

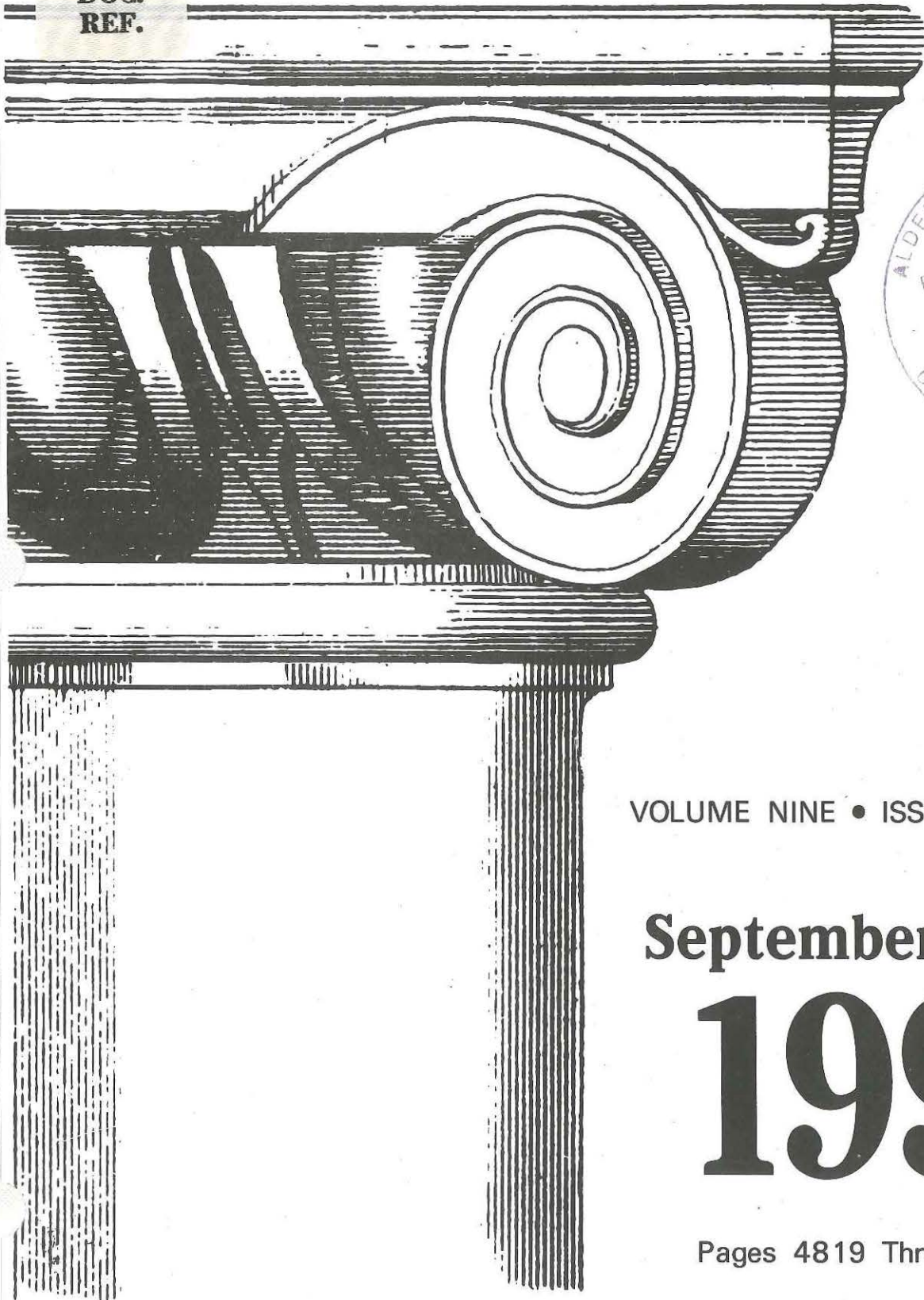
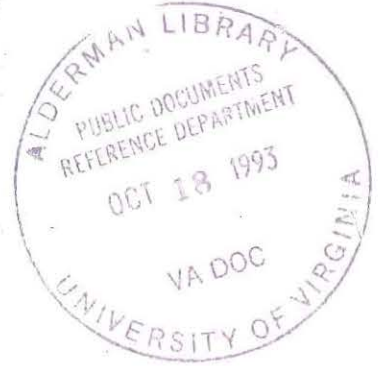
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THE VIRGINIA REGISTER

OF REGULATIONS

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September 6, 1993

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VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued very 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; 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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January 1993 through April 1994

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 Noon Wednesday

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Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT FOR THE AGING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider amending regulations entitled: **VR 110-01-02. Grants to Area Agencies on Aging.** The purpose of the proposed action is to review the regulation to determine whether new regulations should be adopted, the current regulation should be amended, and sections of the current regulation should be repealed. The department does not intend to hold a public hearing after the proposed regulation is published. The department does not anticipate making substantive changes to the current regulations.

Statutory Authority: § 2.1-373(a)(7) of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-4464.

VAR. Doc. No. C93-1938; Filed July 21, 1993, 10:01 a.m.

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 Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need including, but not limited to (i) establishing a single product registration fee; (ii) establishing a deadline for registering pesticide products each year and to assess a late fee for pesticide products registered after the deadline; and (iii) deleting the provisions allowing a commercial applicator or a registered technician, in lieu of paying a penalty, to submit an affidavit certifying that he has not applied pesticides classified for restricted use

subsequent to the expiration of his certificate. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; or (v) any combination thereof. The agency plans to hold a public hearing on the proposed regulation after it is published.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until 8:30 a.m. on September 23, 1993.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558.

VAR. Doc. No. C93-1995; Filed August 2, 1993, 2:35 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-21. Public Participation Guidelines.** The purpose of the proposed action is to review the regulation for effectiveness and continued need. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; or (v) any combination thereof. The agency plans to hold a public hearing on the proposed regulation after it is published.

Statutory Authority: §§ 3.1-249.30 and 9-6.14:7.1 of the Code of Virginia.

Written comments may be submitted until 8:30 a.m. on September 13, 1993.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558.

VAR. Doc. No. C93-1840; Filed July 16, 1993, 10:15 a.m.

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

Notices of Intended Regulatory Action

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. (Rev. HH)** The purpose of the proposed action is to amend the regulations concerning standards of performance for new and expanding industry to address concerns relating to requirements for regulated medical waste incinerators.

Public hearing plans: The Department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The 1992 General Assembly of Virginia passed legislation to impose a moratorium on the issuance of permits for commercial regulated medical waste incinerators (MWIs) until September 1, 1993, and to require the promulgation of regulations by September 1, 1993. The legislation was proposed in response to health concerns about commercial MWI emissions. This legislation was again submitted to the General Assembly in the 1993 session, and a new version extending the original moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs) from September 1, 1993, to December 1, 1993, was passed. However, the deadline for promulgation of regulations remains September 1, 1993.

Although the Virginia Waste Management Board has promulgated regulations regarding the storage, transportation, and disposal of regulated medical wastes, the Virginia State Air Pollution Control Board 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. The State Air Pollution Control Board had not promulgated air pollution permit regulations specifically addressing medical waste incinerators.
2. The State Air Pollution Control Board had issued permits for approximately 17 hospital regulated medical waste incinerators and one commercial regulated medical waste incinerator during the preceding two years.
3. The total regulated medical waste generated in the Commonwealth averaged between 35 and 45 tons per day. Currently, sufficient capacity within the Commonwealth to dispose of such waste may exist.
4. The incineration of regulated medical waste generates toxic or trace metals, dioxins and furans, acid gases, particulate matter, and pathogens, which may adversely affect human health and the

environment.

Alternatives:

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option would meet the stated purpose of the regulation: to limit emissions of certain air pollutants to a specified level necessary to protect public health and welfare. This, then, will accomplish the specific objectives of the law.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option would not necessarily meet the stated purpose of the regulatory action; further, alternative regulatory changes could also go beyond the stated purpose by imposing requirements that may not be consistent with the General Assembly's wishes.
3. Take no action to amend the regulations and continue to regulate regulated medical waste incinerators under existing air quality programs. This option would not accomplish the goals of the law or the agency, nor would it accomplish the stated purpose of the regulatory action.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable statutory requirements: Legislation passed by the 1993 General Assembly 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% of the waste it burns is generated off site. "Infectious waste" (i.e., regulated medical 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 or approved by the State Air Pollution Control Board or the Virginia Waste Management Board prior to December 1, 1993; and no such permits shall be reviewed or processed by the Boards prior to September 1, 1993." 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 by September 1, 1993, or as soon as practicable thereafter within the constraints of the Administrative Process Act (§ 9-6.14:1 et seq.)." Factors to be considered by both boards include:

1. An assessment of the annual need for the disposal of infectious waste generated in the Commonwealth;
2. Means of reducing the volume of infectious waste

Notices of Intended Regulatory Action

and similar wastes containing or producing toxic substances disposed of in the Commonwealth;

3. The availability and feasibility of methods of disposing of infectious waste other than incineration;

4. Criteria for siting infectious waste incinerators in order to safeguard public health and safety to the maximum extents;

5. Standards for assessing the economic feasibility of proposed commercial infectious waste incinerators;

6. The propriety of establishing different criteria and procedures for the permitting of incinerators disposing of infectious waste generated on-site or off-site;

7. The economic demand for the importation of infectious waste generated outside the Commonwealth to existing and future commercial infectious waste incinerators located in the Commonwealth, and an estimate of the fair share of incinerator capacity to be allowed for infectious waste generated outside the Commonwealth;

8. The impact of the Clean Air Act (42 U.S.C. § 1857 et seq.), as amended by the 1990 amendments (P.L. 101-549), on the incineration of infectious waste by hospitals; and

9. The impact of reports by the Environmental Protection Agency to the Congress of the United States regarding the Medical Waste Tracking Act of 1988 (P.L. 100-582)."

To address these issues, a study working group consisting of Department of Environmental Quality (DEQ) Air and Waste Division staff and the public (including representatives from industry, environmental groups, general public, and the Virginia Department of Health) was established. The group determined each factor's relevance to the regulatory responsibilities of the State Air Pollution Control Board and the Waste Management Board. It was agreed that the factors pertaining to the economics of commercial regulated medical waste incineration (items 1, 5, and 7) were not within the purview of either board to adopt as regulatory performance standards or siting criteria. It was also determined by the group that items 2, 3, 4, 6, and 9 were waste management issues more appropriately studied by the Waste Division, while item 8 was an air quality issue best reviewed by the Air Division. Study results were presented to the General Assembly in January 1993.

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

Written comments may be submitted until close of business September 6, 1993, to Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

VA.R. Doc. No. C93-1783; Filed July 7, 1993, 9:35 a.m.

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 (Appendix E - Public Participation Procedures)**. The purpose of the proposed action is to amend the Public Participation Procedures (Appendix E), on a permanent basis, such that the procedures will comply with the 1993 amendments to the Administrative Process Act.

Public meeting: A public meeting will be held by the department in the Board Room, Department of Environmental Quality, Water Division Office Building, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, at 2 p.m. on September 9, 1993, to discuss the intended action. Unlike an informational proceeding (informal hearing), which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development. The meeting will be held jointly by all regulatory agencies within the Secretariat of Natural Resources.

Accessibility to persons with disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Doneva Dalton at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230, or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than August 23, 1993.

Use of collaborative approach: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

Informational proceeding and public hearing plans: After the proposal is published in the Virginia Register of Regulations, the department will hold at least one informational proceeding (informal hearing) to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice. The department does not intend to hold an evidential hearing (public hearing) on the proposal.

Notices of Intended Regulatory Action

Need: The provisions of Appendix E (Public Participation Procedures) are in need of revision to conform to recent changes in the requirements of the Administrative Process Act and to replace recently adopted emergency procedures. These procedures detail how the State Air Pollution Control Board will solicit and use public input during the development and formation of regulations in the regulatory adoption process.

The Administrative Process Act (APA) establishes the requirements that state agencies and boards must follow in the adoption of regulations.

In 1993, the Virginia General Assembly passed several amendments to the APA which became effective on July 1, 1993. The Office of the Attorney General later determined that these amendments would require boards with regulations currently in the promulgation process to stop the process and begin anew under the new provisions if final adoption could not occur prior to July 1.

In addition, state boards must also adopt new public participation procedures prior to restarting the regulatory actions. In order to be able to continue to process regulatory actions in order to meet various federal and state statutory deadlines, the State Air Pollution Control Board adopted emergency regulations covering regulatory public participation which became effective on June 29, 1993. However, the emergency regulations only remain in effect for one year from the effective date shown above, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the APA.

Although all aspects of the APA do not affect the procedures, the APA imposes new requirements on agencies that directly affect public participation in the processing of regulations under the APA. For example, the APA requires the board to set out in their procedures any methods for the identification and notification of interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the APA mandates that the board include in their procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Estimated impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the APA.

Alternatives: The alternatives are to either (i) amend the regulation to meet the needs identified above and comply with the new requirements of the APA or (ii) not amend the regulation and leave the provisions cited outdated and ineffective with regard to compliance with the APA.

Costs and benefits: The department is soliciting comments

on the costs and benefits of the alternative stated above or other alternatives.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1308 of the Code of Virginia.

Written comments may be submitted until the close of business September 15, 1993, to Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Robert A. Mann, Director of Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

VA.R. Doc. No. C93-1892; Filed July 21, 1993, 10:42 a.m.

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

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider repealing regulations entitled: **VR 130-01-1. Public Participation Guidelines**. The purpose of the proposed action is to establish new public participation guidelines for the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects. The board does not plan to hold a public hearing in the promulgation of these regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-404 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VA.R. Doc. No. C93-1936; Filed July 9, 1993, 11:53 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider promulgating regulations entitled: **VR 130-01-1.1. Public Participation Guidelines**. The purpose of the proposed action is to establish public participation guidelines for the Board of Architects, Professional Engineers, Land Surveyors and Landscape Architects. The board does not plan to hold a public hearing in the promulgation of these regulations.

Statutory Authority: §§ 9-6.14:7.1. and 54.1-404 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VA.R. Doc. No. C93-1836; Filed July 9, 1993, 11:53 a.m.

AUCTIONEERS BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider repealing regulations entitled: **VR 105-01-1. Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1942; Filed July 24, 1993, 2:30 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider promulgating regulations entitled: **VR 105-01-1:1. Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1942; Filed July 24, 1993, 2:30 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider repealing regulations entitled: **VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board**. The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

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

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1921; Filed July 21, 1993, 11:56 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider promulgating regulations entitled: **VR 150-01-2:1. Virginia Auctioneers Board Regulations**. The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

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

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1921; Filed July 21, 1993, 11:56 a.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider promulgating regulations entitled: **Public Participation Guidelines of the Board of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to provide guidelines for the involvement of the public in the development and promulgation of regulations

Notices of Intended Regulatory Action

of the Board of Audiology and Speech-Language Pathology. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2400 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

V.A.R. Doc. No. C93-1825 Filed July 13, 1993, 9:33 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **VR 155-01-2:1. Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed action is to delete obsolete requirements, change the name of the board and profession to audiology and speech-language pathology, and to revise the definition of scopes of practice in adherence with 1992 legislation. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 54.1-2400 and 54.1-2602 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

V.A.R. Doc. No. C93-1823 Filed July 13, 1993, 9:33 a.m.

BOARD FOR BARBERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Barbers intends to consider repealing regulations entitled: **VR 170-01-00. Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1991 Filed July 30, 1993, 11:53 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Barbers intends to consider promulgating regulations entitled: **Board for Barbers Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1990 Filed July 30, 1993, 11:53 a.m.

BOARD FOR BRANCH PILOTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider repealing regulations entitled **VR 535-01-00. Public Participation Guidelines.** The purpose of the proposed action is to establish new public participation guidelines for the Board for Branch Pilots. The board does not plan to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-902 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

V.A.R. Doc. No. C93-1935 Filed July 9, 1993, 11:54 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider promulgating regulations entitled:

Notices of Intended Regulatory Action

VR 535-01-00:1. Public Participation Guidelines for Board for Branch Pilots. The purpose of the proposed action is to establish new public participation guidelines for the Board for Branch Pilots. The board does not plan to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-902 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

V.A.R. Doc. No. C93-1835; Filed July 9, 1993, 11:53 a.m.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Notice of Intended Regulation Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider amending regulations entitled: **VR 173-01-00:1. Public Participation Guidelines.** The purpose of the proposed action is to amend permanent Public Participation Guidelines (VR 173-01-00:1) so that the guidelines will comply with the 1993 amendments to the Administrative Process Act.

Basis and Statutory Authority: The basis for this regulation is § 10.1-2102 of the Code of Virginia which authorizes the board to adopt rules and procedures for the conduct of its business. In addition, § 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.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act (Act) and replace emergency guidelines which became effective June 30, 1993.

Substance and Purpose: The purpose of this proposed regulatory action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its guidelines a general consultation with groups and individuals registering interest in working with the board.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the guidelines, since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act and provide greater opportunity for public involvement in information regarding the board's regulatory actions.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Scott Crafton at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the board's staff, with staffs of the other Natural Resource Agencies also amending their public participation guidelines, will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Crafton at the address or telephone number listed below. Persons needing interpreter services for the deaf must notify Mr. Crafton no later than Monday, August 25, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. This may also be a jointly held proceeding with one or more board members in attendance. If held independently, this informational proceeding will be convened by a member of the board. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

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

Written comments may be submitted until 4 p.m. on

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September 15, 1993.

Contact: Scott Crafton, Regulatory Coordinator, 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.

VA.R. Doc. No. C93-1846; Filed July 19, 1993, 12:18 p.m.

BOARD OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Conservation and Recreation intends to consider amending regulations entitled: **VR 215-00-00. Regulatory Public Participation Procedures.** The purpose of the proposed action is to amend, on a permanent basis, the board's procedures to comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its procedures any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Basis and Statutory Authority: The basis for this action is the Virginia Administrative Process Act, in particular § 9-6.14:7.1 of the Code of Virginia which 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. Statutory authority for this specific action is found in § 10.1-107 of the Code of Virginia, which authorizes the Board of Conservation and Recreation (Board) to promulgate regulations necessary for the execution of the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

Need: This proposed regulatory action is necessary in order to establish procedures which comply with the 1993 amendments to the Administrative Process Act and replace emergency procedures which became effective on June 30, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's procedures. The Act requires the board to adopt procedures and any procedures adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the board's staff will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations. This informational proceeding will be held in coordination with other regulatory authorities and agencies of the Secretariat of Natural Resources. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4579 or fax (804) 786-6141.

VA.R. Doc. No. C93-1866; Filed July 20, 1993, 2:23 p.m.

DEPARTMENT OF CONSERVATION AND RECREATION

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider amending regulations entitled: **VR 217-00-00. Regulatory Public Participation Procedures**. The purpose of the proposed action is to amend, on a permanent basis, the board's procedures to comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the department to set out in its procedures any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the department intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the department include in its procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the department.

Basis and Statutory Authority: The basis for this action is the Virginia Administrative Process Act, in particular § 9-6.14:7.1 of the Code of Virginia which 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. Statutory authority for this specific action is found in § 10.1-104 of the Code of Virginia, which 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.

Need: This proposed regulatory action is necessary in order to establish procedures which comply with the 1993 amendments to the Administrative Process Act and replace emergency procedures which became effective on June 30, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the department. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the department's procedures. The Act requires the department to adopt procedures and any procedures adopted must comply with the provisions of the Act.

