for Approval of Teacher Preparation Programs in Virginia, are being repealed.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Written comments may be submitted until August 29, 1992.

Contact: Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

† **July 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 - ROANOKE VALLEY

† **July 15, 1992 - 9 a.m.** – Open Meeting
Salem Civic Center, Room C, 1001 Roanoke Boulevard, Salem, Virginia. ♿

A meeting to (i) receive public comment; (ii) receive report from community coordinators; and (iii) receive report from standing committees.

Contact: Danny W. Hall, Fire Chief, Coordinator of Emergency Services, 105 S. Market Street, Salem, VA 24153, telephone (703) 375-3080.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **August 5, 1992 - 3 p.m.** – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A general meeting.

Contact: L.A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 North Cameron Street, Winchester, VA 22601, telephone (703) 662-2298.

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

July 13, 1992 - Noon. – Open Meeting
July 14, 1992 - 8:30 a.m. – Open Meeting
Virginia Employment Commission, 703 East Main Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A regular meeting.

Contact: Nancy L. Munnikhuysen, Chief of Marketing and Public Affairs, 703 E. Main Street, Richmond, VA 23219, telephone (804) 786-6004 or (804) 371-8050/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

July 16, 1992 - 9:30 a.m. – Open Meeting
4010 West Broad Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

Committees of the Board of Game and Inland Fisheries will meet with the Wildlife and Boat Committee, followed by the Planning Committee, Finance Committee, Law and Education Committee and ending with the Liaison Committee. Each

committee will discuss topics appropriate to their authority. In addition to discussing the webless migratory game bird seasons proposal, general and administrative matters, as necessary will be presented for consideration, and possible board action at their meeting on Friday, July 17.

† **July 17, 1992 - 9:30 a.m.** – Open Meeting
4010 West Broad Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to set the 1992-93 Virginia webless migratory game bird seasons (doves, woodcock, rail and snipe), based on the framework permitted by the U.S. Fish and Wildlife Service. Other general and administrative matters, as necessary, will be discussed, and appropriate actions will be taken.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad Street, P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **August 10, 1992 - 1 p.m.** – Public Hearing
Peninsula Health District Auditorium, 416 J. Clyde Morris Boulevard, Newport News, Virginia.

† **August 11, 1992 - 1 p.m.** – Public Hearing
Roanoke Municipal Building, 215 Church Avenue SW, Room 415, Roanoke, Virginia.

† **August 14, 1992 - 1 p.m.** – Public Hearing
Prince William Department of Social Services, 7987 Ashton Avenue, Manassas, Virginia.

† **August 18, 1992 - 1 p.m.** – Public Hearing
James Monroe Building, Conference Room C, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Medical Care Services.** The purpose of the proposed action to amend the regulations that establish charges and provide guidelines for determining eligibility for services provided by the Department of Health.

STATEMENT

Purpose: To make the following revisions to the current regulations.

1. Correct Code references as necessary.

Since the last revision of the regulations, several Code changes have occurred. Some services, such as HIV testing, have been added as free services while some services that were free, such as the special nutrition program, are no longer free.

2. Change the eligibility requirements to more closely match those used to determine Medicaid eligibility.
Many of the patients seen by the Department of Health are eligible for Medicaid. However, for several reasons (lack of transportation, Department of Social Services not convenient, service already free from the Health Department, the client's disinclination to apply), the patient will not apply for Medicaid. If the Department of Health's eligibility requirements were the same as Medicaid's and a joint eligibility form could be developed, it could be possible for the patient to get a Medicaid card without actually going to the Department of Social Services. In some cases, the Department of Health would be able to save time by using the application that had been completed at the Department of Social Services.

Income and family size have been redefined to more closely resemble Medicaid's definitions. Discussions about joint forms have taken place between the Department of Health and Department of Social Services. They would be developed as part of the procedures manual.

3. Change the basis for charges from costs to Medicaid's current payment schedules.

Basing charges on costs has not worked well. The department does not have a cost accounting system that will allow every services provided to be most accurately costed out. In any circumstance, costing out the hundreds of medical, dental, home health, and other services provided would prove very time consuming and not likely generate additional revenue.

Using Medicaid's schedule of payments as the basis for charges has several advantages. It will allow quick response to any increase that Medicaid puts into effect and assure that Medicaid revenues are maximized. Medicaid is the department's largest third party payor. Having charges at the upper limit of the payment schedule will also assure maximum revenues. Since Medicaid will only pay, as a maximum, the upper limit of their payment schedule and also requires that all patients be charged the same, a high charge schedule would not necessarily result in more revenue and could create a hardship on patients.

4. Increase local decision making as to what services are provided.

Regional offices have been eliminated and references to them were taken out of the regulations. The intent is to give more decision making authority to the district directors. Sections have been rewritten or added so that district directors have the authority, with Board of Health of Commissioner approval, to determine what services are provided in his district.

5. Simplify and make more useful the waiver process. Currently, the waiver process delays charges for clients who identify themselves as not being able to pay for their services because of some special circumstance. This delay of charges has been difficult for staff to keep track of and has not helped the patient.

The revised waiver process would allow the patient with special circumstances to receive the services without charge.

Impacts:

1. Clients will benefit in several ways. With joint eligibility, they will only be required to complete one form for both the Department of Health and Medicaid. In some cases, especially pregnant women, the client may not even have to go to the Department of Social Services. With Medicaid's charge schedule being used as the basis for charges, the client will receive services at charges that are likely to be below the statewide average for those services. By waiving charges, the waiver process will be better able to help those who cannot pay for services due to some special circumstance.

2. The Department of Health will benefit because eligibility will be simplified. In those instances where the client first goes to the Department of Social Services, the application completed there will serve as the application for Health Department services. Staff time will be saved when this occurs. Medicaid revenues would be expected to increase, both for additional clients being determined eligible and the additional revenue received from being able to more quickly charge maximum Medicaid charges. Giving district directors more flexibility in service provision will make the department more responsive to the needs of the community.

3. The private sector will not be impacted by these regulation changes.

Fiscal/budgetary impact:

It is expected these revisions will increase the overall revenue of the Department of Health. Standardizing the eligibility requirements should result in additional people being on Medicaid and provide additional revenue because the services will be paid for by Medicaid instead of being free. Using Medicaid payment schedules as the basis for charges will also increase revenues because charges can automatically be adjusted to changes in Medicaid reimbursement. It is estimated that the department will gain $25,000 in revenue in the first full year.

Some revenue will be lost due to the waiver change. It is estimated that $5,000 will be lost.

Forms:

No new forms will be required to implement these changes. New eligibility forms will be developed in conjunction with the Department of Social Services as the joint eligibility is worked out, but are not a part of these regulations.

Statutory Authority: § 32.1-11 of the Code of Virginia.

Written comments may be submitted until September 14, 1992.

Contact: Dave Burkett, Administrator, Department of Health, P.O. Box 2448, Room 237, Richmond, Virginia 23218, telephone (804) 371-4089.

BOARD OF HEALTH PROFESSIONS

† **July 21, 1992 - 11 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia.

A regular meeting to hear progress reports in all 1992 studies and reviews.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD

Compliance and Discipline Committee

† **July 21, 1992 - 12:30 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 4, Richmond, Virginia.

The committee will review and comment on draft policies and procedures for the adjudication of complaints against members of boards in the Department of Health Professions.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD

Executive/Legislation Committee

† **July 21, 1992 - 9:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 3, Richmond, Virginia.

The committee will review legislation proposed by boards in the department for consideration by the 1993 session in the Virginia General Assembly.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD

Task Force on Behavioral Science Professions

† **July 20, 1992 - 6:30 p.m.** – Open Meeting

Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ♿

The task force will meet to begin its review of the regulation of behavioral science professions in the Commonwealth.

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

July 28, 1992 - 9:30 a.m. – Open Meeting
August 25, 1992 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Virginia Room, Richmond, Virginia.

A regular 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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July 20, 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.** The proposed regulatory change to §§ 6.1 and 6.2 of the regulations would 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 and 9-164 of the Code of Virginia.

Written comments may be submitted until July 20, 1992, to G. Edward Dalton, Virginia Health Services Cost Review Council, 805 E. Broad St., Richmond, VA 23219.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371. ⅓

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† **September 11, 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.** The regulations will implement the statutory changes made to § 9-160 (3) of the Code of Virginia regarding the council's Commercial Diversification Survey and implement the requirement that the council collect IRS Form 990s from not-for-profit health care institutions.

STATEMENT

Basis and authority: Senate Bills 518 and 519 (1992) require, among other things, significant changes in the type of information it collects from hospitals and nursing homes. Senate Bill 518 amended § 9-160 (3) of the Code of Virginia and provides for the following relevant changes for the 1992 Commercial Diversification Survey (CDS):

1. All health care institution or any corporation that controls health care institutions will now be required to complete the survey. Previously, only hospitals participated in the survey.

2. Each for-profit and not-for-profit institution will complete all parts of the survey.

3. Information regarding related party transactions will be required.

4. Audited consolidated financial statements and consolidating financial schedules will be required.

5. The survey will include information for all affiliates in which the health care institution or corporation controlling the health care institution has a 25% or greater ownership interest.

Senate Bill 519, adopted by the 1992 Session of the Virginia General Assembly, requires not-for-profit health care institutions, controlling corporations, or affiliates to file Form 990s with the council. 501 (C)(3) corporations must make the Form 990s publicly available under federal law and the forms must accurately disclose and list the compensation received by the corporation's five highest paid employees. The Form 990s will be collected at the same time that the Commercial Diversification Survey is issued. The VHSCRC adopted these regulations regarding the Commercial Diversification Survey and Form 990s on an emergency basis at its April 28, 1992 meeting. The emergency regulations are to be effective July 1, 1992.

The only difference between these proposed regulations and the emergency regulations is found in the new § 6.11. The new section will provide for a late charge of $25 per working day for failure to file the required Form 990s in a timely fashion.

Estimated Impact: No additional state funds will be

required to implement these regulations. We are in the process of establishing a filing system for the Form 990s in cooperation with the Department of Taxation.

New forms and instructions have been prepared.

Statutory Authority: §§ 9-160 (3), 9-160 (5) and 9-164 (2) of the Code of Virginia.

Written comments may be submitted until September 11, 1992.

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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

July 14, 1992 - 9 a.m. – Open Meeting
Randolph Macon College, Ashland, Virginia.

A general business meeting. For more information contact the Council.

July 14, 1992 - Immediately following council meeting – Public Hearing
Randolph Macon College, Ashland, Virginia.

A hearing on Liberty University's continued eligibility to participate in the Tuition Assistance Grant Program.

Contact: Anne M. Pratt, Associate Director, 101 North Fourteenth Street, 9th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2629.

DEPARTMENT OF HISTORIC RESOURCES

† **July 21, 1992 - 7 p.m.** – Open Meeting
Council Chambers, Roanoke Municipal Building, 205 Church Street, S.W., Roanoke, Virginia. ♿ (Interpreter for deaf provided if requested)

† **July 23, 1992 - 7 p.m.** – Open Meeting
Virginia War Memorial, 601 South Belvidere Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to solicit comments, suggestions and proposals on House Joint Resolution 198, to study options for public and private sector protection of historic sites.

Contact: Catherine Slusser, State Archaeologist, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **July 21, 1992 - 11 a.m.** – Open Meeting
601 S. Belvidere Street, Richmond, Virginia. ♿

A 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; and (iv) 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.

VIRGINIA HOUSING STUDY COMMISSION

† **July 24, 1992 - 10 a.m.** – Public Hearing
Virginia Highlands Community College, Auditorium, Abingdon, Virginia.

† **July 31, 1992 - 10 a.m.** – Public Hearing
Mills Godwin Auditorium, Life Sciences Building, Old Dominion University, Norfolk, Virginia.

† **July 31, 1992 - 1 p.m.** – Public Hearing
Mills Godwin Auditorium, Life Sciences Building, Old Dominion University, Norfolk, Virginia.

† **August 13, 1992 - 10 a.m.** – Public Hearing
Nursing Building (CN125), Northern Virginia Community College, Route 236 (Little River Turnpike), Annandale, Virginia.

† **August 13, 1992 - 1 p.m.** – Public Hearing
Nursing Building (CN125), Northern Virginia Community College, Route 236 (Little River Turnpike), Annandale, Virginia.

A public hearing on housing issues in Virginia, the Virginia Condominium Act, and HJR 163 (Homelessness in Virginia).

Contact: Nancy M. Ambler, Executive Director, Virginia Housing Study Commission, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986, ext. 420.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

July 16, 1992 - 10 a.m. – Public Hearing

General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Apprenticeship Council intends to amend regulations entitled: **VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.** This amendment provides criteria and procedure for deregistration of apprenticeship programs.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until July 6, 1992.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

† **July 16, 1992 - Immediately following public hearing.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ♿

A regular meeting to discuss and/or act on (i) proposed revision to Deregistration Procedure - VR 425-01-27; (ii) status of Part Time Apprenticeship Program; (iii) report on Apprentice Honors Certificate Program; and (iv) status of Dorey Electric Company Apprenticeship Program.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

Migrant and Seasonal Farmworkers Board

July 29, 1992 - 10 a.m. – Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia. ♿

A regular meeting. The Subcommittee on the Complaint Resolution Process will meet immediately following the regular board meeting.