Public Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any

alternatives. Also, the department seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the department's staff will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The department intends to hold an informational proceeding (informal hearing) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations. This informational proceeding will be held in coordination with other regulatory authorities and agencies of the Secretariat of Natural Resources. The department does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4579 or fax (804) 786-6141.

V.A.R. Doc. No. C93-1867; Filed July 20, 1993, 2:23 p.m.

BOARD FOR CONTRACTORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider repealing regulations entitled: **VR 220-01-00. Public Participation Guidelines**. The purpose of the proposed action is to repeal existing public participation guidelines. Public hearings will be held

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at several locations around the state during the public comment period on the proposed regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

VA.R. Doc. No. C93-1899; Filed July 21, 1993, 11:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider promulgating regulations entitled: **VR 220-01-00:1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines. Public hearings will be held at several locations around the state during the public comment period on the proposed regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

VA.R. Doc. No. C93-1898; Filed July 21, 1993, 11:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider amending regulations entitled: **VR 220-01-2. Regulations of the Board for Contractors.** The purpose of the proposed action is to review and seek public comments on all of its regulations for promulgation, amendment, and repeal in order to carry out its mission to protect the public through the regulation of licensed contractors. Public hearings will be held at several locations around the state during the public comment period on the proposed regulations.

Statutory Authority: § 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

VA.R. Doc. No. C93-1870; Filed July 21, 1993, 11:38 a.m.

BOARD FOR COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider repealing regulations entitled: **VR 235-01-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal public participation guidelines in accordance with the Administrative Process Act prior to the expiration of emergency public participation guidelines on June 22, 1994. The agency does not intend to hold a public hearing on the proposed repeal of the regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

VA.R. Doc. No. C93-2030; Filed August 4, 1993, 12:02 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider repealing regulations entitled: **VR 235-01-02. Board for Cosmetology Rules and Regulations.** The purpose of the proposed action is to undertake a review and seek public comments for the purpose of repealing regulations as necessary to regulate the practice of cosmetology. The agency will hold a public hearing on the proposed repeal of the regulations after publication. Date, time and location to be announced.

Statutory Authority: § 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

VA.R. Doc. No. C93-2027; Filed August 4, 1993, 12:01 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider promulgating regulations entitled: **Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines in accordance with the Administrative Process Act prior to the expiration of emergency public participation guidelines on June 22, 1994. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Notices of Intended Regulatory Action

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

V.A.R. Doc. No. C93-2031; Filed August 4, 1993, 12:02 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider promulgating regulations entitled: **Board for Cosmetology Rules and Regulations**. The purpose of the proposed action is to undertake a review and seek public comments for the purpose of promulgating regulations as necessary to regulate the practice of cosmetology. The agency will hold a public hearing on the proposed regulations after publication. Date, time and location to be announced.

Statutory Authority: § 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

V.A.R. Doc. No. C93-2029; Filed August 4, 1993, 12:02 p.m.

BOARD OF DENTISTRY

† Notice of Intended Regulatory Action

The Board of Dentistry is conducting a biennial regulatory review in response to the requirement of § 9-6.14 of the Code of Virginia and § 3.6 of Board Regulations VR 255-01-2. A public hearing will be held at a later date at which time all written comments will be included from this review.

Statutory Authority: § 54.1-2400.6 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

V.A.R. Doc. No. C93-2149; Filed August 19, 1993, 11:31 a.m.

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 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia**. The purpose of the proposed action is to amend these regulations to conform with changes to the Code of Virginia, federal mandates and national standards. All interested parties will be notified and the Department of Education will hold at least one public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-16 and 22.1-176 of the Code of Virginia.

Written comments may be submitted until September 30, 1993.

Contact: Barbara V. Goodman, Principal Specialist, PTS, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2037.

V.A.R. Doc. No. C93-1992; Filed July 30, 1993, 4:46 p.m.

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 promulgating regulations entitled: **School Breakfast Program Requirements**. The purpose of the proposed action is to fulfill the requirements of the Code of Virginia to promulgate regulations for the implementation of school breakfast programs in Virginia public schools. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-207.3 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Dr. Jane Logan, Principal Specialist, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 371-2339.

V.A.R. Doc. No. C93-2015; Filed August 4, 1993, 10:11 a.m.

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 promulgating regulations entitled: **VR 270-01-0042.1. Regulations Governing the Employment of Professional Personnel**. The purpose of the proposed action is to establish new regulations to govern the hiring procedures and contractual agreements.

The 1992 General Assembly required the Department of Education to study local school division hiring process and provide a report to the 1993 session. A team of

Notices of Intended Regulatory Action

professionals studied hiring procedures for teachers and professional personnel in conjunction with a Department of Education study on the Revision of Teacher Contracts. The result of the study was report entitled "Report on Contracts for Local School Personnel and Uniform Hiring Procedures for Teachers." The recommendations set forth in the report form the basis for the proposed regulations. All of the major professional organizations participated as full team members in the development of the recommendations. Representatives from the Virginia Education Association, the Virginia Association of School Superintendents, the Virginia School Board Association, and the Virginia Association of School Personnel Administrators were team members and their constituency groups provided input into the team process. In addition, representatives of rural, urban, and suburban school communities participated as full team members. The recommendations represent the result of a thorough and comprehensive study and the agreements made among the team members and other representatives indicated above. Considerable input was provided on the perspective of teachers through the representatives from the Virginia Education Association.

The Board of Education and the Department of Education will hold public hearings on the proposed regulations.

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

Written comments may be submitted until September 30, 1993.

Contact: Brenda F. Briggs or Charles W. Finley, Compliance, P.O. Box 2120, 101 N. 14th St., Richmond, VA 23216-2120, telephone (804) 225-2750 or (804) 225-2747.

VA.R. Doc. No. C93-1893; Filed July 21, 1993, 10:16 a.m.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Environmental Quality intends to consider promulgating regulations entitled: **VR 304-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt, on a permanent basis, the department's guidelines such that the guidelines will comply with 1993 amendments to the Administrative Process Act (Act). Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the department to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the department intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the department include in its guidelines a general policy for the use of standing or ad hoc advisory groups and

consultation with groups and individuals registering interest in working with the department.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 29, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed adoption of the guidelines since the guidelines only impose requirements on the department. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the department's guidelines. The Act requires the department to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the department seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. In addition, the department's staff will participate in a joint public meeting to be held at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The department intends to participate in a joint informational proceeding (informal hearing) on the proposed adoption to the guidelines after the proposal is published in the Virginia Register of Regulations. The department does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m. o

Notices of Intended Regulatory Action

September 15, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy and Planning Supervisor, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

VA.R. Doc. No. C93-1909; Filed July 21, 1993, 11:11 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider promulgating regulations entitled: **Public Participation Guidelines of the Board of Funeral Directors and Embalmers**. The purpose of the proposed action is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Funeral Directors and Embalmers. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2803 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

VA.R. Doc. No. C93-1826; Filed July 13, 1993, 9:32 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **VR 320-01-04. Regulations of the Resident Trainee Program for Funeral Service**. The purpose of the proposed action is to amend level of supervision of a registrant who has completed the apprenticeship but is not yet licensed, establish requirements for final reporting, and revise requirements to place a maximum time limit that one can remain registered as a trainee. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

VA.R. Doc. No. C93-1822; Filed July 13, 1993, 9:33 a.m.

BOARD OF GAME AND INLAND FISHERIES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Game and Inland Fisheries intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 23, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed amendments of the guidelines since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal.

The board's staff will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room of the Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public. This public meeting will be a joint meeting of

Notices of Intended Regulatory Action

all regulatory agencies within the Natural Resources Secretariat.

Contact: Mark D. Monson, Chief, Administrative Services, 4010 West Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

VA.R. Doc. No. C93-1896; Filed July 21, 1993, 9:40 a.m.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230 or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. This informational proceeding may be convened by a member of the board. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 29.1-102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993, to Belle Harding, 4010 West Broad Street, P.O. Box 11104, Richmond, Virginia 23230.

Contact: Mark D. Monson, Chief, Administrative Services, 4010 West Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

VA.R. Doc. No. C93-1897; Filed July 21, 1993, 9:40 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Game and Inland Fisheries intends to consider promulgating regulations entitled: **325-02-17. Permits**. The purpose of the proposed action is to set in regulation the discretionary fees to be associated with the different permits that are issued by the department, in accordance with language contained in HB 1777 that gives the Board of Game and Inland Fisheries the authority to set fees for identified permits. A listing of the identified permits and their proposed associated fees follows. In addition to written comments, the board will hear public comments at a meeting to be scheduled in accordance with procedures required by the board's public participation guidelines.

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

Written comments may be submitted until 4 p.m. on September 15, 1993, to Belle Harding, 4010 West Broad Street, P.O. Box 11104, Richmond, Virginia 23230.

MISCELLANEOUS PERMITS -- PROPOSED FEE STRUCTURE
(miscprmt.2 // 6-29-93)

Type of Permit	Current Fee	Authorized Maximum	Proposed Fee
Aquaculture	\$12.50 [1]	\$20.00	\$20.00
Bait Sales	\$0.00	\$20.00	\$20.00
Bird Banding (Validate Fed Permit)	\$0.00	\$20.00	\$0.00
Boat Ramp Special Use	\$0.00	\$50.00	\$0.00
Non-profit Public Use	\$0.00	\$50.00	\$50.00
Private/Commercial Use			
Boat Regattas/Tournaments	\$0.00	\$50/DAY	\$50/DAY
Captive Herpetological Breeders	\$0.00	\$20.00	\$20.00
Captive-Bred Herp. Sales	\$0.00	\$20.00	\$20.00
Commercial Collection of Wildlife	\$0.00	\$50.00	\$45.00
DCAP	\$0.00	\$50.00	\$5.00
DMAP	\$0.00	\$50.00	\$5.00
Deer Farming	\$12.50 [1]	\$350.00	\$350.00
Endangered Species	\$0.00	\$20.00	\$20.00 [2]
Exhibitor	\$12.50 [1]	\$20.00	\$20.00
Exotic Species Importation	\$0.00	\$50.00	\$50.00
Field Trials	\$0.00	\$25.00	\$25.00
Fish Stocking	\$0.00	\$50.00	\$5.00
Grass Carp (Exotic Import)	\$0.00	\$50.00	\$10.00
Nuisance Animals	\$0.00	\$50.00	\$25.00
Scientific Collecting	\$0.00	\$20.00	\$20.00 [2]
Special Education Importation for Dead & Preserved Exotics	\$0.00	\$50.00	\$0.00
Special Hunting	\$0.00	\$20.00	\$10.00
Striped Bass Tournament	\$0.00	\$0.00	\$0.00

APPROVED
SEP 21 1993

MISCELLANEOUS PERMITS -- PROPOSED FEE STRUCTURE
(miscprmt.2 // 6-29-93)

Type of Permit	Current Fee	Authorized Maximum	Proposed Fee
Trout Fishing Preserve	\$0.00	\$50.00	\$50.00
Wildlife (Game) Holders	\$12.50 [1]	\$20.00	\$20.00 [3]
Wolf Hybrid - Individual	\$0.00	\$20.00	\$20/animal
Non-Neutered			\$10/animal
Neutered			
Wolf Hybrid - Kennel	\$0.00	\$100.00	\$100.00

- [1] Existing permits issued under the broad definition of game holders permit
 [2] Exemption to fee: Governmental Agencies, Colleges & Universities, DCIF Contractors
 [3] Exemption to Permit: Veterinarians temporarily holding wildlife for medical treatment

Notices of Intended Regulatory Action



DEPARTMENT OF HEALTH (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider repealing regulations entitled: **VR 355-17-02. Sewerage Regulations**. The purpose of the proposed action is to replace the existing joint Board of Health and State Water Control Board regulations with a new regulation adopted by the Board of Health and implemented through the Virginia Department of Health. The agency intends to hold a public hearing on the repeal of the regulations. The repeal of these regulations will occur concurrently with the adoption of VR 355-17-100, Sewage Collection and Treatment Regulations.

Statutory Authority: §§ 32.1-164 and 62.1-44.19 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-6277.

VA.R. Doc. No. C93-2122; Filed August 18, 1993, 10:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-17-100. Sewage Collection and Treatment Regulations**. The purpose of the proposed action is to provide current standards for the design, construction and operation of sewage collection systems and sewage treatment works, including the use of sewage sludge in order that the appropriate permits may be issued by the State Health Commissioner. A public hearing will be held on the proposed regulations after publication. Existing regulations, VR 355-17-02, Sewage Regulations, will be repealed upon adoption of this regulation.

Statutory Authority: §§ 32.1-164 and 62.1-44.19 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-6277.

VA.R. Doc. No. C93-2123; Filed August 18, 1993, 10:45 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations (General Revisions)**. The purpose of the proposed action is to give notice in accordance with the new public participation guidelines that the Board of Health intends to make appropriate amendments to update portions of the regulations pertinent only to state requirements, not federal mandates. The agency intends to hold a public hearing on the proposed amendments after publication.

Statutory Authority: §§ 32.1-170 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Allen R. Hammer, P.E., Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, Virginia 23218.

Contact: H.J. Eggborn, P.E., Engineering Field Director, Culpeper Field Office, 400 S. Main St., 2nd Floor, Culpeper, VA 22701, telephone (703) 829-7340.

VA.R. Doc. No. C93-1864; Filed July 20, 1993, 10:44 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations (Lead and Copper)**. The purpose of the proposed action is to give notice in accordance with the new public participation guidelines that the Board of Health intends to make state regulations as stringent as the federal lead and copper rule. The agency intends to hold a public hearing on the proposed amendments after publication.

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Allen R. Hammer, P.E., Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, Virginia 23218.

Contact: James Moore, III, P.E., District Engineer, Lexington Field Office, 129 S. Randolph St., Lexington, VA 24450, telephone (703) 463-7136.

VA.R. Doc. No. C93-1865; Filed July 20, 1993, 10:44 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-30-000. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations**. The purpose of the proposed action is to revise the current regulations to be consistent with the 1993 amendments to the Certificate of Public Need Law. This notice is being resubmitted to ensure promulgation under the new public

Notices of Intended Regulatory Action

participation guidelines. The department intends to hold a public hearing following publication of the proposed regulations.

Statutory Authority: §§ 32.1-12 and 32.1-102 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Wendy V. Brown, Project Review Manager, Virginia Department of Health, Office of Resources Development, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-7463.

V.A.R. Doc. No. C93-1821; Filed July 14, 1993, 10:12 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-32-500. Regulations Governing the Emergency Medical Services DO NOT RESUSCITATE Program.** The purpose of the proposed action is to promulgate regulations to implement the EMS DO NOT RESUSCITATE Program as created by the General Assembly in SB 360 (1992). Emergency regulations under the same title are currently in place, effective July 1, 1993 through June 30, 1994. The department intends to hold a public hearing following publication of the proposed regulations.

Statutory Authority: § 54.1-2987 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: Susan McHenry, Director, Office of Emergency Medical Services, 1538 East Parham Road, Richmond, VA 23228, telephone (804) 371-3500.

V.A.R. Doc. No. C93-2125; Filed August 18, 1993, 10:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-40-400:2. Medical Scholarship Program.** The purpose of the proposed action is to amend the regulations to reflect recent amendments to the Medical Scholarship program statute and to consider revisions to improve the program's effectiveness in increasing the number of primary care physicians in Virginia's medically underserved communities. One public hearing is planned during the public comment period following publication of the proposed revisions.

Statutory Authority: § 32.1-122.5 et seq. of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: George Stone, Director, Medical Scholarship Program, 1500 East Main Street, Room 213, Richmond, VA 23219, telephone (804) 786-4891.

V.A.R. Doc. No. C93-2126; Filed August 18, 1993, 10:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-40-700. Rules and Regulations Governing the Virginia Nurse Practitioner/Nurse Midwife Scholarship Program.** The purpose of the proposed action is to carry out the legislative intent of the program, to provide an incentive to registered nurses in Virginia to attend nurse practitioner/nurse midwife programs and subsequently provide services in medically underserved areas. Emergency regulations under the same title are currently in place, effective July 1, 1993 through June 30, 1994. The department intends to hold a public hearing during the public comment period following publication of the proposed regulations.

Statutory Authority: § 32.1-122.6.02 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: Marjorie Plott, PHN Coordinator, P.O. Box 2448, Suite 227, Richmond, VA 23219, telephone (804) 371-2910.

V.A.R. Doc. No. C93-2124; Filed August 18, 1993, 10:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider repealing regulations entitled: **Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program (last amended July 9, 1984).** The purpose of the proposed action is to repeal the Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program. Appropriations for the program ended in FY 88. Services that were provided through the program are now being provided through Medicaid as well as the trust fund which reimburses hospitals for uncompensated care. No public hearings will be held.

Statutory Authority: § 32.1-12 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 East Main Street, Room 213, Richmond, VA 23219, telephone (804) 786-4891.

V.A.R. Doc. No. C93-2129; Filed August 18, 1993, 11:26 a.m.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-000. Public Participation Guidelines in the Formation and Development of Regulations.** The purpose of the proposed action is to amend the public participation guidelines to reflect recent statutory changes. No public hearing is planned on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 9-164 2 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1703; Filed July 1, 1993, 3:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to amend its general rules and regulations so that they will be consistent with other regulations which establish the Virginia Health Services Cost Review Council's new methodology for the review and measurement of efficiency and productivity of health care institutions. A public hearing will be held at noon on December 21, 1993, at 2015 Staples Mill Road, Richmond, Virginia.

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1700; Filed July 1, 1993, 3:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider promulgating regulations entitled: **VR 370-01-002. Methodology to Measure Efficiency and Productivity of Health Care Institutions.** The purpose of the proposed

action is to adopt specific regulations to establish a new Virginia Health Services Cost Review Council methodology to measure efficiency and productivity of health care institutions. A public hearing will be held at noon on December 21, 1993, at 2015 Staples Mill Road, Richmond, Virginia.

Statutory Authority: §§ 9-161.1 and 9-164 2 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1701; Filed July 1, 1993, 3:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider promulgating regulations entitled: **Regulations of the Virginia Health Services Cost Review Council Patient Level Data System.** The purpose of the proposed action is to adopt regulations to implement the Virginia Health Services Cost Review Council's responsibility for the establishment of a patient level database system in Virginia. A public hearing will be held at noon on December 21, 1993, at 2015 Staples Mill Road, Richmond, Virginia.

Statutory Authority: §§ 9-164 2 and 9-166.5 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1702; Filed July 1, 1993, 3:12 p.m.

BOARD FOR HEARING AID SPECIALISTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Hearing Aid Specialists intends to consider repealing regulations entitled: **VR 375-01-01. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency

Notices of Intended Regulatory Action

does not intend to hold a public hearing on the repeal of the regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534

VA.R. Doc. No. C93-1943; Filed June 24, 1993, 2:27 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Hearing Aid Specialists intends to consider promulgating regulations entitled: **vr 375-01-01:1. Board for Hearing Aid Specialists Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534

VA.R. Doc. No. C93-1943; Filed June 24, 1993, 2:27 p.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider amending regulations entitled: **VR 380-01-00. Guidelines for Public Participation in the Development and Promulgation of Regulations.** The purpose of the proposed action is to change some unclear language in the emergency and add language so they follow new APA guidelines. The emergency regulations are only effective for 12 months. These will replace the emergency regulations. The agency does not plan to hold a public hearing on the proposed regulations.