Contact: Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry, 13 South 13th St., Richmond, VA 23219, telephone (804) 786-2385.

LAND EVALUATION ADVISORY COUNCIL

† **August 26, 1992 - 10 a.m.** – Open Meeting
† **September 11, 1992 - 10 a.m.** – Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ♿

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space landuse and the use value assessment program.

Contact: David E. Jordan, Acting Property Tax Director, Virginia Department of Taxation, Property Tax Division, P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.

STATE COUNCIL ON LOCAL DEBT

July 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.

COMMISSION ON LOCAL GOVERNMENT

NOTE: CHANGE IN MEETING DATE, TIME AND LOCATION
July 20, 1992 - 10 a.m. – Open Meeting
Commission on Local Government, 702 Eighth Street Office Building, Conference Room, Richmond, Virginia.

A regular meeting to consider such matters as may be presented.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, July 10, 1992.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

NOTE: CANCELLATION OF MEETING
July 20, 1992 - 7:30 p.m. – Cancelled
Site to be determined.

Public hearing regarding Town of Amherst's proposed annexation of 6.4 square miles of territory in Amherst County has been cancelled.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

NOTE: CANCELLATION OF MEETING
July 20, 1992 - 11 a.m. – Cancelled

July 21, 1992 - 11 a.m. – Cancelled
Site to be determined.

Oral presentations regarding Town of Amherst's proposed annexation of 6.4 square miles of territory in Amherst County have been cancelled.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Board of Visitors

July 27, 1992 - 9 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.

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

July 27, 1992 - 10 a.m. – Open Meeting
August 24, 1992 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ♿

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

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July 27, 1992 - 10 a.m. – Public Hearing
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** These proposed amendments will conform to legislative intent and make technical and housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 27, 1992.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

* * * * * * * *

July 27, 1992 - 10 a.m. – Public Hearing
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-1. Instant Game Regulations.** These amendments promulgate emergency regulations regarding prize payments, conform to legislative intent, and address housekeeping and technical changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 27, 1992.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

* * * * * * * *

July 27, 1992 - 10 a.m. – Public Hearing
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-2. On-Line Game Regulations.** These amendments promulgate emergency subscription regulations, conform to legislative intent, and make housekeeping and technical changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 27, 1992.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

† **July 13, 1992 - 7 p.m.** – Public Hearing
Lakewright Quality Inn, Virginia Room, Norfolk, Virginia.

† **July 14, 1992 - 7 p.m.** – Public Hearing
Rappahannock Community College, South Campus, Glenns, Virginia.

† **July 28, 1992 - Noon** – Public Hearing
Virginia Marine Resources Commission, Fourth Floor, 2600 Washington Avenue, Newport News, Virginia.

The commission invites public comment on proposed regulation amendments concerning the fall 1992

striped bass season and the spring 1993 fyke net fishery for striped bass.

Contact: Deborah R. McCalester, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2248.

† **July 21, 1992 - 7 p.m.** – Public Hearing
† **July 28, 1992 - Noon** – Public Hearing
Virginia Marine Resources Commission, Fourth Floor, 2600 Washington Avenue, Newport News, Virginia.

The commission invites public comment on a proposal to limit entry to the commercial pound net fishery.

Contact: Deborah R. McCalester, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2248.

July 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: 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.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

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† **August 26, 1992 - 7 p.m.** - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Marine Resources Commission intends to a amend regulations entitled: **VR 450-01-0045. Public Participation Procedures.** The proposed amendments will (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

STATEMENT

The intended amendments require an expanded Notice of Intended Regulatory Action to include (i) a statement as to the need for the regulatory action, (ii) a description of alternatives available to meet the need, (iii) a request for comments on the intended regulatory action, and (iv) a request for comments on the cost and benefits of the stated alternatives. In addition, the Commission would be required to perform certain analyses and state in the Notice of Public Comment Period that the analyses had been performed and were available to the public upon request. No financial impact on regulated entities or the public is expected since the amended guidelines will impose requirements only on the Commission. Regulated entities and the public should benefit from the amendments in that the guidelines used by the different environmental agencies would be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia

Written comments may be submitted until September 11, 1992.

Contact: Robert W. Grabb, Chief, Habitat Management, Post Office Box 756, Newport News, Virginia 23607-0756, telephone (804) 247-2252.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† **July 14, 1992 - 9 a.m.** – Open Meeting
Board Room, Suite 1300, 600 East Broad Street, Richmond, Virginia. ♿

A meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Patricia A. Sykes, Policy Analyst, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7958 or 1-800-343-0634/TDD ☎

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July 17, 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 460-02-3.1400. Methods of Providing**

Transportation. The purpose of the proposed action is to discontinue the prior authorization requirement for nonemergency transportation for recipients to and from other medical appointments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted July 17, 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.

BOARD OF MEDICINE

Credentials Committee

August 15, 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) 662-9923.

Executive Committee

† **August 14, 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; and (iii) 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) 662-9923.

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

July 22, 1992 - 10 a.m. – Open Meeting
Southwestern Virginia Training Center, Hillsville, Virginia.

A regular monthly meeting. The agenda will be published on July 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.

State Human Rights Committee

† **July 17, 1992 - 9 a.m.** – Open Meeting
Omni/Charlottesville Hotel, 235 W. Main Street, Charlottesville, Virginia.

A regular monthly meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

DEPARTMENT OF MOTOR VEHICLES

August 31, 1992 - 9:30 a.m. – Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Monticello Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-10-9001:1. Commercial Driver Training Schools Regulations and repeal VR 485-10-9001.** Pursuant to § 46.2-1703 of the Code of Virginia, the Commissioner of the Department of Motor Vehicles intends to repeal existing regulations (VR 485-10-9001) and adopt new regulations, VR 485-10-9001:1, pertaining to commercial driver training schools. The proposed regulations will establish the licensing and regulatory provisions for commercial driver training schools and instructors. These regulations may affect any person, group or organization involved or associated with commercial driver training school instruction. Anyone wishing to comment on the proposed regulations may do so by contacting M. E. Smith, Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, or by calling (804) 367-2447 on or before August 3, 1992.

Statutory Authority: §§ 46.2-203 and 46.2-1703 of the Code

of Virginia.

Written comments may be submitted until August 28, 1992.

Contact: M. E. Smith, Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-2447.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

July 25, 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, outreach, marketing, personnel, planning/facilities, and research & collections committees. Public comment will be received following approval of the minutes of the May meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD ☎

NORFOLK STATE UNIVERSITY

Board of Visitors

† **July 21, 1992 - 10 a.m.** – Open Meeting
The Board Room of the Harrison B. Wilson Hall Administration Building, Norfolk, Virginia.

A regular meeting.

Contact: Gerald D. Tyler, Norfolk State University, 2401 Corprew Avenue, Wilson Hall-S340, Norfolk, VA 23504, telephone (804) 683-8373.