§§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Fran Bradford, Legislative and Public Relations Specialist, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2613.

VA.R. Doc. No. C93-1834; Filed July 9, 1993, 11:32 a.m.

BOARD OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Historic Resources intends to consider amending regulations entitled: **VR 390-01-01. Public Participation Guidelines.** The purpose of the proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in their guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 25, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed amendments of the guidelines since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be

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directed to Margaret T. Peters at the Department of Historic Resources, and must be received by 4:30 p.m. on Wednesday, September 15, 1993.

In addition, the Department of Historic Resources will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions from the public.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2205 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m. on September 15, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

V.A.R. Doc. No. C93-1887; Filed July 21, 1993, 8:39 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-03.1. Evaluation Criteria and Procedures for Designations by the Board of Historic Resources.** The purpose of the proposed action is to set out those criteria to be used by the board in designating Virginia landmarks, to set out the requirements for public notice and public hearings prior to any designation, and to set out the procedures by which property owners may object to and prevent designation.

Estimated Impact: No financial impact on regulated entities or the public is expected from this proposed regulation because the regulation imposes requirements only on the board and Department of Historic Resources. Regulated entities and the public will benefit by having the board's evaluation criteria and its procedures formally set out in the regulation.

Alternatives: There is no alternative to taking regulatory action to set out criteria and procedures for designations by the board. The regulation is specifically required by § 10.1-2205 of the Code of Virginia.

NOIRA public meeting and ad hoc advisory group: The

subject of this Notice of Intended Regulatory Action (NOIRA) was the subject of a previous NOIRA published in November 1992. Pursuant to that previous NOIRA, a public meeting was held on December 16, 1992, in Richmond, and an ad hoc advisory group was formed to assist in drafting a proposed regulation. The advisory group completed its work and a draft proposed regulation was prepared. Because the present NOIRA is being published to meet new technical requirements of the Administrative Process Act which became effective on July 1, 1993, no additional public meeting will be held during the comment period established by this NOIRA. No new ad hoc advisory committee will be formed.

Public Comments: The board requests comments on its intended regulatory action. Comments may be generic or they may assess the relative merits of specific alternatives. The board also seeks comments on the costs and benefits of its intended regulatory action or any alternatives. The draft proposed regulation previously prepared with the assistance of the ad hoc advisory group noted above is available to assist interested persons in preparing comments.

Intent to Hold an Informational Proceeding or Public Hearing: While there will not be a public meeting during this NOIRA comment period that ends on September 10, 1993, the board does intend to hold an informational proceeding (informal hearing) on the proposed regulation after the specific proposal is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

Statutory Authority: §§ 10.1-2205, 10.10-2206.1 and 10.1-2206.2 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

V.A.R. Doc. No. C93-1891; Filed July 21, 1993, 11:42 a.m.

DEPARTMENT OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Historic Resources intends to consider amending regulations entitled: **VR 392-01-01. Public Participation Guidelines.** The purpose of the proposed action is to amend, on a permanent basis, the department's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the

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Act. For example, the Act requires the department to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups that the department intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the department include in their guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the department.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 25, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed amendments of the guidelines since the guidelines only impose requirements on the department. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the department's guidelines. The Act requires the department to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the department seeks comment on whether it should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Margaret T. Peters at the Department of Historic Resources, and must be received by 4:30 p.m. on Wednesday, September 15, 1993.

In addition, the Department of Historic Resources will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions from the public.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code

of Virginia.

Written comments may be submitted until 4:30 p.m. on September 15, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

VA.R. Doc. No. C93-1886; Filed July 21, 1993, 8:39 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Historic Resources intends to consider promulgating regulations entitled: **VR 392-01-02.1. Evaluation Criteria and Procedures for Nomination of Property to the National Register or for Designation as a National Historic Landmark.** The purpose of the proposed action is to set out those criteria to be used by the director in nominating properties to the National Park Service for inclusion in the National Register of Historic Places, or for designation as a National Historic Landmark, and to set out the requirements for public notice and public hearings prior to any nomination.

Estimated Impact: No financial impact on regulated entities or the public is expected from this proposed regulation because the regulation imposes requirements only on the Department of Historic Resources. Regulated entities and the public will benefit by having the director's evaluation criteria and its procedures formally set out in the regulation.

Alternatives: While the Code of Virginia authorizes the director to promulgate regulations but does not explicitly require those regulations, the department finds that the 1992 General Assembly's intent in establishing that authorization was that evaluation criteria and procedures should be formally promulgated as regulations. The department consequently finds that no alternative to regulatory action is available.

NOIRA public meeting and ad hoc advisory group: The subject of this Notice of Intended Regulatory Action (NOIRA) was the subject of a previous NOIRA published in November 1992. Pursuant to that previous NOIRA, a public meeting was held on December 16, 1992, in Richmond, and an ad hoc advisory group was formed to assist in drafting a proposed regulation. The advisory group completed its work, and a draft proposed regulation was prepared. Because the present NOIRA is being published to meet new technical requirements of the Administrative Process Act which became effective on July 1, 1993, no additional public meeting will be held during the comment period established by this NOIRA. No new ad hoc advisory committee will be formed.

Public Comments: The department requests comments on its intended regulatory action. Comments may be generic

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or they may assess the relative merits of specific alternatives. The department also seeks comments on the costs and benefits of its intended regulatory action or any alternatives. The draft proposed regulation previously prepared with the assistance of the ad hoc advisory group noted above is available to assist interested persons in preparing comments.

Intent to Hold an Informational Proceeding or Public Hearing: While there will not be a public meeting during this NOIRA comment period that ends on September 10, 1993, the department does intend to hold an informational proceeding (informal hearing) on the proposed regulation after the specific proposal is published in the Register of Regulations. The department does not intend to hold a public hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

Statutory Authority: § 10.1-2201 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

VA.R. Doc. No. C93-1890; Filed July 21, 1993, 11:42 a.m.

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider repealing regulations entitled: **VR 425-01-68. Public Participation Guidelines.** The purpose of the proposed action is to repeal this regulation which was replaced by emergency regulation effective June 30, 1993. The emergency regulation will expire on June 30, 1994. The department will promulgate new permanent regulations to replace this regulation. The agency will hold a public informational hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-6 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Bonnie H. Robinson, Agency Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631.

VA.R. Doc. No. C93-1877; Filed July 20, 1993, 4:01 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider repealing regulations entitled: **VR 425-01-81. Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.** The purpose of the proposed action is to repeal this regulation which was replaced by emergency regulation effective June 30, 1993. The emergency regulation will expire on June 30, 1994. Copies of the emergency regulation are available from the agency. The agency will hold a public informational hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9) and 40.1-114 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219.

Contact: Dennis Merrill, Labor Law Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3224.

VA.R. Doc. No. C93-1878; Filed July 20, 1993, 4:01 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-81:1. Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.** The purpose of the proposed action is to promulgate a new permanent regulation governing the employment of minors on farms, in gardens and in orchards, to replace the emergency regulation (VR 425-01-81) which became effective June 30, 1993. The emergency regulation is effective for one year until June 30, 1994. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9) and 40.1-114 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219.

Contact: Dennis Merrill, Labor Law Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631.

VA.R. Doc. No. C93-1871; Filed July 20, 1993, 4:00 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating

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regulations entitled: **VR 425-01-100. Public Participation Guidelines.** The purpose of the proposed action is to promulgate new public participation guidelines for the agency to incorporate the new requirements of the Administrative Process Act, which were the result of legislation enacted by the 1993 General Assembly.

The current public participation guidelines were superseded by an emergency regulation (VR 425-01-68) effective June 30, 1993. This emergency regulation will expire on June 30, 1994. The current and the emergency public participation guidelines were adopted jointly by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Board, and the Virginia Apprenticeship Council, and govern the promulgation, amendment, and repeal of all regulations by the commissioner, board or council. New public participation guidelines for the agency will only cover regulatory action by the Commissioner of Labor and Industry. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-6 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Bonnie H. Robinson, Agency Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631.

V.A.R. Doc. No. C93-1873; Filed July 20, 1993, 4:00 p.m.

Apprenticeship Council

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that Apprenticeship Council intends to consider promulgating regulations entitled: **VR 425-01-102. Public Participation Guidelines.** The purpose of the proposed action is to promulgate new public participation guidelines for the Virginia Apprenticeship Council to incorporate the new requirements of the Administrative Process Act which were the result of legislation enacted by the 1993 General Assembly.

The current public participation guidelines were superseded by an emergency regulation (VR 425-01-68) effective June 30, 1993. This emergency regulation will expire on June 30, 1994. The current and the emergency public participation guidelines were adopted jointly by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Board, and the Virginia Apprenticeship Council, and govern the promulgation, amendment, and repeal of all regulations by the commissioner, board or council. New public participation guidelines for the agency will only cover regulatory action by the Apprenticeship Council. The agency will hold a public informational

hearing on the proposed regulation after it is published.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-117 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Thomas E. Butler, Assistant Commissioner, Training and Public Services, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2327.

V.A.R. Doc. No. C93-1875; Filed July 20, 1993, 4:00 p.m.

Safety and Health Codes Board

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider repealing regulations entitled: **VR 425-02-11. VOSH Administrative Regulations Manual.** The purpose of the proposed action is to repeal this regulation which was replaced by emergency regulation effective June 30, 1993. The emergency regulation will expire on June 30, 1994. The department and board will promulgate a new permanent regulation to replace this regulation. The agency will hold a public informational hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 40.1-6 and 40.1-22 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384.

V.A.R. Doc. No. C93-1876; Filed July 20, 1993, 4:01 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider promulgating regulations entitled: **VR 425-02-95. VOSH Administrative Regulations Manual.** The purpose of the proposed action is to update the Virginia Occupational Safety and Health Administrative Regulations Manual to reflect legislative and administrative changes to the Virginia Occupational Safety and Health (VOSH) program, and as a result of regulatory review. The board will hold a public hearing on the proposed regulation after it is published.

Statutory Authority: §§ 40.1-6 and 40.1-22 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until September 8, 1993.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2324.

V.A.R. Doc. No. C93-1872; Filed July 20, 1993, 4:00 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider promulgating regulations entitled: **VR 425-02-101. Public Participation Guidelines.** The purpose of the proposed action is to promulgate new public participation guidelines for the Virginia Safety and Health Codes Board to incorporate the new requirements of the Administrative Process Act, which were the result of legislation enacted by the 1993 General Assembly.

The current public participation guidelines were superseded by an emergency regulation (VR 425-01-68) effective June 30, 1993. This emergency regulation will expire on June 30, 1994. The current and the emergency public participation guidelines were adopted jointly by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Board, and the Virginia Apprenticeship Council and govern the promulgation, amendment, and repeal of all regulations by the commissioner, board or council. New public participation guidelines for the agency will only cover regulatory action by the Safety and Health Codes Board. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-22 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384.

V.A.R. Doc. No. C93-1874; Filed July 20, 1993, 4:00 p.m.

STATE LOTTERY DEPARTMENT

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-01-1. Guidelines for Public Participation in Regulation Development and Promulgation.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to

provide full opportunity for public participation in the regulation formation and promulgation process. The department intends to hold a public hearing on the proposed regulation after publication. This action will begin promulgation of an emergency regulation which became effective June 29, 1993.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until October 15, 1993.

Contact: Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

V.A.R. Doc. No. C93-2131; Filed August 18, 1993, 11:30 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the proposed action is to amend existing administration regulations relating to the administration of contracts and to make housekeeping changes. The department intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until October 15, 1993.

Contact: Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

V.A.R. Doc. No. C93-2130; Filed August 18, 1993, 11:30 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed action is to amend existing instant game regulations relating to the payment of prizes, estate taxes, beneficiaries, licensing of and compensation to lottery retailers, and to make housekeeping changes. The department intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until October 15, 1993.

Contact: Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

Notices of Intended Regulatory Action

VA.R. Doc. No. C93-2132; Filed August 18, 1993, 11:31 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-02-2. On-Line Game Regulations**. The purpose of the proposed action is to amend existing on-line game regulations relating to the payment of prizes, estate taxes, beneficiaries, licensing of and compensation to lottery retailers, and to make housekeeping changes. The department intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until October 15, 1993.

Contact: Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

VA.R. Doc. No. C93-2133; Filed August 18, 1993, 11:31 a.m.

MARINE RESOURCES COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider amending regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to amend, on a permanent basis, public participation guidelines so that the guidelines will comply with the 1993 amendments to the Administrative Process Act.

Basis and Statutory Authority: The basis for this regulation is § 28.2-103 of the Code of Virginia which authorizes the commission to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2. In addition, § 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.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective June 30, 1993.

Substance and Purpose: The purpose of this proposed regulatory action is to amend, on a permanent basis, the commission's guidelines such that the guidelines will comply with the 1993 amendments to the Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For

example, the Act requires the commission to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the commission intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the commission include in its guidelines a general consultation with groups and individuals registering interest in working with the commission.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the guidelines since the guidelines only impose requirements on the commission. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the commission's guidelines. The Act requires the commission to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The commission seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the commission seeks comment on whether the agency should form an ad hoc advisory group, utilize the standing Habitat Management Advisory Committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. R. W. Grabb at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the commission's staff will participate in a joint public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the Department of Environmental Quality by telephoning (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The commission intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. The commission does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Notices of Intended Regulatory Action

Statutory Authority: §§ 9-6.14:7.1 and 28.2-103 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Robert W. Grabb, Chief, Habitat Management Division, Virginia Marine Resources Commission, P.O. Box 756, 2600 Washington Avenue, Newport News, VA 23607-0756, telephone (804) 247-2250 or toll-free 1-800-541-4646.

V.A.R. Doc. No. C93-1858; Filed July 20, 1993, 8:57 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Criteria for Preadmission Screening and Continued Stay**. The purpose of the proposed action is to revise the definition of medical/nursing need and the evaluation of persons seeking community-based care to avoid future nursing facility placement. The agency does not intend to hold a public hearing on this regulatory action after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until November 5, 1993, to Chris Pruett, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2079; Filed August 13, 1993, 2:47 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Methods and Standards for Establishing Payment Rates, Home Health Reimbursement; Methods and Standards for Establishing Payment Rates-Long Term Care; Home Health Agency Reimbursement; Nursing Facility Criminal Record Checks**. The purpose of the proposed action is to revise home health agency methodologies, to revise regulations to reimburse providers for the costs of obtaining criminal record background checks on nursing facility employees. The agency does not intend to hold a public hearing on this regulatory action after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until November 5, 1993, to Vicki Simmons, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2078; Filed August 13, 1993, 2:46 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **PASARR and Annual Resident Review/Education Component of NF Care/NF Residents' Appeal Rights**. The purpose of the proposed action is to amend regulations to comply with regulations issued by the Health Care Financing Administration regarding PASARR. The agency does not intend to hold a public hearing on this regulatory action after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until November 5, 1993, to Margie Jernigan, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2081; Filed August 13, 1993, 2:47 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Payment of Title XVIII Part A and Part B Deductible/Coinsurance; Methods and Standards for Establishing Payment Rates - Long Term Care; Nursing Facility Payment System**. The purpose of the proposed action is to limit the payment of Medicare Part A coinsurance amount paid by Medicaid and eliminate overpayments made to providers during the first nine months of the second fiscal year. The agency does not intend to hold a public hearing on this regulatory action after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until November 5, 1993, to Stan Fields, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond,

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Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2080; Filed August 13, 1993, 2:47 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-2.600. Eligibility Conditions and Requirements – Guardianship Fees.** The purpose of the proposed action is to provide for the deduction of guardianship fees in post-eligibility treatment of income in determining a Medicaid eligible individual's personal needs allowance in an institutional or home-and-community-based waiver service. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Ann Cook Eligibility and Regulatory Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-1830; Filed July 13, 1993, 4:22 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates: Inpatient Hospital Services; Cost Report Filing and Final Settlement Filing Requirements.** The purpose of the proposed action is to promulgate regulations that require providers to submit additional financial, statistical, and structural information for the following purposes: a) for submission of a completed cost report; b) to enable DMAS to make the findings and assurances required by federal law. These regulations will also include a penalty for the failure to submit the cost report and required information in a timely manner. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East

Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-1827; Filed July 13, 1993, 4:22 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-3.1102. Case Management Services – Preauthorization of Case Management for the Elderly.** The purpose of the proposed action is to conform the reauthorization requirement for case management for the elderly with the deadlines for reassessment. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Ann Cook Eligibility and Regulatory Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-1829; Filed July 13, 1993, 4:22 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment Systems – Balloon Loan Financing.** The purpose of the proposed action is to clarify the treatment and limitations of balloon loan financing and refinancing for nursing facilities. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Richard Weinstein, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-1837; Filed July 13, 1993, 4:22 p.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.9. Public Participation Guidelines**. The purpose of the proposed action is to amend the agency's public participation guidelines to conform with changes to the Administrative Process Act. The agency does not intend to hold a public hearing for this regulatory change.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 22, 1993, to Roberta Jonas, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

VA.R. Doc. No. C93-2026; Filed August 4, 1993, 11:54 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-05-1000.0000. State/Local Hospitalization Program**. The purpose of the proposed action is to limit the allocation of remaining state funds consistent with these regulations and limit the use of funds allocated for one fiscal to that year. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 22, 1993, to Dave Austin, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

VA.R. Doc. No. C93-1860; Filed July 20, 1993, 11:18 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Provision of Durable Medical Equipment and Supplies**. The purpose of the proposed action is to amend the State Plan for Medical Assistance concerning the provision of durable medical equipment

and supplies through the home health program. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Mary Chiles, Manager, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1828; Filed July 13, 1993, 4:22 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care: Nonenrolled Provider Reimbursement**. The purpose of the proposed action is to reimburse nonenrolled providers at amounts which are more consistent with reimbursement amounts for enrolled providers. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1838; Filed July 13, 1993, 4:22 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **MR Waiver Services**. The purpose of the proposed action is to remove certain impediments to the effective and efficient implementation of services to persons with mental retardation and mental illness. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 22, 1993, to Chris Pruett, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond,

Notices of Intended Regulatory Action

Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1859; Filed July 20, 1993, 11:17 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Organ Transplantation**. The purpose of the proposed action is to expand the Medicaid coverage of organ transplantation to provide for heart, liver and bone marrow transplants for Medicaid eligible children under the age of 21 years. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Ellen Zagorin, Analyst, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1839; Filed July 13, 1993, 4:22 p.m.

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture**. The purpose of the proposed regulation is to add § 4.4, Limited Licenses to Foreign Medical Graduates; add § 4.5, Temporary Licenses to Interns and Residents; amend § 3.1 C, amend § 4.1 D, Amending the Interpretation of National Test Scores of Podiatric Medicine. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2936, 54.1-2937, and 54.1-2961 of the Code of Virginia.

Written comments may be submitted until October 10, 1993, to Hilary H. Connor, M.D., 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Russell Porter, Assistant Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717,

telephone (804) 662-9908.

VA.R. Doc. No. C93-2128; Filed August 18, 1993, 11:27 a.m.

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider amending regulations entitled: **VR 485-10-9304 (formerly VR 485-10-9101). Public Participation Guidelines for Regulation Development and Promulgation**. The purpose of the proposed action is to revise the existing regulations in accordance with the legislative changes made to the Administrative Process Act in the 1993 General Assembly session. A public hearing on the proposed regulations will be held after the proposed regulations have been published.