BOARD OF NURSING

July 27, 1992 - 9 a.m. – Open Meeting
July 28, 1992 - 9 a.m. – Open Meeting
July 29, 1992 - 9 a.m. – Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ♿
(Interpreter for deaf provided upon request)

A meeting to consider matters related to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday, July 27, 1992.

Contact: Corinne F. Dorsey, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

† **July 15, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia.

A formal hearing will begin at 9 a.m. Following the conclusion of the formal hearing the board meeting will begin.

† **July 16, 1992 - 8:30 a.m.** – Open Meeting
State Police Academy Headquarters, 7700 Midlothian Turnpike, Richmond, Virginia.

Administration of the Optometry State Board Examination and Diagnostic Pharmaceutical Agents Certification Examination. Registration begins at 8:30 a.m.

Contact: Fran Cunningham, Administrative Assistant, Board of Optometry, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

† **August 3, 1992 - 10:30 a.m.** – Open Meeting
Sheraton Hotel, Fredericksburg, Virginia. ♿

A general business meeting.

Contact: Tyson B. VanAuken, Executive Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

NOTE: CHANGE IN MEETING TIME
July 28, 1992 - 8:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #2, Richmond, Virginia.

Informal conferences.

† **July 30, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #4, Richmond, Virginia.

Formulation of board regulations necessary to implement 1992 legislation pursuant to the "Notice of Intended Regulatory Action" published on June 29, 1992.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond,

VA 23229, telephone (804) 662-9911.

BOARD OF PSYCHOLOGY

July 22, 1992 - 9 a.m. – Public Hearing
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to amend regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The proposed regulations establish requirements governing the practice of psychology in the Commonwealth. They include requirements necessary for licensure; criteria for the examinations; standards of practice; and procedures for the disciplining of psychologists. The proposed regulations respond to a biennial review conducted in accordance with Executive Order 5 (86) of Governor Gerald L. Baliles. The review of the regulations resulted in revisions to existing regulations. All relevant documents are available for inspection at the office of the Board of Psychology, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9913.

Statutory Authority: §§ 54.1-2400 and 54.1-3600 of the Code of Virginia.

Written comments may be submitted until August 15, 1992.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9913.

July 22, 1992 - 2 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

Continuation of May 21, 1992 meeting.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9913.

July 23, 1992 - – Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia. ♿

A meeting to administer oral examinations and conduct general board business. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9913.

Examination Committee

July 24, 1992 - 9 a.m. – Open Meeting
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, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9913.

REAL ESTATE APPRAISER BOARD

† **August 18, 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.

REAL ESTATE BOARD

† **July 14, 1992 - 9 a.m.** – Open Meeting
Department of Alcoholic Beverage Control Board, 501 Montgomery Street, Alexandria, Virginia.

The board will meet to conduct a formal hearing: File No. 91-01177, Real Estate Board v. Robert S. Jefferson.

† **July 14, 1992 - 1 p.m.** – Open Meeting
Department of Alcoholic Beverage Control Board, 501 Montgomery Street, Alexandria, Virginia.

The board will meet to conduct a formal hearing: File No. 90-01746, Real Estate Board v. W. Howard Rooks.

† **July 22, 1992 - 10 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 90-02141, Real Estate Board v. Allen Griffey.

† **July 28, 1992 - 10 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 91-00332, Real Estate Board v. Eve A. Freedlander.

Contact: Susie Winslow, Legal Assistant, Department of Commerce, 3600 W. Broad Street, Fifth Floor, Richmond, VA 23230, telephone (804) 367-2393.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

† **July 17, 1992 - 8:30 a.m.** – Open Meeting
† **August 21, 1992 - 8:30 a.m.** – Open Meeting
† **September 18, 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.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

July 15, 1992 - 2 p.m. – Open Meeting
July 16, 1992 - if necessary - 9 a.m. – Open Meeting
† **August 19, 1992 - 2 p.m.** – Open Meeting
† **August 20, 1992 - if necessary - 9 a.m.** – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ♿

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

Budget Steering Committee.

† **July 16, 1992 - 10 a.m.** – Open Meeting
Koger Executive Center, Culpeper Building, 1606 Santa Rosa Road, Richmond, Virginia.

A work session and formal business meeting of the committee

Contact: H. Van Beggarly, Deputy Commissioner, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-7093, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

BOARD OF SOCIAL WORK

† **July 20, 1992 - 10 a.m.** – Public Hearing
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to amend regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** The proposed regulations establish standards of practice for social work, supervised experience and examination for licensure and record keeping.

STATEMENT

Summary: The proposed regulations establish requirements governing the practice of social work in the Commonwealth. They include requirements necessary for licensure, delete oral examinations, establish requirements for record keeping, clarify requirements for supervision.

The proposed regulations respond to a biennial review conducted in accordance with Executive Order 5 (86). The review of the regulations resulted in proposals to delete some regulations and amend or revise other regulations. All relevant documents are available for inspection at the office of the Board of Social Work, 1601 Rolling Hills Drive, Richmond, Virginia 23229. Telephone (804) 662-9914.

Basis: Title 54.1, Chapter 1, § 54.1-100 through § 54.1-114: Chapter 24, § 54.1-2400 and § 54.1-2510; and Chapter 37, § 54.1-3700-3707 of the Code of Virginia provide the statutory basis for promulgation of the regulations by the Board of Social Work. The Board of Social Work has approved the proposed revisions for the 60-day public comment period.

Purpose: The proposed regulations are designed to ensure the public protection by establishing standards for licensure, examination, training and practice of social workers.

Impact: The regulations will impact all registered social workers, associate social workers, licensed social workers, and licensed clinical social workers who are subject to regulation by the Board of Social Work.

Statutory Authority: Chapter 31 of Title 54.1 of the Code of Virginia.

Written comments may be submitted until September 13, 1992.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 1601 Rolling Hills Drive, Suite 200, Richmond, Virginia 23229, telephone (804) 662-9914.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **August 26, 1992 - 7 p.m.** – Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to repeal the existing Public Participation Guidelines and adopt

regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and developments of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulations, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation. The purpose of the proposed action is to repeal the existing Public Participation Guidelines and adopt VR 625-00-00:1. Regulatory Public Participation Procedures, which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 625-00-00:1. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

STATEMENT

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for the execution of Chapter 5 of Title 10.1 of the Code of Virginia (§ 10.1-500 et seq.). This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include but not limited to the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605 of the Code of Virginia requires the board to promulgate regulations to ensure that the impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of the article (Article 4).

Issues: In addition to the issue of whether or not the department should adopt the VR 625-00-00:1. Regulatory Public Participation Procedures, public participation to date has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of proposed regulatory actions?

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed VR 625-00-00:1. Regulatory Public Participation Procedures since the regulations only impose requirements on the board. Regulated entities and the public should benefit from the proposed action in that the procedures used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-502, 10.1-603.18, 10.1-605, and 10.1-637 of the Code of Virginia

Written comments may be submitted until September 14, 1992.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219, telephone (804) 786-4570

DEPARTMENT OF STATE POLICE

August 28, 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 545-01-03. Standards and Specifications for the Stickers or Decals Used by Counties, Cities and Towns in Lieu of License Plates.** This revision will make the standards and specifications for stickers and decals used in lieu of license plates consistent with existing state law and motor vehicle safety inspection rules and regulations with regards to placement.

Statutory Authority: §§ 46.2-1052 and 52-8.4 of the Code of Virginia.

Written comments may be submitted until August 28, 1992.

Contact: Captain J. P. Henries, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VIRGINIA COUNCIL ON TEENAGE PREGNANCY PREVENTION

August 6, 1992 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, 601 Belvidere

Street, Richmond, Virginia.

A quarterly business meeting.

Contact: Harriet M. Russell, Director, PPLS, Department of Mental Health, Mental Retardation and Substance Services, 109 Governor Street, Richmond, VA 23230, telephone (804) 786-1530.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

July 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)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: John G. Milliken, Secretary of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

July 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, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

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August 10, 1992 - 1 p.m. – Public Hearing
Highway Auditorium, 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 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The Department of Transportation is authorized by §§ 33.1-12(3) and 33.1-49 of the Code of Virginia to regulate use of state highways and the interstate system to protect the safety to traffic. The proposed amendments to the Hazardous Materials Transportation Manual (i) change the regulations to allow vehicles which use natural gas (or gases with similar properties) as fuel to use the tunnel facilities in the Commonwealth; and (ii) change the regulations pertaining to the conditions under which low-pressure liquid oxygen can be transported through tunnel facilities in the Commonwealth.

Amending the manual allows Virginia to keep its regulations up-to-date with new chemicals and how they may be used or transported. Without these amendments, natural gas-powered vehicles and carriers of low-pressure liquid oxygen not in conformance with the amendments will be unable to use the tunnels.

Statutory Authority: §§ 33.1-12(3) and 33.1-49 of the Code of Virginia.

Written comments may be submitted until August 17, 1992, to Mr. J.L. Butner, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

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

TRANSPORTATION SAFETY BOARD

September 10, 1992 - 9:30 a.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.

This meeting will deal exclusively with the distribution of USDOT Funds for approved grant requests.

Contact: William H. Leighty, Deputy Commissioner, Transportation Safety, DMV, 2300 West Broad Street, Richmond, VA 23219, telephone (804) 367-6614 or (804) 367-1752/TDD

TREASURY BOARD

July 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.

GOVERNOR'S COMMISSION ON VIOLENT CRIME

† **August 6, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, House Room D, Richmond, Virginia. ♿

Second meeting of commission. Guest speakers.

Contact: Kris Ragan, Special Assistant to Secretary Rollins, Secretary of Public Safety, 9th Street Office Building, 6th Floor, Richmond, VA 23219, telephone (804) 786-5351.

VIRGINIA RESOURCES AUTHORITY

† **July 14, 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 June 9, 1992, 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.

† **August 11, 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 July 14, 1992, 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.

† **September 15, 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 August 11, 1992, 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.

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR)

† **July 23, 1992 - 2 p.m.** – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (interpreter for deaf provided upon request)

A quarterly board meeting to receive reports from the commissioner and staff of the Department for the Visually Handicapped and to consider other business that may be presented to the board.

Contact: Joseph A. Bowman, Executive Assistant, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

Advisory Committee on Services

July 25, 1992 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (interpreter for deaf provided upon request)

A meeting to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **August 5, 1992 - Noon** – Open Meeting
Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia.

Luncheon at noon, general session at 2 p.m. and executive committee meeting at 3:30 p.m.

† **August 6, 1992 - 8:30 a.m.** – Open Meeting
Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia.

Business session.

Contact: George S. Orr, Jr., Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, VA 23237, telephone (804) 275-6218.

VIRGINIA VOLUNTARY FORMULARY BOARD

July 24, 1992 - 10 a.m. – Public Hearing

James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on February 1, 1992, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on July 24, 1992, will be made a part of the hearing record.

September 10, 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. r

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, VA 23219, telephone (804) 786-4236.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† **July 20, 1992 - 8:30 a.m.** – Open Meeting
Virginia Department of Commerce, 3600 West Broad Street, Conference Room 3, 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 or (804) 367-9753/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

July 15, 1992 - 7 p.m. – Public Hearing
Upper Occoquan Sewage Authority, Board Room, Administration Building, 14631 Compton Road, Centreville, 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 for an Industrial Landfill which shall be located adjacent to the Upper Occoquan Sewage Authority Treatment Plant located in Fairfax County on Compton Road, Centreville, VA. The purpose of the public hearing will be to solicit comments regarding the technical merits of the draft permit pertaining to the landfill design, operation, and closure. The public comment period will extend until July 27, 1992. Copies of the proposed draft permit may be obtained from Aziz Farahmand, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219. Comments concerning the draft permit must be in writing and directed to Hassan Vakili, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219.

Contact: Aziz Farahmand, Environmental Engineer Consultant, 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 ☎

† **July 29, 1992 - 1 p.m.** – Open Meeting
Tidewater Community College, Virginia Beach Campus, 1700 College Crescent, Virginia Beach, Virginia.(Interpreter for deaf provided upon request)

† **July 30, 1992 - 1 p.m.** – Open Meeting
Lord Fairfax Community College, Room 12, Route 11, Middletown, Virginia.(Interpreter for deaf provided upon request)

† **August 4, 1992 - 1 p.m.** – Open Meeting
Virginia Highland Community College, SR 372 off Route 40, Exit 14 off I-81, Abingdon, Virginia.(Interpreter for deaf provided upon request)

† **August 5, 1992 - 10 a.m.** – Open Meeting
Danville Community College, Wyatt Room 206, 1008 South Main Street, Danville, Virginia.(Interpreter for deaf provided upon request)

† **August 6, 1992 - 1 p.m.** – Open Meeting
Piedmont Virginia Community College, Exit 121A Off I-64, Charlottesville, Virginia.(Interpreter for deaf provided upon request)

Representatives from the Department of Waste Management will be explaining the proposed changes and additions, including the new subtitle D requirements, to the Virginia Solid Waste Management Regulations, VR 672-20-10.