Statutory Authority: §§ 9-6.14:7.1 and 46.2-203 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Marc Copeland, Legislative Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 319, Richmond, VA 23220, telephone (804) 367-1875.

VA.R. Doc. No. C93-1996; Filed August 3, 1993, 2:41 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider repealing regulations entitled: **VR 485-50-7801. Virginia Driver Improvement Act Rules and Regulations**. The purpose of the proposed action is to revise and update the Driver Improvement Program regulations. A public hearing on the proposed regulations will be held after the proposed regulations have been published.

Statutory Authority: §§ 46.2-203 and 46.2-489 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Marc Copeland, Legislative Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 319, Richmond, VA 23220, telephone (804) 367-1875.

VA.R. Doc. No. C93-1997; Filed August 3, 1993, 2:41 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating

Notices of Intended Regulatory Action

regulations entitled: **VR 485-50-9301. Virginia Driver Improvement Program Rules and Regulations.** The purpose of the proposed action is to revise and update the Driver Improvement Program regulations. This notice supercedes the notice previously published on April 19, 1993. A public hearing on the proposed regulations will be held after the proposed regulations have been published.

Statutory Authority: §§ 46.2-203 and 46.2-489 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Marc Copeland, Legislative Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 319, Richmond, VA 23220, telephone (804) 367-1875.

V.A.R. Doc. No. C93-1988; Filed August 3, 1993, 2:41 p.m.

BOARD OF NURSING HOME ADMINISTRATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider promulgating regulations entitled: **Public Participation Guidelines.** The purpose of the proposed action is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Nursing Home Administrators. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-3100 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

V.A.R. Doc. No. C93-1824; Filed July 13, 1993, 9:33 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **VR 500-01-2.1. Regulations of the Board of Nursing Home Administrators.** The purpose of the proposed action is to revise continuing education requirements of the board, to establish as permanent fee increases in emergency regulations, and to delete the public participation guidelines. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 54.1-3100 of the Code of Virginia.

Written comments may be submitted until September 22, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

V.A.R. Doc. No. C93-1994; Filed July 21, 1993, 4:37 p.m.

BOARD FOR OPTICIANS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider repealing regulations entitled: **VR 505-01-0. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed action.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

V.A.R. Doc. No. C93-1940; Filed June 29, 1993, 11:41 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider promulgating regulations entitled: **VR 505-01-0:1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed action.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

V.A.R. Doc. No. C93-1941; Filed June 29, 1993, 11:41 a.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider amending regulations entitled: **VR 505-01-1.1. Board for Opticians Regulations**. The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

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

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

V.A.R. Doc. No. C93-1922; Filed July 21, 1993, 11:56 a.m.

BOARD OF OPTOMETRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Optometry intends to consider amending regulations entitled: **VR 510-01-1. Board of Optometry**. The purpose of the proposed action is to respond to the requirement for biennial regulatory review in keeping with § 9-6.14 of the Code of Virginia and § 3.6 of the board's public participation guidelines. A public hearing pursuant to § 9-6.14:7.1 C of the Code of Virginia will be held after publication of the proposed amendments or revisions to the board regulations.

Statutory Authority: § 54.1-2400.6 of the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Carol Stamey, Board of Optometry, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Elizabeth Carter, Ph.D., Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

V.A.R. Doc. No. C93-2103; Filed August 18, 1993, 8:07 a.m.

DEPARTMENT OF PERSONNEL AND TRAINING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Personnel and Training intends to consider promulgating regulations entitled: **VR 525-01-1. Public Participation Guidelines**. The purpose of the proposed action is to

establish guidelines for public participation in regulation development and promulgation. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Written comments may be submitted until September 23, 1993.

Contact: Gina Irby, Legislative Liaison, Department of Personnel and Training, James Monroe Bldg., 13th Floor, Richmond, VA 23219, telephone (804) 371-6212.

V.A.R. Doc. No. C93-1993; Filed August 2, 1993, 11:09 a.m.

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Governing the Creation of a Criminal Firearms Clearinghouse**. The purpose of the proposed action is to establish permanency of the regulations currently in place as emergency regulations. A public hearing will be held on the proposed regulations after publication.

Statutory Authority: § 52-25.1 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Lieutenant R. Lewis Vass, State Police Lieutenant, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2022.

V.A.R. Doc. No. C93-1861; Filed July 20, 1993, 11:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Governing Purchases of Handguns in Excess of One Within a 30-Day Period**. The purpose of the proposed action is to adopt permanent regulations to carry out the provisions of Chapter 486 of the 1993 Acts of Assembly, which amended § 18.2-308.2:2 of the Code of Virginia. A public hearing will be held on the proposed regulation after publication.

Statutory Authority: § 18.2-302.2:2 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Lieutenant R. Lewis Vass, State Police Lieutenant, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804)

Notices of Intended Regulatory Action

674-2022.

V.A.R. Doc. No. C93-1862; Filed July 20, 1993, 11:14 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional and Occupational Regulation intends to consider repealing regulations entitled: **VR 190-00-01. Public Participation Guidelines**. The purpose of the proposed action is to notify the board's intent to repeal current public participation guidelines. The board welcomes comment on this notice of intended regulatory action. The board does not intend to hold a public hearing on the repeal of these regulations after publication.

Statutory Authority: § 54.1-310.5 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: Joyce K. Brown, Secretary to the Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

V.A.R. Doc. No. C93-2107; Filed August 17, 1993, 11:51 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional and Occupational Regulation intends to consider promulgating regulations entitled: **VR 190-00-01. Public Participation Guidelines**. The purpose of the proposed action is to notify the board's intent to adopt public participation guidelines. The board welcomes comment on this notice of intended regulatory action. The board does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 54.1-310.5 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: Joyce K. Brown, Secretary to the Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

V.A.R. Doc. No. C93-2171; Filed August 17, 1993, 11:51 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Professional and Occupational Regulation intends to consider promulgating regulations entitled: **Employment Agencies Public Participation Guidelines**. The purpose of the proposed action is to promulgate regulations to replace

emergency regulations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1302 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1988; Filed August 3, 1993, 11:52 a.m.

REAL ESTATE APPRAISER BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider repealing regulations entitled: **VR 583-01-01. Public Participation Guidelines**. The purpose of the proposed action is to repeal public participation guidelines in accordance with the Administrative Process Act prior to the expiration of the emergency public participation guidelines on June 30, 1994. The agency does not intend to hold a public hearing on the proposed repeal of the regulations after publication.

Statutory Authority: §§ 9-6.4:7.1 and 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

V.A.R. Doc. No. C93-2036; Filed August 4, 1993, 12:01 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines in accordance with the Administrative Process Act prior to the expiration of the emergency public participation guidelines on June 30, 1994. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 23

Notices of Intended Regulatory Action

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Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

V.A.R. Doc. No. C93-2032; Filed August 4, 1993, 12 noon

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider amending regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Rules and Regulations.** The purpose of the proposed action is to undertake a review and seek public comment for the purpose of amending regulations as necessary to regulate the practice of real estate appraisal. The agency will hold a public hearing on the proposed regulations after publication. Date, time and location to be announced.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

V.A.R. Doc. No. C93-2034; Filed August 4, 1993, 12:01 p.m.

REAL ESTATE BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider amending regulations entitled: **Real Estate Board Regulations, Real Estate License Laws, Fair Housing Laws.** The purpose of the proposed action is to propose to undertake a review and seek public comments on all its regulations for promulgation, amendment and repeal as is deemed necessary in its mission to regulate Virginia real estate licensees. A public hearing will be held on the proposed action after publication.

Statutory Authority: §§ 54.1-200 and 54.1-2105 of the Code of Virginia.

Written comments may be submitted until November 1, 1993.

Contact: Joan L. White, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

V.A.R. Doc. No. C93-2093; Filed August 16, 1993, 12:18 p.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD

† Withdrawal of Notice of Intended Regulatory Action

The Board of Social Services has withdrawn the Notice of Intended Regulatory Action to publish child day care policy proposed regulations, published in the Virginia Register on January 9, 1990. The department is in the process of issuing a new Notice of Intended Regulatory Action to issue proposed regulations.

V.A.R. Doc. C93-2097; Filed August 16, 1993, 12:10 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-43-4.1. Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record.** The purpose of the proposed action is to implement the changes in § 63.1-236 of the Code of Virginia, effective July 1, 1992, which allow adults adopted in Virginia to apply to the Commissioner of Social Services for identifying information on their birth families. Emergency regulations were published in The Virginia Register of Regulations on August 24, 1992, and a Notice of Intended Regulatory Action was published on November 16, 1992. A second Notice of Intended Regulatory Action is being published for the purpose of informing the public that there is no plan to hold a public hearing.

Statutory Authority: §§ 63.1-25, 63.1-223, 63.1-226, 63.1-228, 63.1-229, 63.1-236 and 63.1-236.1 of the Code of Virginia.

Written comments may be submitted until September 10, 1993, to Sandra A. Sanroma, Foster Care and Adoptions Unit, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenberg, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-1833; Filed July 19, 1993, 10:19 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-53-01.2. Child Day Care Services.** The purpose of the proposed action is to assure that children receiving child day care services purchased by the Department of Social Services will receive basic health and safety protections. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 63.1-25 and 63.1-55; PL 100-485, PL 101-508; PL 100-435 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until October 6, 1993, to Paula S. Mercer, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2096; Filed August 9, 1993, 4:39 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Auxiliary Grants Program: Levels of Care and Rate Setting**. The purpose of the proposed action is to establish two levels of care in licensed adult care residences for which payment can be made from the Auxiliary Grants Program, and to establish the method for calculating rates of payment for adult care residences. The agency does not intend to hold a public hearing on the proposed regulations after publication. The State Board of Social Services will consider public comments on the proposed regulation at its next regularly scheduled meeting.

Statutory Authority: § 63.1-25.1 the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Jeanine LaBrenz, Program Manager, Medical Assistance Unit, Department of Social Services, 730 East Broad Street, 7th Floor, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2094; Filed August 16, 1993, 12:07 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Regulations for Case Management for Applicants and Residents of Adult Care Residences**. The purpose of the proposed action is to promulgate regulations pertaining to the assessment and reassessment of applicants and residents of licensed adult care facilities to determine appropriateness of placement including appropriateness of residential care or assistance living. The agency does not intend to hold a public hearing on the proposed regulations after publication. The State Board of Social Services will consider public comments on the proposed regulation at its next regularly scheduled meeting.

Statutory Authority: §§ 63.1-25.1 and 63.1-173.3 of the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Helen B. Leonard, Adult Services Program Manager,

Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2108; Filed August 17, 1993, 2:45 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider amending regulations entitled: **Standards and Regulations for Licensed Adult Care Residences**. The purpose of the proposed action is to promulgate regulations pertaining to the care and supervision of individuals residing in licensed adult care residences. The proposed regulation will provide for two levels of licensure: residential living and assisted living. The agency does not intend to hold a public hearing on the proposed regulations after publication. The State Board of Social Services will consider public comments on the proposed regulation at its next regularly scheduled meeting.

Statutory Authority: §§ 63.1-25 and 63.174 of the Code of Virginia.

Written comments may be submitted until October 6, 1993 to Cheryl W. Worrell, Program Development Supervisor, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2095; Filed August 16, 1993, 12:07 p.m.

STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the State Board of Social Services and Child Day-Care Council intend to consider amending regulations entitled: **VR 615-30-01 and 175-03-01. General Procedures and Information for Licensure**. The purpose of the proposed action is to amend regulations to include sanctions for child welfare agencies, and to include procedures for issuance of multi-year licenses. The board and council will consider public comments on the subject of the proposed regulation at their regularly scheduled meetings.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until September 9

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1993, to Kathryn Thomas, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret J. Friedenberg, Policy Analyst, Bureau of Governmental Affairs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

VA.R. Doc. No. C93-1831; Filed July 19, 1993, 10:19 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the State Board of Social Services and the Child Day-Care Council intend to consider amending regulations entitled: **VR 615-38-01 and 175-11-01. Standards and Regulations for Licensed Child Day Center Systems.** The purpose of the proposed action is to develop regulations for licensed child day center systems – a new program resulting from passage of Senate Bill 777 and House Bill 2380 (1993 General Assembly Session). The board and council will consider public comments on the subject of the proposed regulation at their regularly scheduled meetings.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Kathryn Thomas, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret J. Friedenberg, Policy Analyst, Bureau of Governmental Affairs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

VA.R. Doc. No. C93-1832; Filed July 19, 1993, 10:19 a.m.

BOARD OF SOCIAL WORK

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Work intends to consider amending regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to amend the requirement that supervised experience be completed and documented 90 days prior to examination and to amend the standards of practice. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 54.1-2400.6 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914.

VA.R. Doc. No. C93-2092; Filed August 16, 1993, 4:35 p.m.

SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Soil and Water Conservation Board intends to consider amending regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Procedures.** The purpose of the proposed action is to amend, on a permanent basis, the board's procedures to comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemaking under the Act. For example, the Act requires the board to set out in its procedures any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that board include in its procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Basis and Statutory Authority: The basis for this action is the Virginia Administrative Process Act, in particular § 9-6.14:7.1 of the Code of Virginia which 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. Statutory authority for this specific action is found in the Code of Virginia at various references. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board (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 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 impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and 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).

Need: This proposed regulatory action is necessary in order to establish procedures which comply with the 1993 amendments to the Administrative Process Act (Act) and

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replace emergency procedures which became effective on June 30, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's procedures. The Act requires the board to adopt procedures and any procedures adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4:00 p.m. on Wednesday, September 15, 1993.

In addition, the Board's staff will hold a public meeting at 2:00 p.m. on Thursday, September 9, 1993, in the Board Room, of the Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or by telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearings: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the procedures after the proposal is published in the Register of Regulations. This informational proceeding will be held in coordination with other regulatory authorities and agencies of the Secretariat of Natural Resources. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570, fax (804) 786-6141.

VA.R. Doc. No. C93-1868; Filed July 20, 1993, 2:22 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Soil and Water Conservation Board intends to consider amending regulations entitled: **VR 625-02-00. Erosion and Sediment Control Regulations**. The purpose of the proposed action is to amend the existing erosion and sediment control regulations for compliance with the changes to the Erosion and Sediment Control Law made by Chapter 925 of the 1993 Virginia Acts of Assembly which became effective on July 1, 1993.

Basis and Statutory Authority: The basis for this action is Article 4 (§ 10.1-560 et seq.) Chapter 5 of Title 10.1 of the Code of Virginia which establishes the authority for these regulations. Applicable laws and regulations include the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia; VR 625-02-00. Erosion and Sediment Control Regulations; all other Acts of Assembly and the Code of Virginia references conferring powers, duties, and responsibilities on the board.

Need: This proposed regulatory action is necessary to form the basis for the administration, implementation, and enforcement of the Virginia Erosion and Sediment Control Law (Act) for compliance with the changes to the Act enacted by the 1993 General Assembly.

Substance: The intent of these regulations is to provide a framework for compliance with the Act while at the same time providing flexibility for innovative solutions to erosion and sediment control practices. These regulations set forth minimum standards for the effective control of soil erosion, sediment deposition and nonagricultural runoff that are required to be met in erosion and sediment control programs adopted by districts and localities under the Act.

Estimated Impact: There are anticipated impacts on regulated entities and the public since the proposed amendments impose new requirements. Regulated entities and the public should benefit from the proposed amendments in that the regulations will comply with amendments to the Act.

Alternatives: There is no alternative to taking action to amend the erosion and sediment control regulations. Chapter 925 amendments to the Erosion and Sediment Control Law require the board to amend the regulations and adopt procedures which comply with the Act.

Public Comments: The board seeks oral and written

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comments from interested persons on the intended action to include recommendations on the regulations and costs and benefits of any alternatives. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Friday, October 1, 1993.

The director has decided to form an ad-hoc advisory committee to assist the department in the development of amendments to the regulations. In addition the department's staff will hold a public meeting at 7 p.m. on Tuesday, September 28, 1993, in the General Assembly Building, House Room D, (1st floor) Capitol Square, Richmond, Virginia 23219 to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Leon E. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, September 13, 1993.

Intent To Hold an Informational Proceeding or Public Hearings: The board intends to hold informational proceedings (informal hearings) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations.

Statutory Authority: Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 1, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570.

V.A.R. Doc. No. C93-1986; Filed August 3, 1993, 10:50 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Soil and Water Conservation Board intends to consider promulgating regulations entitled: **VR 625-02-01. Erosion and Sediment Control Certification Regulations.** The purpose of the proposed action is to adopt certification regulations for the board for compliance with the changes to the Erosion and Sediment Control Law made by Chapter 925 of the 1993 Virginia Acts of Assembly which became effective on July 1, 1993.

Basis and Statutory Authority: The basis for this action is

Article 4 (§ 10.1-560 et seq.) Chapter 5 of Title 10.1 of the Code of Virginia which establishes the authority for these regulations. Applicable laws and regulations include the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia; VR 625-02-00, Erosion and Sediment Control Regulations; all other Acts of Assembly and the Code of Virginia references conferring powers, duties, and responsibilities on the board.

Need: This proposed regulatory action is necessary to form the basis for the administration, implementation, and enforcement of the issuance of certificates of competence for the compliance with the Virginia Erosion and Sediment Control Law (Act) changes enacted by the 1993 General Assembly.

Substance: These regulations are applicable to every program authority that administers an erosion and sediment control program under the Virginia Erosion and Sediment Control Law and Regulations. The proposed regulations establish the general requirements and minimum standards for certificates of competence issued by the board for the following classifications: program administrator, plan reviewer, and project inspector. The Department of Conservation and Recreation (Department) in administering education and training programs for specified subject areas of the Act is authorized under § 10.1-561 E to charge reasonable fees to persons attending such programs to cover the costs of administering the programs.

Estimated Impact: There are anticipated impacts on regulated entities and the public since the proposed amendments impose new requirements. Regulated entities and the public should benefit from the proposed amendments in that the regulations will comply with amendments to the Act.

Alternatives: There is no alternative to taking action to amend the erosion and sediment control regulations. Chapter 925 amendments to the Act require the board to promulgate the certification regulations which comply with the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended action to include recommendations on the regulations and costs and benefits of any alternatives. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Friday, October 1, 1993.

The director has decided to form an ad-hoc advisory committee to assist the department in the development of amendments to the regulations. In addition the department's staff will hold a public meeting at 7 p.m. on Tuesday, September 28, 1993, in the General Assembly Building, House Room D, (1st floor) Capitol Square, Richmond, Virginia 23219 to receive views and comments and to answer questions of the public.

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Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Leon E. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, September 13, 1993.

Intent To Hold an Informational Proceeding or Public Hearings: The board intends to hold informational proceedings (informal hearings) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations.

Statutory Authority: Article 4 (§ 10.1-560 et seq.) Chapter 5 of Title 10.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 1, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570.

V.A.R. Doc. No. C93-1987; Filed August 3, 1993, 10:50 a.m.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The purpose of the proposed action is to revise the format of the manual to bring it into conformity with federal regulations concerning hazardous materials transportation. The department will hold a public hearing on the proposed amendments after publication.

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

Written comments may be submitted until September 22, 1993.

Contact: Ken Harris, Emergency Operations Manager, Maintenance Division, Emergency Operations Center, Old Highway Bldg., 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2848.

V.A.R. Doc. No. C93-2016; Filed August 4, 1993, 10:36 a.m.

DEPARTMENT OF THE TREASURY (TREASURY BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of the Treasury and the Treasury Board intend to consider amending regulations entitled: **VR 640-01-1. Public Participation Guidelines for the Department of the Treasury and Treasury Board (formerly VR 640-01).** The purpose of the proposed action is to solicit and promote the participation of all interested parties in the development, formulation and adoption of such regulations as the department and Treasury Board may promulgate under the authority established by state law. Interested parties should contact the department in writing of their desire to take part in the development of these guidelines. The agency does not intend to hold a public hearing on the amendment of the regulations after publication.

Statutory Authority: §§ 9-6.14:7.1, 2.1-177 and 2.1-179(9) of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215-1879, telephone (804) 225-3131.

V.A.R. Doc. No. C93-2017; Filed August 4, 1993, 11:22 a.m.

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 672-01-1:1. Public Participation Guidelines** The purpose of the proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 30, 1993.

Substance and Purpose: The purpose of this proposed regulatory action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its guidelines any methods for the identification and notification of interested

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persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that board include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Estimated impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the guidelines since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the cost and benefits of any alternatives. If you would like to be considered as an interested person, please advise Mr. Gilley. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. William F. Gilley at the address below and must be received by 4:00 p.m. on Wednesday, September 15, 1993.

In addition, the board's staff will hold a public meeting at 2:00 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views, and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Gilley at the address below or by telephone at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402 in the Code of Virginia.

Written comments may be submitted until 5 p.m. on September 15, 1993.

Contact: William F. Gilley, Regulatory Services Manager, Department of Environmental Quality, 11th Floor, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 229-2966.

VA.R. Doc. No. C93-1880; Filed July 20, 1993, 3:06 p.m.

† 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 entitled: **VR 672-10-1. Hazardous Waste Management Regulations - Amendment 14.** The purpose is to amend those regulations that establish standards and procedures pertaining to hazardous waste management in the Commonwealth as may be necessary to carry out its powers and duties required by the Act and consistent with the federal statutes and regulations.

Basis and Statutory Authority: The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§ 10.1-1402(11)) of Title 10.1 of the Code of Virginia.

Need: It is necessary to continue the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. By regulating these activities the Commonwealth protects public health, natural resources and the environment. By maintaining the equivalence of its regulations with those issued by the United States Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), the Commonwealth remains eligible to carry out its own hazardous waste management program instead of the federal program.

Substance and Purpose: The purpose is to amend those regulations that establish standards and procedures pertaining to hazardous waste management in the Commonwealth in order to protect the public health and public safety, and to enhance the environment and natural resources. The proposed amendments to the regulation will reflect amendments to the EPA regulations adopted between July 1, 1991 and September 30, 1993 maintaining the equivalence of board regulations. Notably, the amendment will incorporate changes in regulation of used oil allowing use of the amended federal standards.

Estimated Impact: There are more than 3,000 generator, treatment, storage, incinerator and disposal facilities and more than 200 transporters managing hazardous waste in the state. The proposed amendments will allow used oil dealers to receive used oil for recycling without the full application of the regulations if the proposed amendment is adopted. The amendment allows more consistent program implementation between the state and EPA and

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avoids the application of conflicting regulations.

Alternatives: The EPA authorization for the hazardous waste program requires the periodic updating of regulations to reflect consistency with EPA regulations. Grant commitments include periodic amendments to achieve consistency between the federal and state regulations. Because of EPA changes in waste oil regulations, failure to amend would result in a more stringent regulation with fewer options. The alternative of no action would cause the regulated community to be subject to both federal and state regulations except in those areas where the state received authorization in 1984. Full authorization would not be possible. Therefore, the most appropriate alternative is the proposed amendment.

Comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The Department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed amendments to the regulations, and the costs and benefits of the proposed regulation amendment. The Department intends to use an ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The Department does not intend to hold a public hearing (evidentiary hearing). On October 6, 1993, at 10:00 AM the Department will hold a public meeting to discuss proposed amendments and to hear public comment on the proposed amendment, VR 672-10-1, Virginia Hazardous Waste Management Regulations. The meeting will be held in the Main Board Room, at the department's Innsbrook office, 4900 Cox Road, Glen Allen, Virginia. Written comments will be received until October 15, 1993, at 5 p.m. Please submit comments to Mr. William F. Gilley, Department of Environmental Quality, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

Accessibility to Persons with Disabilities: The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 15, 1993.

Statutory Authority: § 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until October 15, 1993.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th

Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2104; Filed August 18, 1993, 8:32 a.m.

† 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 promulgating regulations entitled: **VR 672-20-20. Regulations Governing Management of Coal Combustion Byproduct.** The purpose is to adopt regulations that establish standards and procedures pertaining to management, use and disposal of coal combustion byproducts or residues in the Commonwealth.

Basis and Statutory Authority: The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§§ 10.1-1402(11) and 10.1-1408.1.) of Title 10.1 of the Code of Virginia.

Need: Coal combustion byproducts are presently regulated as a solid waste under solid waste management regulations with specific requirements for storage and disposal. Coal combustion byproducts have properties that would allow use under certain circumstances for which the present regulations do not adequately address. Volume of waste residuals produced demand management to protect public health, natural resources and the environment. Use and reuse needs to become a more definitive alternative management approach for which the board is considering the adoption of such regulations.

Substance and Purpose: The purpose of these regulations is to establish standards and procedures pertaining to use, storage and disposal of coal combustion byproducts in the Commonwealth in order to protect the public health and public safety, and to enhance the environment and natural resources as well as to promote use and reuse. The proposed regulation will provide the appropriate management alternatives available which meet the requirements for protection of public health, environment and natural resources.

Estimated Impact: There are two major utility companies, other utilities and manufacturing facilities and cogeneration facilities producing large quantities coal combustion residuals demanding more alternative approaches to proper management. A number of utilities are demanding that coal companies take back combustion residues as a part of sales contract. Establishment of environmentally sound management techniques and standards are essential to proper, consistent management practices.

Alternatives: The alternatives considered have been the development of the regulation as proposed, the amendment of solid waste regulations to incorporate alternative standards, or continued regulation as a solid waste under the present regulations. Amending the present solid waste regulation would be more time consuming and complex as

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coal combustion byproducts would be one of numerous areas requiring amendment. This could occur when it becomes necessary to amend the solid waste management regulations to incorporate changes in the federal Subtitle D Criteria promulgated by EPA under the Resource Conservation and Recovery Act. Continued use of the solid waste regulations does not allow for appropriate alternatives and would be more staff intensive in effort for each specific case. Adopting the proposed regulation would be a direct approach to providing appropriate alternatives in a minimal time period and be less staff intensive during the implementation. Therefore, the most appropriate alternative is the proposed regulation.

Comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed amendments to the regulations, and the costs and benefits of the proposed regulation amendment. The department intends to use an ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The department does not intend to hold a public hearing (evidentiary hearing). On October 6, 1993, at 2 p.m., the department will hold a public meeting to discuss proposed regulation. The meeting will be held in the Main Board Room, at the department's Innsbrook office, 4900 Cox Road, Glen Allen, Virginia. Written comments will be received until October 15, 1993, at 5 p.m. Please submit comments to Dr. W. Gulevich, Department of Environmental Quality, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

Accessibility to Persons with Disabilities: The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 15, 1993.

Statutory Authority: §§ 10.1-1402(11) and 10.1-1408.1 of the Code of Virginia.

Written comments may be submitted until October 15, 1993, to Dr. W. Gulevich, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, Virginia 23219.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2105; Filed August 18, 1993, 8:30 a.m.

† 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 promulgating regulations entitled: **VR 672-20-30. Regulations Governing Management of Vegetative Waste.** The purpose is to adopt regulations governing management of vegetative waste that establish standards and procedures pertaining to management, use and disposal of vegetative waste to encourage the development of facilities for the decomposition of vegetative waste.

Basis and Statutory Authority: The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§§ 10.1-1402(11) and 10.1-1408.1.L.) of Title 10.1 of the Code of Virginia.

Need: Vegetative wastes are presently regulated as a solid waste under solid waste management regulations with specific requirements. The board is required to provide for reasonable exemptions from the permitting requirements, both procedural and substantive, in order to encourage the development of facilities for the decomposition of vegetative waste. It is necessary to develop this regulation to carry out the requirements of § 10.1-1408.1.L. of the Code.

Substance and Purpose: The purpose of these regulations is to establish standards and procedures pertaining to use, storage and disposal of vegetative waste. The proposed regulation will provide the appropriate management alternatives available which meet the requirements for protection of public health, environment and natural resources. The regulations will provide for reasonable exemptions from the permitting requirements, both procedural and substantive, in order to encourage the development of facilities for the decomposition of vegetative waste. The regulations will address an expedited approval process. The purpose is to encourage the development of facilities for the decomposition of vegetative waste.

Estimated Impact: There are 135 sanitary landfills and 52 Construction/Demolition/Debris landfills presently permitted for operation in the state with new permit applications pending. They handle or propose to handle varying quantities and types of vegetative wastes. Adoption of proposed regulations would simplify the present handling of the material and affect the processing of new permits. Establishment of environmentally sound management techniques and standards are essential to proper, consistent management practices.

Alternatives: The General Assembly in amending the Code of Virginia mandated the development of procedures to encourage the development of facilities for decomposition of vegetative wastes. The alternatives considered have been the development of the regulation as proposed or the

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amendment of solid waste regulations to incorporate alternative standards. Amending the present solid waste regulation would be more time consuming and delay the development of appropriate standards and alternatives. Developing a specific regulation for vegetative waste focuses the regulatory effort more efficiently and simplifies public participation.

Public Comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed amendments to the regulations, and the costs and benefits of the proposed regulation amendment. The department intends to use an ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The department does not intend to hold a public hearing (evidentiary hearing). On October 7, 1993, at 10 a.m., the department will hold a public meeting to discuss the proposal and to hear public comment on the proposed regulation. The meeting will be held in the Conference Room C, 1st Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia. Written comments will be received until October 20, 1993, at 5 p.m. Please submit comments to Mr. William F. Gilley, Department of Environmental Quality, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

Accessibility to Persons with Disabilities: The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 15, 1993.

Statutory Authority: §10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until October 20, 1993.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

V.A.R. Doc. No. C93-2172; Filed August 18, 1993, 8:31 a.m.

† 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 - Amendment 12.** The purpose is to amend the hazardous materials transportation regulations to incorporate U.S. DOT and U.S. NRC amendments in federal regulations for the period from June 2, 1992 through July 1, 1993. The proposed Amendment 12 to these regulations incorporates changes to U.S. Department of Transportation ("DOT") and U.S. Nuclear Regulatory Commission ("NRC") regulations on hazardous materials transportation and motor carrier safety. The new provisions promulgated by DOT and NRC from June 2, 1992, through July 1, 1993, necessitate that changes be made to the existing state regulations. The proposed changes maintain consistency with the federal regulations.

Basis and Statutory Authority: The bases for this regulation are the Virginia Waste Management Act, § 10.1-1400 et seq. of the Code of Virginia and § 44-146.30 of the Code of Virginia addressing the Transportation of Hazardous Radioactive Materials. Changes in federal regulations promulgated from June 2, 1992, through July 1, 1993, necessitate this amendment to preclude conflicts between Virginia regulations and the federal regulations.

Need: The issuance of this Notice of Intended Regulatory Action is necessary to incorporate changes to federal regulations and to incorporate the transportation of hazardous radioactive materials into the transportation of hazardous materials regulation.

Substance and Purpose: The Virginia Waste Management Board is promulgating these amended regulations to ensure that hazardous materials transported within the Commonwealth are loaded, packed, identified, marked, and placarded in order to protect public health, safety, and the environment. The amendments will also incorporate requirements contained in § 44-146.30 that the Coordinator of the Department of Emergency Services will maintain a registry of shippers of hazardous radioactive materials and monitor the transportation of hazardous radioactive materials within the Commonwealth.

Estimated Impact: The information that the board intends to incorporate has already been through the federal rulemaking process and is already in force for the interstate and, in some cases, intrastate transportation of hazardous materials. For this reason, this amendment is not expected to have a significant impact on the regulated community.

Alternatives: This amendment is necessary to incorporate changes to federal DOT and NRC regulations. There is no alternative to the proposed amendment due to the need to maintain consistency with federal regulations.

Public Comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The Department requests that the public submit comments, at the meeting or by letter, on the correctness of the

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regulatory action, any ideas or advice the agency should consider in formation and drafting of the amendments to the regulation, and the costs and benefits of the proposed amendments. The department intends to use an ad hoc advisory committee to assist in amending the regulation. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest to the contact person listed below.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The department does not intend to hold a public hearing (evidentiary hearing). The department will hold a public meeting to discuss this Notice of Intended Regulatory Action at 10 a.m. on October 7, 1993, 10th Floor Conference Room, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia. Written comments will be received until October 18, 1993, at 5 p.m. Please submit comments to Mr. C. Ronald Smith, Department of Environmental Quality, 11th Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 13, 1993.

Statutory Authority: §§ 10.1-1402(11), 10.1-1450, and 44-146.30 of the Code of Virginia.

Written comments may be submitted until October 15, 1993, to C. Ronald Smith, Department of Environmental Quality, Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2106; Filed August 18, 1993, 8:29 a.m.

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. Regulated Medical Waste Management Regulations.** The purpose is to restart the adoption of amendment of VR 672-40-01, Virginia Regulated Medical Waste Management Regulations as a permanent regulation to amend VR 672-40-01, Virginia Infectious Waste Management Regulations, effective May 2, 1990, and replace the emergency regulation adopted by the Waste Management Board on June 25, 1993. The purpose is to amend those regulations that establish standards and procedures pertaining to regulated medical waste management in this Commonwealth in order to

protect the public health and public safety, and to enhance the environment and natural resources.

Basis and Statutory Authority: The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia. Specifically, § 10.1-1402 authorizes the board to promulgate regulations for the supervision and control of waste management activities.

Need: This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly and to comply with the requirements of the board to amend existing regulations.

Substance and Purpose: The purpose is to amend those regulations that establish standards and procedures pertaining to regulated medical waste management in this Commonwealth in order to protect the public health and public safety, and to enhance the environment and natural resources. The Virginia Waste Management Board adopted rules and regulations, titled "Infectious Waste Management Regulations," on November 2, 1989. The proposed amendments to the regulation will reflect improved and simpler practices providing more flexibility in waste management options. These improvements are incorporated into an amendment to the regulations, including a change in the name of the regulations to Regulated Medical Waste Regulations.

Estimated Impact: There are several thousand facilities or individuals in the Commonwealth who manage, treat, transport or dispose of regulated medical waste including facilities with permits or permits by rule. Adoption of the proposed amendment will provide more flexibility in waste management options.

Alternatives: The General Assembly required the amendment of the regulated medical waste regulations. Therefore, there is no alternative to the proposed amendment. Leaving the regulation unamended would prevent the implementation of improved management practices.

Public Comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed regulations, and the costs and benefits of the proposed regulations amendment. The department intends to use its original ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the interested persons mailing list should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding after the proposed regulations are published.

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On August 25, 1993, at 10 a.m., the department will hold joint public meetings with the Waste Division and Air Division to discuss proposed amendments and to hear public comment on the proposed amendment, VR 672-40-01, Virginia Regulated Medical Waste Management Regulations and proposed Air Pollution Control Board regulations. The meeting will be held in the Main Board Room, at the department's Innsbrook office, 4900 Cox Road, Glen Allen, Virginia.

Accessibility to persons with disabilities: The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than August 1, 1993.

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

Written comments may be submitted until 5 p.m. on September 6, 1993, to Robert G. Wickline, Department of Environmental Quality, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: William F. Gilley, Regulatory Services Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 229-2966.

VA.R. Doc. C93-1794, Filed July 7, 1993, 10:57 a.m.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to (i) incorporate amendments enacted by the 1992 and 1993 General Assembly to 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.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act, which were enacted during the 1993 General Assembly.

The General Assembly's establishment of a sliding scale for financial responsibility (effective December 22, 1989) 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.

Section 62.1-44.34:11 A 2 a and b requires a reimbursement from the fund at the new reduced sliding scale for financial responsibility. The regulation must be amended to conform with state law.

Alternatives: Section 62.1-44.34:11 a 2 a and b requires reimbursement from the fund at the new reduced sliding scale for financial responsibility. The regulation must be amended to conform with state law.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. To be considered, comments should be directed to Doneva Dalton, Hearings Reporter, at the address below, and should be received by 4 p.m. on Wednesday, September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential on this proposed regulation after the proposal is published in the Register of Regulations.

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 62.1-44.34:9(8) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mary-Ellen Kendall, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

VA.R. Doc. No. C93-1900; Filed July 21, 1993, 11:14 a.m.

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 purpose of the proposed action is to adopt a regulation describing the requirements for the

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Virginia Petroleum Storage Tank Fund.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act, which were enacted during the 1993 General Assembly.

The amendments to the State Water Control Law enacted by the 1992 and 1993 sessions of the General Assembly (effective July 1, 1992, and July 1, 1993) increased the number of persons who have access to the fund and reduced the amount of financial responsibility required for 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.

Alternatives: The current fund regulation is included as part of § 21 of VR 680-13-03, the Underground Storage Tank Financial Responsibility Requirements. The new regulation will provide additional guidelines on administration of the fund and will establish requirements for operators of exempt underground storage tanks and operators of facilities who are not regulated under VR 680-13-03.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. To be considered, comments should be directed to Doneva Dalton, Hearings Reporter, at the address below and should be received by 4 p.m. on Wednesday, September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential on this proposed regulation after the proposal is published in the Register of Regulations.

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 Requirements (VR 680-13-02), and Chapter 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:9(8) and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mary-Ellen Kendall, Office of Spill Response and

Remediation, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

V.A.R. Doc. No. C93-1902; Filed July 21, 1993, 11:15 a.m.

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 repealing regulations entitled: **VR 680-14-01. Permit Regulation.** The purpose of the proposed regulatory action is to consider repealing the Permit Regulation. The adoption of a new VPDES Permit Regulation will make the VPDES program conform in style and content to the federal program regulations. The VPA Permit Regulation will be separated from the VPDES permitting program in order to recognize the distinction between this wholly state run VPA program and the federal/state NPDES/VPDES permit program.

The board is reissuing this notice to restart the repeal process because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Basis and Statutory Authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 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.

Need: The repeal of this regulation is being considered in order to eliminate any confusion and duplication of regulations which may result from the concurrent incorporation of the intent and purpose of the Permit Regulation into a Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (VR 680-14-01:1) and a Virginia Pollution Abatement (VPA) Permit Regulation (VR 680-14-21).

Estimated Impact: The repeal of VR 680-14-01 would have no impact on the regulated community nor the environment as the purpose and scope of the regulation are being transferred into the VPDES Permit Regulation and the VPA Permit Regulation.

Alternatives: One alternative to the proposed repeal is to continue to administer the VPDES and VPA permit programs under the current regulation (VR 680-14-01).

Public Comments: The board seeks written comments from interested persons on the proposed regulatory action and on the costs and benefits of the stated alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulatory action after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not

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intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

V.A.R. Doc. No. C93-1911; Filed July 21, 1993, 11:11 a.m.