Contact: Michael P. Murphy, Environmental Program Manager, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-3237 or (804) 371-8737/TDD ☎

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† **August 26, 1992 - 7 p.m.** - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to a repeal existing regulations **VR 672-01-1.** and adopt regulations entitled: **VR 672-00-1:1. Public Participation Guidelines.** The purpose of the proposed action is to repeal the existing regulations and adopt Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natuaral Resources Secretariat. Specifically, the proposed guidelines require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the costs on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that either a summary or a copy of comments received in response to the Notice of Intended Regulatory Action be submitted to the Waste Management Board. In addition, the proposal requires that certain analyses be performed, a statement of the performace of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.

STATEMENT

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 10.1-1402 (11) of the Code of Virginia authorizes the Waste Management Board to promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts.

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed Public Participation Guidelines, since the guidelines only impose requirements on the department and board. Regulated entities and the public should benefit from the proposed adoption in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Issues: In addition to the issues of whether or not the board should adopt the proposed guidelines, public participation to date has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of proposed regulatory actions?

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402 (11) of the Code of Virginia

Written comments may be submitted until September 14, 1992.

Contact: Mary Clark German, Public Information Officer, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia 23219, telephone (804) 225-2992.

STATE WATER CONTROL BOARD

† **August 12, 1992 - 2 p.m.** – Open Meeting
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

† **August 13, 1992 - 9 a.m.** – Open Meeting
University of Virginia Southwest Center, Highway 19N, Abingdon, Virginia.

† **August 13, 1992 - 3 p.m.** – Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, SW, Roanoke, Virginia.

† **August 18, 1992 - 9 a.m.** – Open Meeting
State Water Control Board Offices, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

† **August 18, 1992 - 3 p.m.** – Open Meeting
Virginia Beach City Council Chambers, City Hall Building, 2nd Floor, Courthouse Drive, Virginia Beach, Virginia.

† **August 24, 1992 - 1 p.m.** – Open Meeting
Prince William County Boardroom, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

A meeting to receive comments and answer questions of the public on the State Water Control Board's intent to consider the adoption of VR 680-01-01, Fees for Permits and Certificates.

Contact: Ms. Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230-1143, telephone (804) 527-5166.

† **August 12, 1992 - 7 p.m.** – Open Meeting
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

† **August 13, 1992 - 7 p.m.** – Open Meeting
Northampton County Circuit Court, Business Route 13, Eastville, Virginia.

† **August 19, 1992 - 7 p.m.** – Open Meeting
James City County, Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

A meeting to receive comments and answer questions of the public on the proposed repeal of VR 680-13-01, Rules of the Board and Standards for Water Wells and the proposed adoption of VR 680-13-07, Ground Water Withdrawal Regulations.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230-1143, telephone (804) 527-5203.

† **August 18, 1992 - 7 p.m.** – Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, SW, Roanoke, Virginia.

† **August 20, 1992 - 7 p.m.** – Open Meeting
Prince William County, Board Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

† **August 24, 1992 - 7 p.m.** – Open Meeting
James City County, Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

A meeting to receive views and comments and answer questions of the public regarding the proposed amendments of VR 680-13-03, Petroleum Underground Storage Tank Financial Responsibility Requirements and the proposed adoption of VR 680-13-06, Virginia Petroleum Storage Tank Fund Requirements.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230-1143, telephone (804) 527-5195.

† **August 17, 1992 - 7 p.m.** – Open Meeting
State Water Control Board Offices, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

† **August 19, 1992 - 7 p.m.** – Open Meeting
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia.

† **August 20, 1992 - 7 p.m.** – Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, SW, Roanoke, Virginia.

† **August 24, 1992 - 7 p.m.** – Open Meeting
County of Prince William, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

A meeting to receive views and comments and answer questions of the public regarding VR 680-14-12, Aboveground Storage Tanks Registration Requirements, VR 680-14-13, Aboveground Storage Tanks Prevention Standards and Operational Requirements, and VR 680-14-14, Aboveground Storage Tanks Financial Responsibility Requirements.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230-1143, telephone (804) 527-5197.

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† **August 18, 1992 - 3 p.m.** – Public Hearing
Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

† **August 20, 1992 - 3 p.m.** – Public Hearing
County of Prince William Board Room, McCourt Building, 1 County Complex, 4850 Davis Ford Road, Prince William, Virginia.

† **August 24, 1992 - 3 p.m.** – Public Hearing
James City County Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9.6-14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt: **VR 680-14-11. Corrective Action Plan (CAP) General Permit.** The purpose of the proposed regulation is to establish a general permit for categories of UST cleanup sites.

STATEMENT

Basis and statutory authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically § 62.1-44.15 (5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15 (7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15 (10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program. Section 62.1-44.15 (14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes. Section 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters. Section 62.1-44.34:9 authorizes the board to adopt such regulations as may be necessary to carry out its powers and duties with regard to underground storage tanks in accordance with applicable federal laws and regulations and to require any owner of an underground stroage tank to undertake corrective action for any release of petroleum or any other regulated substance. Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Administration of the proposed CAP general permit regulation will be according to § 6.2 of the Permit Regulation (VR 680-14-01) and Part IV of the Underground Storage Tanks; Technical Standards and Corrective Action Requirements Regulation (VR 680-13-02).

Substance and purpose: Whenever a release of a regulated substance from an underground storage tank (UST) system is identified, certain activities are required of the owners and operators of the system. Among the required activities are immediate pollution abatement steps, a site assessment, a risk assessment and a remediation assessment. Based on the information gathered, the board may require the owner/operator to submit a corrective action plan for responding to the pollution situation. Owner/operators are then required to obtain a Corrective Action Plan (CAP) Permit in order to implement the remediation activities of the corrective action plan.

General permits may be issued for categories of dischargers located throughout the Commonwealth that: (i) involve the same or similar types of operations; (ii) discharge the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring.

The proposed CAP general permit regulation is for categories of UST cleanup sites that are experiencing or have experienced releases of petroleum products. The proposed CAP general permit includes categories for cleanup of sites contaminated by automotive gasoline and sites contaminated by aviation gasoline, jet fuel or diesel. The intent of this proposed regulation is to establish standard language for the various methods of remediation associated with underground storage tank releases of petroleum products. Any owner/operator whose acitivity fits into the categories may apply for coverage under it instead of applying for an individual CAP permit.

Final remediation goals will be established through the corrective action plan for the individual site. Those corrective action plans are not intended to be specified in this regulation. They would be incorporated by reference into the CAP general permit. The approval of the site specific corrective action plan involves a separate public participation requirement in accordance with the UST Regulation (VR 680-13-02).

The remediation activities needed to restore the environment at these sites will be determined on a case-by-case basis. Some of them will require a permit to discharge treated ground water to surface waters. The proposed general permit establishes effluent limitations and monitoring requirements for these discharges of treated ground water. As with an individual VPDES permit, the effluent limits in the CAP general permit will be set to protect the quality of the waters receiving the discharge. Remediation at other sites may involve pollution management activities which do not result in surface water discharges. Those treatment technologies and applicable monitoring requirements are also established in the proposed CAP general permit.

Impact: Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators who qualify. It will also reduce the time currently required to obtain coverage under the VPDES, VPA or CAP permitting systems. This could be of some environmental significance when delays in obtaining a permit result in delays in the initiation of ground water remediation efforts. Of the over 60,000 registered underground storage tanks in Virginia, up to 9,000 are expected to report some sort of leak during their lifetimes. The Water Control Board curently is working with owners of approximately 3,500 active release sites and new cases are reviewed daily. Adoption of the proposed regulation would reduce the manpower needed by the Water Control Board for permitting these activities.

Issues: Issues under consideration include the appropriateness of the effluent limitations and monitoring reports. These provisions are based on the best scientific and engineering judgment of the staff and have been approved by the U.S. Environmental Protection Agency, but they have not been subjected to public scrutiny.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:9 of the Code of Virginia.

Written comments may be submitted until September 14, 1992 to Ms. Doneva Dalton, Hearing Reporter, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5059.

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† **August 26, 1992 - 7 p.m.** – Public Hearing
State Water Control Board Offices, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen.

Notice is hereby given in accordance with § 9.6-14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal existing Public Participation Guidelines and adopt regulations entitled: **VR 680-41-01:1. Public Participation Guidelines.** The purpose of the proposed action is to repeal existing Public Participation Guidelines and adopt new regulations which establish various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion and establish guidelines consistent with other agencies within the Natural Resources Secretariat.

STATEMENT

Basis and statutory authority: Section 9-6.14:7.1 of the Code

of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 62.1-44.15 (7) of the Code of Virginia authorizes the State Water Control Board to adopt rules governing the procedure of the board with respect to: (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

Substance and purpose: The purpose of the proposed action is to repeal existing Public Participation Guidelines and adopt new regulations to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that either a summary or a copy of comments received in response to the NOIRA be submitted to the board. In addition, the proposal requires that certain analyses be performed, a statement of the performance of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed Public Participation Guidelines, since the guidelines only impose requirements on the department and board. Regulated entities and the public should benefit from the proposed adoption in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Issues: In addition to the issue of whether or not the board should adopt the proposed guidelines, public participation to date has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? How can public participation guidelines best recognize and address the costs and benefits to the public health, welfare and safety of proposed regulatory actions.

Statutory Authority: § 62.1-44.15 (7) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 14, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5158.

VIRGINIA WORKERS' COMPENSATION COMMISSION

† **August 26, 1992 - 10 a.m.** – Open Meeting
1000 DMV Drive, Richmond, Virginia. 🖻 (Interpreter for deaf provided upon request)

Pursuant to House Bill No. 739 amending § 65.2-801 of the Code of Virginia, the Virginia Workers' Compensation Commission is developing regulations for its program for individual self-insurance for workers' compensation. Individuals or organizations may obtain copies of the regulation for the person listed below, and may provide either written or oral comments. Written comments must be delivered to the Commission prior to the date of the hearing, and requests to provide oral comments must also be delivered prior to the date of the hearing.

Contact: Lois Tunstall, Administrative Staff Specialist, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, Virginia 23220, telephone (804) 367-0580.

VIRGINIA DEPARTMENT OF
YOUTH & FAMILY SERVICES
Youth Begins With You.

BOARD OF YOUTH AND FAMILY SERVICES

August 24, 992 - 10 a.m. – Open Meeting
Virginian Beach, 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) 371-0700.

VIRGINIA COMMISSION ON YOUTH

August 24,1992 - 1 p.m. – Public Hearing
Virginia Beach Center for the Arts, 2200 Parks Avenue, Price Auditorium, Virginia Beach, Virginia. 🖻 (Interpreter for deaf provided upon request)

September 22, 1992 - 1 p.m. – Public Hearing
Mary Washington College, 1301 College Avenue, Dodd Auditorium, Fredericksburg, Virginia. 🖻 (Interpreter for

deaf provided upon request)

A public hearing to solicit testimony relating to Juvenile Crime and Youth Prevention Programs. The Juvenile Crime testimony will be used as part of the study from HJR 36 on Serious Juvenile Offenders and the Youth Prevention Programs testimony will be used as background for the oversight of the Comprehensive Services Act for At-Risk Youth and Families (HB 935 and SB 171). A separate time slot has been set aside for each topic. The time slots are: 1 p.m-3 p.m Juvenile Crime and 4 p.m-6 p.m Youth Prevention Programs.

Contact: Mary Simmons, Staff Assistant, Commission on Youth, General Assembly Building, Suite 517 B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE EFFECTIVENESS OF MANAGEMENT STRUCTURE OF THE DEPARTMENT OF GAME AND INLAND FISHERIES

† **July 15, 1992 - 1:30 p.m.** – Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia.

The subcommittee will meet for an organizational meeting. (HJR 191)

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING MATERNAL AND PERINATAL DRUG EXPOSURE

† **July 16, 1992 - 1 p.m.** – Open Meeting
General Assembly Building, House Room D, Richmond, Virginia.

Members will be updated on plans for the October conference and discussion will begin on subsidized adoption, foster care and related issues. (HJR 180)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

SUBCOMMITTEE OF THE COMMITTEE ON MINING AND MINERAL RESOURCES TO STUDY CARRYOVER HOUSE BILL 896 RELATING TO WATER SUPPLIES CONTAMINATED BY MINING ACTIVITIES

July 17, 1992 - 4 p.m. – Public Hearing
Clinch Valley College, Wise, Virginia.

A meeting to receive comments from the residents of Southwest Virginia relating to water supplies contaminated by mining activities. (HB 896)

Those persons wishing to speak should contact Lois V. Johnson, House of Delegates, Committee Operations, General Assembly Building, Richmond, VA 23219.

Contact: Frank Munyan, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING NEEDS OF FOREIGN-BORN RESIDENTS IN THE COMMONWEALTH AND THE IMPACT OF NON-U.S. CITIZENS ON THE STATE AND LOCAL HEALTH CARE DELIVERY SYSTEM.

† **July 23, 1992 - 2 p.m.** – Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia.

The subcommittee will meet for an organizational meeting. (HJR 97)

Contact: Gayle Nowell, Research Associate, or Jessica Bolecek, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT LEGISLATIVE SUBCOMMITTEE ON POLLUTION PREVENTION

† **August 3, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room B, Richmond, Virginia.

An open meeting. (SJR 103)

Contact: Thomas C. Gilman, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone, (804) 786-3838 or Frank Munyan, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

July 15, 1992 - 9:30 a.m. – Open Meeting
General Assembly Building, 6th Floor Conference Room, Richmond, Virginia.

A general business meeting, including a review of the draft revision of Title 24.1 (Election Laws).