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 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.** The purpose of the proposed action is to consider adoption of a new regulation. This regulation will govern point source discharges of pollutants to surface waters within the boundaries of the Commonwealth of Virginia. These discharges are currently regulated under the VPDES permit program and the Permit Regulation (VR 680-14-01). The adoption of the proposed regulation will replace the VPDES portion of the existing Permit Regulation and it will make the VPDES program conform to the federal NPDES regulation. This action is being done concurrently with the repeal of VR 680-14-01. This reissuance of this notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

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(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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes and §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Section 402 of the Clean Water Act (33 USC 1251 et seq) authorizes states to administer the National Pollutant Discharge Elimination System 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. VR 680-14-01:1 will be the specific regulation governing this authorization.

Need: Any point source discharge of pollutants to surface

waters is subject to regulation under a Virginia Pollutant Discharge Elimination System (VPDES) permit. The VPDES regulation will delineate the procedures and requirements to be followed in connection with VPDES permits issued by the board pursuant to the Clean Water Act and the State Water Control Law. In order to retain the authority to administer the VPDES permit program, the board must adopt regulations which are consistent with the federal program regulations. The current Permit Regulation (VR 680-14-01) does not reflect the latest revisions to the federal regulations and must be replaced.

Estimated Impact: This regulation will impact all of the approximately 2,800 Virginia Pollutant Discharge Elimination System permittees in that the governing regulation will be replaced with an updated version. There will be no added costs to the permittees beyond those required under the existing state and federal regulations.

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPDES permits. Another alternative is to take no action and to continue to administer the VPDES permit program under the current regulation which is not up to date with changes in the federal regulations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

V.A.R. Doc. No. C93-1910; Filed July 21, 1993, 11:11 a.m.

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 repealing regulations entitled:

Notices of Intended Regulatory Action

VR 680-14-03. Toxics Management Regulations. The purpose of the proposed regulatory action is to consider repealing the Toxics Management Regulation. This action is being proposed in order to eliminate any confusion and duplication of regulations which may result from the concurrent adoption of a VPDES Permit Regulation (VR 680-14-01:1).

The board is reissuing this notice to restart the regulatory process because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

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(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, and § 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.

Need: Repeal of the Toxics Management Regulation is necessary since the board intends to consider adoption of a VPDES Permit Regulation which will include language on the evaluation of effluent toxicity and the mechanisms for control of toxicity through chemical specific and whole effluent toxicity limitations.

Estimated Impact: The repeal of this regulation would have no impact on the regulated community nor the environment as the intent and purpose of the regulation will be included in the new VPDES Permit Regulation VR 680-14-01:1. There should be no additional economic impact as a result of this action.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the repeal of the regulations after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the repeal of the regulations after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental

Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

VA.R. Doc. No. C93-1912; Filed July 21, 1993, 11:11 a.m.

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 680-14-10. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Seafood Processing Establishments.** The purpose of the proposed regulatory action is to adopt a general permit to cover the category of discharges which are generated by seafood packaging houses.

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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 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 Permit Program.

Need: This proposal is necessary in order to streamline the VPDES 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 dischargers in these categories. It will reduce the time currently required to obtain coverage under the VPDES permitting system. The seafood processors must have a valid permit from the Water Control Board prior to receiving Certificates of Inspection from the State Health Department. Delays in issuance of a permit from the board may have serious economic impacts on this industrial category. Adoption of the proposed regulation would reduce the manpower needed by the Water Control Board for permitting these

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discharges. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

The reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The proposed regulatory action is to adopt general permits for one or more categories of discharges. General permits may be issued for categories of dischargers that: involve the same or similar types of operations; discharge the same or similar types of wastes; require the same effluent limitations or operating conditions; and require the same or similar monitoring. As with an individual permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Under this proposal the category, or series of categories, of discharges to be covered by proposed general permit regulations is the category of discharges which are generated by seafood packing houses. The facilities covered by this general permit may produce a variety of final products; however, their wastes are similar in nature and can be covered by the same general permit. The covered facilities would be those processors of various seafoods which produce minimal volumes of wastewaters and whose wastes are not considered to be significant threats to water quality. Seafood processing discharges which are believed to impact water quality would be required to obtain individual VPDES permits, rather than be covered by this general permit. This permit would only cover industrial wastes associated with the operation of such facilities. Discharges of sanitary wastes would not be authorized by this permit.

Estimated Impact: Adoption of these regulations will affect approximately 300 seafood processing establishments. Coverage under the general permit would ensure a more timely and economical response to permit applications by reducing paper work and manpower for each permit in these categories. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

Alternatives: Individual permits can continue to be issued to these facilities as staff time allows. This will require the applicant to pay a permit fee in excess of \$2,000 instead of the \$200 for general permit coverage. The cost of completing the application form for an individual permit is higher than for a general permit, and the time to obtain coverage under an individual permit is significantly longer than for a general permit. More agency resources are required to process an application for an individual permit than for coverage under a general permit.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

V.A.R. Doc. No. C93-1913; Filed July 21, 1993, 11:12 a.m.

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. Facility Financial Responsibility Requirements.** The purpose of the proposed regulatory action is to adopt new regulations setting the amount of financial responsibility operators of facilities with aboveground storage tanks must demonstrate.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act, which were enacted during the 1993 General Assembly.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of facilities containing oil to demonstrate financial responsibility based on the aggregate capacity of all facilities operated in Virginia. This may require operators to self-insure or obtain additional pollution insurance, a letter of credit, a surety bond, or guarantee to meet the amount required by regulation. No governmental agency is required to comply with these regulations.

Alternatives: Section 62.1-44:34.16(1) requires the board to receive, review and approve financial responsibility documentation from facility operators. This regulation establishes the level of financial responsibility and the types of mechanisms operators may use to demonstrate that they are financially responsible for the cost of cleanup of a petroleum discharge from a facility. Section

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62.1-44.34:21 of the Code of Virginia authorizes the board to collect administrative fees for acceptance of evidence of financial responsibility from any operator seeking acceptance of evidence of financial responsibility. The fees must be sufficient to meet, but not exceed, the cost 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 the fee schedule for acceptance of evidence of financial responsibility.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. To be considered, comments should be directed to Doneva Dalton, Hearings Reporter, at the address below and should be received by 4 p.m. on Wednesday, September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after the proposal is published in the Register of Regulations.

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 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mary-Ellen Kendall, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

V.A.R. Doc. No. C93-1901; Filed July 21, 1993, 11:15 a.m.

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 680-14-16. General Permit Regulation for Storm Water Discharges Heavy Manufacturing.** The purpose of the proposed regulatory action is to adopt a general permit for storm water discharges from heavy manufacturing facilities. Heavy manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget SIC Manual,

1987).

Basis and Statutory Authority: The basis for these regulations 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 wastes 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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 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.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including heavy manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application. The board is reissuing the notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

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The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations 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 in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1250 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from heavy manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 1250 heavy manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The Board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

Written comments may be submitted until 4 p.m. on

September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

V.A.R. Doc. No. C93-1914; Filed July 21, 1993; 11:12 a.m.

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 680-14-17. General Permit Regulation for Storm Water Discharges from Light Manufacturing.** The purpose of the proposed regulatory action is to adopt a general permit for storm water discharges from light manufacturing facilities. Light manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25 (Office of Management and Budget SIC Manual, 1987).

Basis and Statutory Authority: The basis for these regulations 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 wastes 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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 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.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc. which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16,

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1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including light manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

The board is reissuing this notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations 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 in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 3650 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing

individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from light manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 3650 light manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

Statutory Authority: § 62.1-44-15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., Wednesday, September 8, 1993 to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316

V.A.R. Doc. No. C93-1915; Filed July 21, 1993, 11:12 a.m.

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 680-14-18. General Permit Regulation for Storm Water Discharges from Transportation Facilities; Landfills, Land Application Sites and Open Dumps; Materials Recycling Facilities; and Steam Electric Power Generating Facilities.** The purpose of the proposed action is to adopt a general permit for storm water discharges from the facilities defined as follows: (1) Transportation facilities classified as Standard Industrial Classification (SIC) 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations (Office of Management and Budget SIC Manual, 1987); (2) Landfills, land application sites, and open dumps that receive or have received any industrial wastes including those that are subject to regulation under Subtitle D of RCRA (42 USC 6901 et seq.); (3) Facilities involved in the recycling of materials, including metal scrapyards, battery

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reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 and 5093; and (4) Steam electric power generating facilities, including coal handling sites.

Basis and Statutory Authority: The basis for these regulations 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 wastes 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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 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.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including transportation facilities; landfills, land application sites and open dumps; materials recycling facilities; and steam electric power generating facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

The board is reissuing the notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring

and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit. The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations 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 in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1500 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from the facilities in this category. One is to issue an individual VPDES permit to each of the estimated 1500 facilities in this category. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member

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of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

V.A.R. Doc. No. C93-1916; Filed July 21, 1993, 11:12 a.m.

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 680-14-19. General Permit Regulations for Storm Water Discharges from Construction Sites.** The purpose of this proposed action is to adopt a general permit for storm water discharges from construction sites that are defined as follows: construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale.

Basis and statutory authority: The basis for these regulations 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 wastes 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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 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.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including construction sites. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

The board is reissuing the notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each construction site covered by this general permit. Owners/operators will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction activity at the site, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the construction activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the construction activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to construction activity permits. Coverage under the general permit would reduce the paper work required to obtain a permit for the owners/operators at construction sites. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are between 5,000 to 10,000 construction sites that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general

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permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit construction site storm water discharges. One is to issue an individual VPDES permit to each of the estimated 5,000 to 10,000 construction sites. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m., on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

VA.R. Doc. No. C93-1917; Filed July 21, 1993, 11:12 a.m.

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 promulgate regulations entitled: **VR 680-14-20. General Virginia Pollution Discharge Elimination System Permit Regulation for Nonmetallic Mineral Mining.** The purpose of the proposed action is to adopt a general permit for the category of industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The intent of this proposed general permit regulation is to establish standard language

for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. No discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 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.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting of industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. The board is reissuing this notice in order to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. No discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

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Estimated Impact: There are approximately 90 establishments currently permitted under the individual VPDES permit program which may qualify for this proposed general permit. 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, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulations would also reduce the manpower needed by the board for permitting these discharges.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. One is the issuance of an individual VPDES permit to each establishment. The other is to adopt and issue a general VPDES permit to cover this category of discharges.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Richard Ayers, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

V.A.R. Doc. No. C93-1918; Filed July 21, 1993, 11:13 a.m.

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 promulgate regulations entitled: **VR 680-14-21. Virginia Pollution Abatement Permit Regulation.** The purpose of the proposed action is to consider adoption of a new regulation. This regulation will govern sources of pollutants within the boundaries of the Commonwealth of Virginia that are not point source discharges to surface waters. These types of pollutant management activities are currently regulated under the VPA permit program and the Permit Regulation (VR

680-14-01). The VPA permit program is being separated from the Permit Regulation in order to recognize the distinction between this wholly state run permit program and the federal/state NPDES/VPDES permit program. This action is being done concurrently with the repeal of VR 680-14-01.

The board is reissuing this notice to restart the adoption process because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

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(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, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Need: Any pollutant management activity which does not result in a point source discharge to surface waters may be required to obtain a VPA permit in order to ensure that the activity does not alter the physical, chemical or biological properties of state waters. VPA permits may be utilized to authorize the land application of sewage, sludge or industrial waste or the complete reuse and recycle of wastewater. The VPA regulation will delineate the procedures and requirements to be followed in connection with VPA permits issued by the board pursuant to the State Water Control Law.

Estimated Impact: This regulation will impact all of the approximately 1,500 holders of Virginia Pollution Abatement permits. However, there should not be a significant difference in the regulation of these permits or the costs incurred by permittees under the new regulation compared to the previous Permit Regulation (VR 680-14-01).

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPA permits. Another alternative is to take no action and to continue to administer the VPA permit program under the current regulation.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of

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Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Richard Ayers, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

V.A.R. Doc. No. C93-1919; Filed July 21, 1993, 11:13 a.m.

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 680-14-22. Virginia Pollution Abatement (VPA) General Permit for Animal Feeding Operation.** The purpose of the proposed action is to restart the process for adoption of regulations for a general permit for animal feeding operations which establishes standard language for the limitations and monitoring requirements necessary to regulate the activities of this category of operations under the VPA permit program.

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(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 board to adopt such regulations as it deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys of investigations, and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting of the pollutant management activities at animal feeding operations and to further streamline the permitting process. The reissuance of the Notice of Intended Regulatory Action to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly and to comply with the board's Public Participation Guidelines.

Substance and Purpose: General permits may be issued for categories of dischargers that involve the same or similar types of operations, manage the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for animal feeding operations which may operate and maintain treatment works for waste storage, treatment or recycle and which may perform land application of wastewater or sludges. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate the activities of this category of operations under the VPA permit program. The possibility exists that more than one general permit may be developed to cover certain activities in this category of operations.

Estimated Impact: There are several hundred animal feeding operations, including both concentrated and intensified operations, that may be required to be permitted under the VPA permit program and which may qualify for this proposed general permit. Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of activities. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulation would also reduce the manpower needed by the board for permitting these activities.

Alternatives: There are several alternatives for compliance with state requirements to permit pollutant management activities at animal feeding operations. One is the issuance of an individual VPA permit to each facility. The others include adopting general VPA permits to cover specific operations in this category of activities including concentrated and intensified operations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulations after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

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Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

VA.R. Doc. No. C93-1920; Filed July 21, 1993, 11:13 a.m.

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 680-15-04. Shenandoah River Surface Water Management Area - The Shenandoah River, including the portions of the North Fork Shenandoah River and the South Fork Shenandoah River within Warren County.** The purpose of the proposed action is to define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Need: Surface water management areas are needed where low flow conditions threaten, or could threaten, beneficial stream uses. The Code of Virginia, § 62.1-246, provides local governments the right to petition the board for consideration of surface water management areas. The board has received petitions from the Clarke and Warren Counties Board of Supervisors' requesting a surface water management area for the Shenandoah River.

Substance and Purpose: The purpose of a surface water management area is to provide for the protection of beneficial uses of designated surface waters of the Commonwealth during periods of drought by managing the supply of surface water in order to balance competing beneficial uses. By adopting this regulation the Commonwealth is protecting the beneficial uses of the Shenandoah River in Clarke County and Warren County for the public welfare, health and safety of the citizens of the Commonwealth.

The proposed regulation will define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect. Existing water users as of July 1, 1989, will have to apply for a Surface Water Withdrawal Certificate which will contain a board approved water conservation or management plan. If an existing user wants to increase his withdrawal, he will have to apply for a Surface Water Withdrawal Permit. Surface water users in existence after July 1, 1989, will have to apply for a Surface Water Withdrawal Permit which will contain withdrawal limits, instream flow conditions and a water conservation or management plan.

Estimated Impact: The proposed regulation will impact persons withdrawing surface water equal to or greater than 300,000 gallons per month from the area. The staff estimates 15 surface water withdrawers in the proposed

area will be required to obtain Surface Water Withdrawal Permits or Certificates from the State Water Control Board. There may be more agricultural irrigators who are not currently reporting their use.

It is estimated that the time required of each affected withdrawer to fill out the application forms and to prepare water conservation or management plans will be no more than 40 hours. Simple operations such as agricultural irrigation will require less time. Assistance in filling out the application forms and in developing water conservation or management plans will be available from the Department of Environmental Quality.

Applicants for permits or certificates, except for certain agricultural uses, will have to pay a fee of up to \$3,000 for permits and \$2,000 for certificates, depending on the type of withdrawal. It should be noted that these permit fees are established in a separate regulation, Fees for Permits and Certificates (VR 680-01-01), which has been adopted by the board.

These regulations also impact the board. This is a new program and additional staffing will be needed. The staffing and budget implications are not known at this time. However, the cost of administering this program should be partially offset by the revenue from permit fees.

Alternatives: Alternatives under consideration include whether the board should adopt the proposed surface water management area and issue Surface Water Withdrawal Permits and Surface Water Withdrawal Certificates, minimum instream flow levels, the boundaries of the area and guidelines for conservation and management plans.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on this proposed regulation after the proposal is published in the Register of Regulations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives and other alternatives.

Statutory Authority: § 62-1-246 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Mr. Thomas Felvey, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5092.

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V.A.R. Doc. No. C93-1906; Filed July 21, 1993, 11:16 a.m.

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 680-15-05. North River Surface Water Management Area - The North River and all its Tributaries Above the Confluence with the Middle River.** The purpose of the proposed action is to define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Need: Surface water management areas are needed where low flow conditions threaten, or could threaten, beneficial stream uses. The Code of Virginia, § 62.1-246, provides local governments the right to petition the board for consideration of surface water management areas. The Board has received a letter from the Town of Bridgewater's attorneys requesting a surface water management area for the North River.

Substance and Purpose: The purpose of a surface water management area is to provide for the protection of beneficial uses of designated surface waters of the Commonwealth during periods of drought by managing the supply of surface water in order to balance competing beneficial uses. By adopting this regulation the Commonwealth is protecting the beneficial uses of the North River in Augusta and Rockingham Counties for the public welfare, health and safety of the citizens of the Commonwealth.

The proposed regulation will define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect. Existing water users as of July 1, 1989, will have to apply for a Surface Water Withdrawal Certificate which will contain a board approved water conservation or management plan. If an existing user wants to increase his withdrawal, he will have to apply for a Surface Water Withdrawal Permit. Surface water users in existence after July 1, 1989, will have to apply for a Surface Water Withdrawal Permit which will contain withdrawal limits, instream flow conditions and a water conservation or management plan.

Estimated Impact: The proposed regulation will impact persons withdrawing surface water equal to or greater than 300,000 gallons per month from the North River in the proposed area. The staff estimates 15 surface water withdrawers in the proposed area will be required to obtain Surface Water Withdrawal Permits or Certificates from the State Water Control Board. There may be more agricultural irrigators who are not currently reporting their use.

It is estimated that the time required of each affected withdrawer to fill out the application forms and to prepare water conservation or management plans will be no more than 40 hours. Simple operations such as agricultural irrigation will require less time. Assistance in filling out the application forms and in developing water conservation or management plans will be available from the Department of Environmental Quality.

Applicants for permits or certificates, except for certain agricultural uses, will have to pay a fee of up to \$3,000 for permits and \$2,000 for certificates depending on the type of withdrawal. It should be noted that these permit fees are established in a separate regulation, Fees for Permits and Certificates (VR 680-01-01), which has been adopted by the Board.

These regulations also impact the board. This is a new program and additional staffing will be needed. The staffing and budget implications are not known at this time. However, the cost of administering this program should be partially offset by the revenue from permit fees.

Alternatives: Alternatives under consideration include whether the board should adopt the proposed surface water management area and issue Surface Water Withdrawal Permits and Surface Water Withdrawal Certificates, minimum instream flow levels, the boundaries of the area and guidelines for conservation and management plans.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on this proposed regulation after the proposal is published in the Register of Regulations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives and other alternatives.

Statutory Authority: § 62.1-246 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Hearings Reporter, Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Mr. Thomas Felvey, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5092.

V.A.R. Doc. No. C93-1906; Filed July 21, 1993, 11:16 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

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public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-15-06. James River Surface Water Management Area - The Richmond Metropolitan Area.** The purpose of the proposed action is to define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Need: Surface water management areas are needed where low flow conditions threaten, or could threaten, beneficial stream uses. The Code of Virginia, § 62.1-246, provides local governments the right to petition the board for consideration of surface water management areas. The Board has received a petition from the Henrico County Board of Supervisors requesting a surface water management area for the James River.

Substance and Purpose: The purpose of a surface water management area is to provide for the protection of beneficial uses of designated surface waters of the Commonwealth during periods of drought by managing the supply of surface water in order to balance competing beneficial uses. By adopting this regulation the Commonwealth is protecting the beneficial uses of the James River in the Richmond metropolitan area for the public welfare, health and safety of the citizens of the Commonwealth.

The proposed regulation will define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect. Existing water users as of July 1, 1989, will have to apply for a Surface Water Withdrawal Certificate which will contain a board approved water conservation or management plan. If an existing user wants to increase his withdrawal, he will have to apply for a Surface Water Withdrawal Permit. Surface water users in existence after July 1, 1989, will have to apply for a Surface Water Withdrawal Permit which will contain withdrawal limits, instream flow conditions and a water conservation or management plan.

Estimated Impact: The proposed regulation will impact persons withdrawing surface water equal to or greater than 300,000 gallons per month from the James River in the Richmond metropolitan area. The staff estimates 10 surface water withdrawers in the proposed area will be required to obtain Surface Water Withdrawal Permits or Certificates from the State Water Control Board. There may be some agricultural irrigators who are not currently reporting their use. Some counties are not direct withdrawers but purchase water from a withdrawer and will therefore be impacted, such as Chesterfield, Hanover and Henrico Counties.

It is estimated that the time required of each affected withdrawer to fill out the application forms and to prepare

water conservation or management plans will be no more than 40 hours. Simple operations such as agricultural irrigation will require less time. Assistance in filling out the application forms and in developing water conservation or management plans will be available from the Department of Environmental Quality.

Applicants for permits or certificates, except for certain agricultural uses, will have to pay a fee of up to \$3,000 for permits and \$2,000 for certificates depending on the type of withdrawal.

It should be noted that these permit fees are established in a separate regulation, Fees for Permits and Certificates (VR 680-01-01), which has been adopted by the Board.

These regulations also impact the board. This is a new program and additional staffing will be needed. The staffing and budget implications are not known at this time. However, the cost of administering this program should be partially offset by the revenue from permit fees.

Alternatives: Alternatives under consideration include whether the board should adopt the proposed surface water management area and issue Surface Water Withdrawal Permits and Surface Water Withdrawal Certificates, minimum instream flow levels, the boundaries of the area and guidelines for conservation and management plans.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on this proposed regulation after the proposal is published in the Register of Regulations.

Public Comments: The Board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives and other alternatives.

Statutory Authority: § 62.1-246 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Mr. Thomas Felvey, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5092.

VA.R. Doc. No. C93-1904; Filed July 21, 1993, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control

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Board intends to consider promulgating regulations entitled: **VR 680-15-07. General Virginia Water Protection Permit Regulations for Minor Road Crossings, Associated Fills and Channel Modifications.** The purpose of the proposed action is to establish standard conditions for accomplishing the construction of minor road crossings with their associated fills and stream crossings. Provisions will be included to address the protection of state waters and endangered species.

Basis and Statutory Authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15:5 authorizes the board to issue Virginia Water Protection Permits (VWPP) for activities which require a Water Quality Certification under Section 401 of the Clean Water Act. Section 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes 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; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 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 401 of the Clean Water Act (Act) (33 USC 1251 et seq.) requires that any applicant for a federal license or permit to conduct any activity, including but not limited to, the construction and operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the state in which the discharge originates or will originate, that any such discharge will comply with the applicable provisions of Sections 301, 302, 303, 306 and 307 of the Act. No license or permit will be granted until such a certification has been obtained or has been waived by the State. In cases where the request for certification has been denied by the state, no federal permit or license will be granted.

Need: Most road crossing construction involves the discharge of fill materials for road approaches to bridges, instream support piers, footings, box and pipe culvert placement, as well as excavation, channelization and other instream modifications for proper alignment and placement of the structure to be utilized for crossing state waters, including wetlands. Any such activity is considered a discharge under the Clean Water Act and State Water Control Law, and is therefore subject to regulation through the VWPP permit program.

Substance and Purpose: The intent of this general permit

regulation is to establish standard conditions for accomplishing the construction of minor road crossings with their associated fills and stream channel modifications. Minor Road Crossings are defined as impacting 100 linear feet or less of surface waters and/or one third acre or less of wetlands. Provisions will be included to address the protection of state waters and endangered species. Language will also be included which requires that the least impacting structure be utilized in all waters.

Monitoring and reporting requirements will be established based upon the water quality degradation potential of the road crossing construction, finished structure, and any mitigation necessary as part of the project for which this general permit is issued. The reporting provisions will assist in evaluating the effectiveness of the steps taken to reduce impacts to state waters, the success of any mitigation necessary, provide information to identify water quality impacts and support future permitting activities.

Estimated 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 VWP permits would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VWPP permitting system. The staff estimates that there are approximately 500 projects within this category of discharges that may be covered by VWP permits.

The board recognizes the need for general VWP permits to ease the burden on the regulated community and to facilitate the issuance of timely permits while maintaining water quality protection of state waters. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the requirements to permit minor road crossings. One is to issue an individual VWPP permit for each of the estimated 500 minor road crossings. The other is to adopt a general VWPP permit to cover this category of discharger.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action, on the costs and benefits of the stated alternatives, or other alternatives.

In addition, the board will hold public meetings to receive views and comments and to answer questions of the public on the following dates: Monday, September 27, 1993, in the Norfolk City Council Chambers, City Hall Building, 11th Floor, 810 Union Street, Norfolk at 7 p.m.; Tuesday, September 28, 1993, in the Board Room at the Department of Environmental Quality, Innsbrook Corporate Center,

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4900 Cox Road, Glen Allen at 7 p.m.; Wednesday, September 29, 1993, in the Board Chambers, McCourt Building, Prince William County Administration Center, 1 County Complex, 4859 Davis Ford Rd., Prince William at 2 p.m.; and, Thursday, September 30, 1993, in the Community Room, Roanoke County Administration Center, 3738 Brambleton Ave., S. W., Roanoke at 2 p.m..

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Donnie Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than 4 p.m., Friday, September 17, 1993.

Advisory Committee/Group: The board seeks comments on whether the agency should form an ad hoc advisory group, use a standing advisory committee or consult with groups or individuals to assist in the drafting and formation of the proposal. In addition the board seeks the names of individuals who would be interested in serving on an ad hoc advisory group.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

Statutory Authority: § 62.1-44.2 et seq. of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Martin Ferguson, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

V.A.R. Doc. No. C93-2002; Filed August 3, 1993, 3:41 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-02. Roanoke River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the Roanoke River Basin Water Quality Management Plan by deleting the references to the Smith-Dan River subarea.

Basis and Statutory Authority: Section 62.1-44.15(13) of the

Code of Virginia authorizes the board to establish policies and programs for effective area-wide or basin-wide water quality control and management. Section 62.1-44.15(10) of the Code of Virginia authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Title 40, Parts 35 and 130, of the Code of Federal Regulations requires states to develop a continuing planning process of which water quality management plans (WQMP) are a part. No VPDES permit may be issued which is in conflict with an approved WQMP.

Need: The Roanoke River Basin WQMP was adopted by the board in 1976. Since that time the Smith-Dan subarea has grown in population and developed unique problems associated with population growth and development not seen in the other areas covered by the Roanoke River Basin WQMP. Furthermore, the information on the Smith-Dan River Subarea portion of that plan has not been updated to reflect current data, scientific studies; and, new or revised legislation, procedures, policy, and regulations. By preparing a separate WQMP, the board will be better able to focus on the important issues facing the Smith-Dan River Subarea.

Substance and Purpose: Water quality management plans set forth measures for the State Water Control Board to implement in order to reach and maintain water quality goals. The purpose of this proposal is to amend the existing Roanoke River Basin WQMP by deleting references for those areas to be covered by the new Smith-Dan Subarea WQMP (VR 680-16-02.2). The new Plan will update those portions of the Roanoke River Basin WQMP in the Smith-Dan River Subarea and bring the plan into compliance with federal law.

Estimated Impact: No major impacts on the regulated community are anticipated as a result of the proposed amendments to the Roanoke River Basin WQMP. There are currently 90 permitted facilities and approximately 218,000 persons residing in the Smith-Dan Subarea, who will be directly affected by the proposed plan. Changes in segment classification will be made in the plan by adding water quality limited segments for fecal coliform for the South Fork of the Mayo River, Sandy River, and several other tributaries and by adding water quality limited segments for ammonia to a number of small tributaries.

Alternatives: The Smith-Dan River Subarea has not been updated to reflect current data, scientific studies; new or revised legislation, procedures, policy, and regulations; and changes in area growth and development since the Roanoke River Basin WQMP was adopted. One alternative is to continue to use the outdated Roanoke River Basin WQMP. To do this would result in noncompliance with the amendments to the Clean Water Act for achieving current water quality goals. A second alternative is to update the existing plan. While this is possible, it would be a very long process. Furthermore, the current Roanoke River

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Basin WQMP is presented in four lengthy volumes with emphasis on the upper basin area. The board is interested in focusing more attention on the special issues and needs of the Smith-Dan Subarea, updating information for the subarea and meeting new regulatory requirements and believes that a separate plan is warranted.

Public Comments: The board seeks written and oral comments from interested persons on the costs and benefits of the stated alternatives or other alternatives. In addition, the Board will hold a public meeting at 7:00 p.m. on Thursday, September 30, 1993, at the Henry County Administration Building, Board Room, Kings Mountain Road, Collinsville, Virginia, to receive comments from the public.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230 or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than 4 p.m., Monday, September 20, 1993.

Statutory Authority: § 62.1-44.15(10) et seq. of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Martin Ferguson, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

VA.R. Doc. No. C93-2000; Filed August 3, 1993, 3:41 p.m.

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 680-16-02.02. Smith-Dan River Subarea Water Quality Management Plan.** The purpose of the proposed action is to adopt a new Smith-Dan River subarea water quality management plan.

Basis and Statutory Authority: Section 62.1-44.15(13) of the Code of Virginia authorizes the board to establish policies and programs for effective area-wide or basin-wide water quality control and management. Section 62.1-44.15(10) of the Code of Virginia authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Title 40, Parts 35 and 130, of the Code of Federal Regulations requires states to develop a continuing planning process of which water quality management plans (WQMP) are a part. No VPDES permit may be issued which is in conflict with an approved WQMP.

Need: The Roanoke River Basin WQMP was adopted by the board in 1976. Since that time the Smith-Dan subarea has grown in population and developed unique problems associated with population growth and development not seen in the other areas covered by the Roanoke River Basin WQMP. Furthermore, the information on the Smith-Dan River Subarea portion of that plan has not been updated to reflect current data, scientific studies; and, new or revised legislation, procedures, policy, and regulations. By preparing a separate WQMP, the board will be better able to focus on the important issues facing the Smith-Dan River Subarea.

Substance and Purpose: Water quality management plans set forth measures for the State Water Control Board to implement in order to reach and maintain water quality goals. The purpose of this proposal is to amend the existing Roanoke River Basin WQMP by deleting references for those areas to be covered by the new Smith-Dan Subarea WQMP. The new Plan will focus attention on the unique problems and issues within the Smith-Dan Subarea, update those portions of the Roanoke River Basin WQMP in the Smith-Dan River Subarea and bring the plan into compliance with federal law.

Estimated Impact: There are currently 90 permitted facilities and approximately 218,000 persons residing in the Smith-Dan Subarea, who will be directly affected by the plan. Changes in segment classification will be made in the plan by adding water quality limited segments for fecal coliform for the South Fork of the Mayo River, Sandy River, and several other tributaries and by adding water quality limited segments for ammonia to a number of small tributaries.

Alternatives: The Smith-Dan River Subarea has not been updated to reflect current data, scientific studies; new or revised legislation, procedures, policy, and regulations; and changes in area growth and development since the Roanoke River Basin WQMP was adopted. One alternative is to continue to use the outdated Roanoke River Basin WQMP. To do this would result in noncompliance with the amendments to the Clean Water Act for achieving current water quality goals. A second alternative is to update the existing plan. While this is possible, it would be a very long process. Furthermore, the current Roanoke River

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Basin WQMP is presented in four lengthy volumes with emphasis on the upper basin area. The board is interested in focusing more attention on the special issues and needs of the Smith-Dan Subarea, updating information for the subarea and meeting new regulatory requirements and believes that a separate plan is warranted.

Public Comments: The board seeks written and oral comments from interested persons on the costs and benefits of the stated alternatives or other alternatives. In addition, the Board will hold a public meeting at 7 p.m. on Thursday, September 30, 1993, at the Henry County Administration Building, Board Room, Kings Mountain Road, Collinsville, Virginia, to receive comments from the public.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230 or by telephone at (804) 527- 5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than 4 p.m., Monday, September 20, 1993.

Statutory Authority: § 62.1-44.15(10) et seq. of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford Estes, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

V.A.R. Doc. No. C93-2001; Filed August 3, 1993, 3:40 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to amend Water Quality Standards to meet state and federal requirements for a complete review of the water quality standards once every three years, modify the standards to ensure that water quality is

protected, to update beneficial water uses, to cancel obsolete standards, and to designate exceptional waters.

This is a reissuance of the notice to start the adoption process for the triennial review of the water quality standards and to modify VR 680-21-07 and VR 680-21-08 (scenic rivers, endangered species, nutrient enriched waters, special standards, trout waters and public water supplies). This reissuance of the notice to restart the adoption process is necessary because of the changes in the Administrative Process Act which were enacted during the 1993 General Assembly. This notice also serves to begin the adoption process for exceptional waters under VR 680-21-01.3C (Antidegradation Policy).

The type of information that would help the department draft these amendments includes but is not limited to the following:

- information to update existing standards or to add new standards (especially for toxic pollutants),
- information related to site specific modifications to water quality standards for metals (water effects ratios),
- suggestions for a narrative biological criteria,
- evaluations of the 1986 Environmental Protection Agency's bacteria and dissolved oxygen criteria,
- provisions to ensure that standards apply to wetlands,
- information related to the designation of endangered species waters in Virginia (including protection areas or buffer zones upstream of endangered species locations),
- information related to the designation of nutrient enriched waters, trout waters or public water supplies in Virginia,
- information or nominations related to the designation of "exceptional" waters under VR 680-21-01.3C (Antidegradation Policy).

Any amendments to the water quality standards proposed as a result of the triennial review amendments have the potential to impact every VPDES permit holder in the Commonwealth of Virginia. The impact on an individual VPDES permit holder would range from additional monitoring costs through upgrades to existing wastewater facilities.

Impacts resulting from stream reclassifications will be primarily upon those permittees discharging into endangered species waters. Certain requirements (VR 680-21-02.22.5) apply in these waters such that any VR 680-21-07 (Endangered Species, Scenic Rivers and Nutrient Enriched Waters), to the River Basin Section Tables in VR

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680-21-08 (trout waters and public water supplies) and to the Antidegradation Policy in VR 680-21-01.3.C (exceptional waters). Other alternatives are whether to make amendments related to the issues described under "Substance and Purpose."

Public Comments: The board seeks written comments from interested persons on the intended regulatory actions and on the cost and benefits of the stated actions. Written comments should be directed to Ms. Doneva Dalton, Hearings Reporter, at the address below and must be received by 4 p.m. on September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on these proposed regulatory actions after they are published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on these proposed regulations after the proposal is published in the Register of Regulations.

Applicable laws and regulations include Section 303(c)(2)(B) and Section 307(a) of the Clean Water Act, the Federal Water Quality Standards Regulation (40 CFR 131), State Water Control Law, VR 680-21-00 (Water Quality Standards Regulations) and VR 680-14-01 (Permit Regulation).

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Eleanore Daub, Office of Environmental Research and Standards, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5091.

V.A.R. Doc. No. C93-1903; Filed July 21, 1993, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards (VR 680-21-07:1.b. Potomac Embayment Standards)**. The purpose of the proposed action is to consider amendments to the Potomac Embayment standards.

Need: The board adopted the Potomac Embayment Standards (PES) in 1971 to address serious nutrient enrichment problems evident in the Virginia embayments and Potomac River at that time. These standards apply to sewage treatment plants discharging into Potomac River embayments in Virginia from Jones Point to the Route 301

bridge and for expansions of existing plants discharging into the nontidal tributaries of these embayments.

Based upon these standards, several hundred million dollars were spent during the 1970s and 1980s upgrading major treatment plants in the City of Alexandria and the Counties of Arlington, Fairfax, Prince William, and Stafford. Today these localities operate highly sophisticated advanced wastewater treatment plants which have contributed a great deal to the dramatic improvement in the water quality of the upper Potomac estuary.

Even before the planned upgrades at these facilities were completed, questions arose over the high capital and operating costs that would result from meeting all of the requirements contained in the PES. Questions also arose due to the fact that the PES were blanket effluent standards that applied equally to different bodies of water. Therefore, in 1978, the Board committed to reevaluate the PES. In 1984, a major milestone was reached when the Virginia Institute of Marine Science (VIMS) completed state-of-the-art models for each of the embayments. The Board then selected the Northern Virginia Planning District Commission (NVPDC) to conduct waste load allocation studies of the Virginia embayments using the VIMS models. In 1988, these studies were completed and effluent limits were developed for each major facility that would protect the embayments and the mainstem of the Potomac river. However, the PES were not amended to reflect the results of these efforts.

Since the PES have not been amended or repealed, VPDES permits have included the PES standards as effluent limits. Since the plants cannot meet all of the requirements of the PES, the plant owners have operated under consent orders or consent decrees with operating effluent limits for the treatment plants that were agreed upon by the owners and the Board.

In 1991, several Northern Virginia jurisdictions with embayment treatment plants submitted a petition to the board requesting that the Board address the results of the VIMS/NVPDC studies and that the PES be replaced with a descriptive process for establishing effluent limits for these plants to meet water quality standards. The petitioners claimed the current standards do not allow for scientifically based permit limits.

A board staff workgroup was formed to consider the changes to the PES recommended by the petitioners. At their June 1991 meeting, the board authorized holding a public hearing to solicit comments on proposed amendments based upon the recommendations of the work group. These amendments would allow permit by permit development of appropriate effluent limits for the affected discharges using the Board's Permit Regulation and Water Quality Standards Regulation. They would also apply a total phosphorus effluent limit of 0.18 mg/l which is the regionally agreed limit to protect the embayments and the upper Potomac estuary from nutrient enrichment.

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Based upon the request of Fairfax County, a hearing was not scheduled on the proposed amendments so the petitioners could consider revisions to their original petition. By letter dated October 28, 1992, Fairfax County requested the board to proceed with a revised petition to change the PES. The revised petition was supported by the Counties of Arlington, Prince William, and Stafford and the Alexandria Sanitation Authority.

Substance and Purpose: The purpose of this proposed regulatory action is to consider amendments to the Potomac Embayment Standards.

Under the recent petition from the Northern Virginia localities for amending the PES, minimum effluent limits are retained in the Standards and state-of-the-art modeling is required to be performed for construction of any major new plant or expansion of an existing plant.