Contact: Joan W. Smith, Virginia Code Commission, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING WORKERS' COMPENSATION INSURANCE

† **July 14, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Richmond, Virginia.

A meeting for the purpose of reviewing carryover legislation.

Contact: Mark C. Pratt, Research Associate, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 13
ASAP Policy Board - Valley
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Employment Commission, Virginia
- State Advisory Board

July 14
† Auctioneers, Board for
† Conservation and Recreation, Department of
- Upper James Scenic River Advisory Board
Higher Education for Virginia, State Council of
† Medical Assistance Services, Board of
† Real Estate Board
† Virginia Resources Authority
† Workers' Compensation Insurance, Joint Subcommittee Studying

July 15
† Agriculture and Consumer Services, Department of
- Virginia Soybean Board
Code Commission, Virginia
† Contractors, Board for
Corrections, Board of
† Effectiveness of Management Structure of the Department of Game and Inland Fisheries, Joint Subcommittee Studying
† Emergency Planning Committee, Local - Roanoke Valley
Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
Local Debt, State Council on
† Optometry, Board of
Social Services, State Board of
Transportation Board, Commonwealth
Treasury Board

July 16
Agriculture and Consumer Services, Department of
- Virginia Peanut Board
Audiology and Speech Pathology, Board of
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Corrections, Board of
- Liaison Committee
Game and Inland Fisheries, Board of
† Labor and Industry, Department of
- Virginia Apprenticeship Council
† Maternal and Perinatal Drug Exposure, Joint Subcommittee Studying
† Optometry, Board of
† Social Services, Department of
- Budget Steering Committee
Social Services, State Board of
Transportation Board, Commonwealth

July 17
Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Building Code Technical Review Board, State
Coordinating Prevention, Virginia Council on
† Game and Inland Fisheries, Board of
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee
† Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee

July 18
Agriculture and Consumer Services, Department of
- Pesticide Control Board

July 20
† Accountancy, Board for
† Arts, Commission for the
† Health Professions, Department of
- Task Force on Behavioral Science Professions
Local Government, Commission on
† Waste Management Facility Operators, Board for

July 21
† Accountancy, Board for
† Health Professions, Department of
- Board of Health Professions
- Compliance and Discipline Committee
- Executive/Legislation Committee
† Historic Resources, Department of
† Housing Development Authority, Virginia
† Norfolk State University
- Board of Visitors

July 22
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Community Colleges, State Board for
† Emergency Planning Committee, Local - Gloucester County
Mental Health, Mental Retardation and Substance Abuse Services Board, State
Psychology, Board of
† Real Estate Board

July 23
Community Colleges, State Board for
† Historic Resources, Department of
† Needs of Foreign-Born Residents in the Commonwealth and the Impact of Non-U.S. Citizens on the State and Local Health Care Delivery System, Joint Subcommittee Studying
Psychology, Board of
† Visually Handicapped, Board for the

July 24
† Governor's Council on Alcohol and Drug Abuse Problems
Psychology, Board of
- Examination Committee

July 25
Museum of Natural History, Virginia
- Board of Trustees
Visually Handicapped, Department for the
- Advisory Committee on Services

July 27
† Air Pollution Control Board, State
† Cosmetology, Board for
Longwood College
- Board of Visitors
Lottery Department, State
Nursing, Board of

July 28
† Cosmetology, Board for
Health Services Cost Review Council, Virginia
Marine Resources Commission
Nursing, Board of
Pharmacy, Board of
† Real Estate Board

July 29
Nursing, Board of
† Waste Management, Department of

July 30
† Air Pollution Control, Department of
Education, Board of
† Pharmacy, Board of
† Waste Management, Department of

August 3
† Outdoors Foundation, Virginia
† Pollution Prevention, Joint Legislative Subcommittee on

August 4
† Waste Management, Department of

August 5
† Emergency Planning Committee, Local - Winchester
† Vocational Education, Virginia Council on
† Waste Management, Department of

August 6
† Dillon Rule and Local Government, Governor's Advisory Commission on
Teenage Pregnancy Prevention, Virginia Council for
† Violent Crime, Governor's Commission on
† Vocational Education, Virginia Council on
† Waste Management, Department of

August 7
Dentistry, Board of

August 11
† Virginia Resources Authority

August 12
† Water Control Board, State

August 13
† Water Control Board, State

August 14
Dentistry, Board of
† Medicine, Board of
- Executive Committee

August 15
Medicine, Board of
- Credentials Committee

August 17
† Water Control Board, State

August 18
† Real Estate Appaiser Board
† Water Control Board, State

August 19
Corrections, Board of
† Social Services, State Board of
† Water Control Board, State

August 21
† Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee

August 24
Lottery Department, State
† Water Control Board, State

August 25
Health Services Cost Review Council, Virginia

August 26
† Chesapeake Bay Local Assistance Board
† Land Evaluation Advisory Council, State
† Workers' Compensation Commission, Virginia

September 10
Transportation Safety Board
Voluntary Formulary Board, Virginia

September 11
† Land Evaluation Advisory Council, State

September 15
† Virginia Resources Authority

September 18
† Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee

PUBLIC HEARINGS

July 13
† Marine Resources Commission

July 14
† Child Day Care and Early Childhood Programs, Council on
Higher Education for Virginia, State Council of
† Marine Resources Commission

July 15
Air Pollution Control Board, State
Waste Management, Department of

July 16
Labor and Industry, Department of
- Apprenticeship Council

July 17
Mining and Mineral Resources to Study Carry Over House Bill 896 Relating to Water Supplies Contaminated by Mining Activities, Subcommittee of the Committee on

July 20
† Social Work, Board of

July 22
Air Pollution Control Board, State
Psychology, Board of

July 24
† Housing Study Commission, Virginia
Voluntary Formulary Board, Virginia

July 27
Lottery Department, State

July 28
† Marine Resources Commission

July 29
Education, Department of

July 31
† Housing Study Commission, Virginia

August 5
† Commerce, Department of

August 10
† Health, Department of
Transportation, Department of

August 11
† Health, Department of

August 14
† Health, Department of

August 17
† Housing Study Commission, Virginia

August 18
† Health, Department of
† Water Control Board, State

August 20
† Water Control Board, State

August 24
† Water Control Board, State
Youth, Virginia Commission on

August 26
† Air Pollution Control, Department of
† Chesapeake Bay Local Assistance Board
† Conservation and Recreation, Department of
- Board of Conservation and Recreation
† Marine Resources Commission
† Soil and Water Conservation Board
† Waste Management, Department of
† Water Control Board, State

August 31
Motor Vehicles, Department of

September 2
† Air Pollution Control, Department of

September 22
Youth, Virginia Commission on

September 30
Agriculture and Consumer Services, Board of

Calendar of Events