Information on the following issues would help the Board develop appropriate amendments to the PES:

- adopting the amendments included with the revised petition from the local governments,
- repealing the Potomac Embayment Standards and using the Permit Regulation and Water Quality Standards Regulation to determine effluent limits,
- replacing the standards with a comprehensive policy to protect the embayments (similar to the approach used with the Occoquan Policy),
- coverage of existing small sewage treatment plants and single family home discharges by the Potomac Embayment Standards.

Estimated Impact: Amendments to the Potomac Embayment Standards would impact eight major and several smaller sewage treatment plants discharging to the Potomac embayments. Upgrading the existing treatment plants to meet the current standards would cost millions of dollars. The alternatives identified thus far for amending the current standards would result in significant cost savings.

Alternatives: Three alternatives have so far been identified: 1. no change to the current standards; 2. amend the standards to remove specific effluent limits and rely on the Permit Regulation and Water Quality Standards Regulation (approach previously authorized for hearing by the Board); or 3. amend the standards by changing the specific effluent limits (local government petition).

Public Meeting: The board will hold a public meeting to receive views and comments on the local government petition as well as other comments on amending the Potomac Embayment Standards. The meeting will be held at 7:00 p.m. on Thursday, September 16, 1993, Fairfax County Government Center, Conference Center, Rooms 4 & 5, 12000 Government Center Parkway, Fairfax.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Doneva A. Dalton at the address listed below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than Wednesday, September 1, 1993.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 23, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Alan E. Pollock, Chesapeake Bay Program, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5155.

VA.R. Doc. No. C93-1907; Filed July 21, 1993, 11:17 a.m.

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 680-41-01:1. Public Participation Guidelines.** The purpose of this proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with 1993 amendments to the Administrative Process Act (Act). Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in their guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in their guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Act and replace emergency guidelines which became effective on June 29, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the Guidelines since the Guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires

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the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The Board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. In addition, the board's staff will participate in a joint public meeting to be held at 2:00 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or be telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The Board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the Guidelines after the proposal is published in the Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993, to Ms. Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cindy M. Berndt, Policy and Planning Supervisor, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 327-5158.

VA.R. Doc. No. C93-1908; Filed July 21, 1993, 11:10 a.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider repealing regulations entitled: **VR 675-01-01.**

Public Participation Guidelines. The purpose of the proposed action is to promulgate public participation guidelines to replace emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation during the comment period.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1944; Filed June 24, 1993, 2:28 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider promulgating regulations entitled: **VR 675-01-01:1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation during the comment period.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1944; Filed June 24, 1993, 2:28 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

Notices of Intended Regulatory Action

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

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

V.A.R. Doc. No. C93-1923; Filed July 21, 1993, 11:56 a.m.



BOARD OF YOUTH AND FAMILY SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Standards for Intensive Community Supervision**. The purpose of the proposed action is to set minimum standards for the care and custody of youth in intensive community supervision programs. These standards apply to the following types of programs: Home-Based Family Treatment Services; Intensive Home Supervision Services; Serious Offender Services; Alternative Day Services; Assessment and Evaluation Services Crisis Management Services; Electronic Monitoring Services. The board intends to hold a public hearing on these standards.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-0692, telephone (804) 371-0692.

V.A.R. Doc. No. C93-1894; Filed July 21, 1993, 9:49 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Minimum Standards for Secure Juvenile Detention Facilities**. The purpose of the proposed action is to set minimum operation standards for the care and custody of youth in secure detention facilities. This new proposed regulation replaces proposed standards as published in the Register of Regulations as VR 690-30-001 on November 18, 1991. The board intends to hold a public hearing on these standards.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

COLLEGE OF WILLIAM AND MARY

Title of Regulation: Motor Vehicle Parking and Traffic Rules and Regulations.

Purpose :

The purpose of these motor vehicle regulations is to reduce traffic congestion, facilitate orderly parking, provide a safe campus environment and to promote the fair and consistent enforcement of rules.

The motor vehicle regulations set forth herein have been developed by the Office of Parking Services with the advice of the Transportation Advisory Council and have been approved by the Board of Visitors. The regulations are applicable to all persons owning or operating a motor vehicle on properties of the College of William and Mary in Virginia. Accordingly, jurisdiction extends to all college roads and grounds.

The Board of Visitors has authorized the offices of Parking Services and Campus Police to provide for the safety of persons on college property by enforcing these rules and regulations. These regulations have been established to meet the specific need for control of motor vehicles on college property. The Code of Virginia (§ 23-9.2:3) grants to the Board of Visitors the power to provide parking and traffic rules and regulations on property owned by the college and the district courts require the Board of Visitors approval for local enforcement of motor vehicle regulations.

The college does not assume responsibility for motor vehicles or their content while operated or parked on college property.

New rules and those rules which are questioned the most are listed in a separate section for your convenient reference.

College of William & Mary
Department of Parking Services
204 South Boundary Street
Williamsburg, Virginia 23185
(804) 221-4764/2435

Office hours 8 a.m. to 4 p.m. Monday through Friday, unless otherwise posted.

Motor Vehicle Parking and Traffic Rules and Regulations.

PART I.

GENERAL PROVISIONS.

§ 1.1. Decals shall be permanently affixed to the left rear bumper or on the outside of the left rear windshield. No parking decal may be taped inside the vehicle.

§ 1.2. The Parking Services Office will recognize an official grace period in August of each school year for "No Decal" violations. For the Fall 1993 session, the grace period extends through August 31, 1993. During the grace period, only "No Decal" violations will be waived. Parking enforcement officers will continue to cite all other violations during the grace period. Student vehicles that are parked in faculty/staff spaces during the grace period will receive a citation for Reserved Space.

§ 1.3. The costs of decals vary to accommodate various categories of students and are adjusted at different times of the year. The following rates apply:

Category	Aug 93	Jan 94	Apr 94
Faculty/Staff/Student	\$50.00	\$30.00	\$20.00
Non-College Affiliated	\$50.00	\$30.00	\$20.00
Hourly/Part-time Employee	\$25.00	\$25.00	\$20.00
Evening Student	\$25.00	\$25.00	\$20.00
William & Mary Hall			
Lot Only	\$20.00	\$20.00	\$20.00
Motorcycle	\$25.00	\$25.00	\$20.00
Additional Decal	\$ 5.00	\$ 5.00	\$ 5.00

§ 1.4. Temporary permits are available for periods not to exceed two weeks and cost \$1.00 per week. After the two-week period has expired, a permanent decal must be purchased.

§ 1.5. Temporary permits, at no charge and with a two-hour limit, are available for loading and unloading (2-hour limit), temporary handicaps, temporary plates and car repairs.

§ 1.6. In general, campus parking meters are enforced 7 a.m. to 5 p.m., Monday through Saturday. However, meters at Hunt Hall and Swern Library are enforced seven days a week, 24 hours a day. Multiple citations may be issued at meters.

§ 1.7. Tickets paid within 10 working days of the date of the ticket will be reduced by \$5.00.

§ 1.8. Payment for fines for wheellocked vehicles may be paid by check or credit card.

§ 1.9. Visitors to the college, who receive a No Decal violation, are not required to pay their first three No Decal violations. However, after three such violations,

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subsequent violations shall be paid.

§ 1.10. Evening students may park in any faculty/staff (except the Jones Lot - Lot R), resident or day space after 4 p.m. This option is available to other students after 5 p.m.

§ 1.11. It is a violation to purchase and distribute additional decals to other individuals or transfer or exchange decals for use on other vehicles. Such cases will be referred to the Dean of Students for appropriate action.

§ 1.12. Jones Lot is reserved 24 hours a day, seven days a week for faculty/staff only.

§ 1.13. Parking in the Common Glory lot (Lot D) is prohibited unless there is a curb blocker at the space.

§ 1.14. Individuals who are associated with the college and have handicapped tags shall also display a William and Mary parking decal.

§ 1.15. Fees for parking decals are not refundable.

§ 1.16. The use of hazard lights does not preclude the issuance of a citation if the vehicle is in violation of parking rules.

§ 1.17. Temporary/Visitor Permits are available from Campus Police when the Parking Services office is not open.

§ 1.18. When vehicle or license plate information changes, please notify the Office of Parking Services, x14764.

PART. II. REGISTRATION OF MOTOR VEHICLES.

§ 2.1.

A. All motor vehicles, including motorcycles and motorbikes, parked on college property shall be registered with Parking Services located at 204 S. Boundary Street. Registration may also be accomplished at the Watermen's Hall Registration Desk for those individuals at the York River Campus. The operator of each vehicle will be issued an appropriate decal or permit. The purchase of a decal entitles individuals to park only in those areas designated for the respective decal. The purchase of a decal does not guarantee a parking space. Maps highlighting the major lots by type of decal for both the Williamsburg and York River Campuses are incorporated by reference and made a part of these regulations. Decals are effective for the school year which runs from August 16 through August 31 of the following calendar year. Temporary permits are issued as necessary for durations appropriate with their purpose.

B. Acceptance of a decal or permit by an individual attests to that person's complete understanding of the

College of William and Mary Motor Vehicle Regulations and such person's responsibility to adhere to these regulations. Additionally, it is a violation to purchase additional decals for distribution to other individuals.

C. Registrants who misstate their classification category will be referred to the Dean of Students. When there is a change in (i) classification status of a registrant; or (ii) the purpose for which a decal or permit was issued; or (iii) the vehicle registration information, it shall be the sole responsibility of the registrant to notify Parking Services so that the decal or permit may be suitably altered.

PART III. REGISTRATION, ELIGIBILITY AND CLASSIFICATION.

§ 3.1. Should registrants or Parking Services disagree as to proper classification, Parking Services may issue a 14 day temporary permit in favor of the registrant, who shall immediately file an appeal with the Traffic Appeals Board. The registrant is solely responsible for a clear statement of the situation in the appeal and for completing a permanent registration immediately upon receiving a decision from the Appeals Board.

§ 3.2 The categories of decals issued by the Parking Service office are listed below.

1. Faculty/Staff (blue).

All faculty, administrative personnel, classified and hourly employees of the college are eligible to register motor vehicles and will be issued a blue decal. Students who work part-time for the college will have eligibility determined according to their student status.

2. Resident (yellow).

All individuals classified as students by the Registrar of the college, who reside in college administered housing and have completed 54 semester hours (or 4 semesters), or students who reside at Dillard Complex and have completed the equivalent of two semesters, qualify as a resident and will be issued a yellow decal.

3. Day (green).

Those individuals classified as students by the Registrar of the college who do not reside in college administered housing will receive a green decal upon registering a motor vehicle.

4. Evening (maroon).

Students whose classes begin after 4 p.m., and who do not reside in college administered housing, qualify as an evening student and will be issued a maroon decal. After 4 p.m. they may park in any faculty/staff or student space unless otherwise posted. Evening students who have a frequent need to park on

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campus before 4 p.m. may purchase the Day (green) decal, as no provision is made for the Evening designation prior to 4:00 p.m. Evening students who have an occasional need to park on campus before 4 p.m. must obtain a temporary Day (green) permit, which allows parking in Day areas only.

5. Restricted use (red).

Students otherwise ineligible to register a motor vehicle, who have obtained permission through the Traffic Appeals Board, will receive a restricted use red decal upon registration. The red decal allows parking only in the William and Mary Hall Lot. Application forms for this permission are available at Parking Services. Permission may be granted upon demonstration that a vehicle is indispensable for employment, essential to continuance at the college, for physical disability or for other college related needs. A student who brings a vehicle to the college without prior special permission is in violation of these regulations.

The William and Mary Hall Lot only permit is available to all college community members who are otherwise eligible. This permit is priced significantly lower than other permits for which individuals may be eligible.

6. General (gold).

General decals, which are gold, are intended for Marriott employees, Child Care Center employees and noncollege affiliated persons who volunteer at the college or have a frequent need to visit and use college facilities. The General decal allows parking in faculty/staff areas only.

§ 3.3. Temporary permits.

Temporary permits are available on a limited basis for a variety of needs. Examples include loading permits, car in for repairs or temporary handicaps. These permits are available from 8 a.m. to 4 p.m. Monday through Friday from Parking Services and all other times from the Campus Police. Permits for the employees at the York River Campus may be obtained from the Registration Desk in Watermen's Hall.

§ 3.4. Additional or replacement decals.

An additional or replacement decal may be purchased for \$5.

§ 3.5. Motorcycle/Motorbike.

Members of the college community shall register motorcycles and motorbikes. The decal will be issued in accordance with the status of the registrant.

§ 3.6. Lost/stolen decals.

If a decal is lost or stolen, it must be reported immediately to the Campus Police, and a new permit must be obtained from Parking Services. Without a proper decal or permit, a motor vehicle parked on college property is in violation of these regulations and is subject to ticketing, wheellocking or towing.

§ 3.7. Display of decals.

Vehicle registration is not complete until the permit or decal is properly displayed. Decals or permits displayed improperly will constitute an improper display violation. Decals shall be securely affixed to the left rear bumper or to the outside of the left rear windshield. Affixing the decal to the outside rear windshield facilitates removal at a later date.

PART IV. TRAFFIC REGULATIONS.

§ 4.1. The Campus Police are authorized to enforce moving violations which will be returnable in the respective District Courts.

§ 4.2. Barriers may be placed by the Campus Police at any point deemed necessary for specific temporary use - most often emplaced for safety reasons and traffic flow. Removal of any such barriers without permission, except for passage of emergency vehicles, is prohibited.

§ 4.3. In all cases, the directions of a police officer supersede the regulations posted by sign or signal.

§ 4.4. Riding, driving or parking any vehicle, other than emergency vehicles, on the sidewalks of the college is prohibited. Any other use is by special permission from the Campus Police or Parking Services.

§ 4.5. Sections 4.1 through 4.5 apply equally to any person parking or operating a motor vehicle on college property.

PART V. PARKING REGULATIONS.

Article I. General Provisions.

§ 5.1. A decal or permit is required to park on college property 24 hours a day, seven days a week, except in metered or timed spaces. Anyone may park in metered spaces and must pay the meter as posted.

§ 5.2. Signs have been posted to designate the following parking areas which are enforced between 7:30 a.m. and 5 p.m., Monday through Friday, except for the regulation regarding evening students as set out in subdivision 4 of § 3.2:

Visitors

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Faculty/Staff

Day

Resident

Time Limit spaces

§ 5.3. The following designations are reserved and enforced 24 hours a day, seven days a week:

Firelanes

No Parking zones

Handicapped spaces

Reserved For spaces

Official Vehicle spaces

Service/Vendor spaces

Jones Hall Lot

Meters at Hunt Circle and Swem Library

§ 5.4. "No Parking" signs indicate an emergency lane, and no parking is permitted day or night. Parking in any portion of a No Parking zone for any length of time is a violation of these regulations.

§ 5.5. Spaces reserved for Service or Vendor vehicles may only be used by vehicles displaying Service or Vendor permits issued by Parking Services. Employees of the college who have Service or Vendor permits must also have a William and Mary parking permit if they are using their personal vehicle and parking in a Service or Vendor space.

§ 5.6. Parking space designation as to faculty, staff, and students will be observed when the college is in session. Parking space designations will not be observed during holidays posted in the college catalog, unless otherwise posted. All other traffic and parking regulations will be enforced throughout the calendar year. Students in doubt should contact Parking Services, x14764.

§ 5.7. The Cary Field/Bryan Lot, the University Center Lot, the Post Office Lot and the pull-in spaces at the rear of St. Bede's Church adjacent to College Terrace must be vacated by 8 a.m. on the Saturdays of home football games. Vehicles in violation may be towed at owner's expense.

§ 5.8. The University Center Lot and the parking along the stadium wall shall be vacated the Friday and Saturday of the Colonial Relays. This is generally the first weekend in April of each year. Vehicles in violation may be towed at owner's expense.

§ 5.9. Brooks Street around William and Mary Hall shall be vacated by 4 p.m. on the days of home basketball games. Vehicles in violation may be towed at owner's expense.

§ 5.10. Under no circumstances may any motor vehicle, other than police or emergency vehicles, be operated or parked at any time on the walkways, landscape, grass, or areas designated for grass, without a permit from Parking Services or Campus Police.

§ 5.11. Special events such as convocations and home athletic events require many parking spaces on the campus to be reserved. Whenever possible, three days notice will be given to the college community so alternate parking plans can be made.

Members of the college community should be alert to posted notices because vehicles in violation may be towed at owner's expense.

§ 5.12. Parking or storing motorcycles or motorbikes inside a building or in or near an entrance way is prohibited. In order to comply with state regulations and to preclude possible fire hazards, motorcycles and motorbikes will be ticketed and removed at the owner's expense when so parked. Cycle owners are asked to make use of the motorcycle parking spaces throughout campus.

§ 5.13. Double parking is never permitted.

§ 5.14. Bumper blocks, if present, establish parking spaces. This is especially true in Common Glory (Lot D) where parking is only permitted at bumper blocks.

§ 5.15. The driver of any disabled vehicle is subject to ticketing. If the vehicle cannot be removed immediately, the driver should notify the Campus Police or Parking Services at once and take steps to remove it without delay. A note left on a disabled vehicle does not preclude ticketing.

§ 5.16. Parking in spaces designated as "Handicapped Parking" is limited exclusively for that purpose. Vehicles parked in these spaces without proper authorization may be towed at the owner's expense. Members of the college community who have handicap permits shall also display a current decal or permit.

Article 2.

York River Campus Parking.

§ 5.17. Parking at the York River Campus is by permit only. All employees are entitled to park in any nonreserved space. Provisions for handicapped parking are set out in § 5.21, and visitor parking is set out in § 5.22.

Article 3.

Williamsburg Campus Parking.

§ 5.18. Faculty/staff parking.

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Members of the faculty and staff are expected to observe the parking regulations and are encouraged not to drive their vehicles point-to-point on campus. Faculty and staff are expected to park only in faculty and staff areas.

§ 5.19. Day student parking.

Students having Day decals may park only in areas designated as day parking.

§ 5.20. Resident student parking.

Resident students may park only in resident areas. Resident students are encouraged to abstain from driving to class to help reduce parking congestion and to afford other residents across campus availability to resident spaces. As an exception, Dillard and the Graduate Student Complex residents may park in the Common Glory Lot (Lot D) and other resident designated areas provided they have current resident and Dillard decals.

§ 5.21. Handicapped parking.

Permanent handicap license plates or placards may be obtained from the Department of Motor Vehicles. Faculty and staff members requiring temporary handicapped parking may make application through the Affirmative Action Office (College Apt #3). Students requiring temporary handicapped parking may make application through the Office of the Dean of Students (James Blair 102) and employees at the York River Campus should contact the Manager of Administrative Services (Watermen's Hall). Vehicles displaying appropriate handicap plates or placards may park in any handicapped, faculty/staff or student space. Those individuals affiliated with the college who have handicapped parking permission must also display a William and Mary parking decal.

§ 5.22. Visitor parking.

Visitor spaces are provided only for individuals outside the college community who have legitimate business on campus. No vehicle which has, or should have, a decal or permit is considered a visitor. Spaces reserved for "Visitors To" are intended for noncollege affiliated individuals only. Permits to use these spaces may be obtained from the respective office visited.

Visitors with visitor permits may park in any faculty/staff, student or visitor space. Visitor permits are not valid at metered spaces. Members of both campuses who have visitors coming to the campus should contact Parking Services for appropriate permits.

§ 5.23. Metered spaces.

Metered spaces are intended for high turn over, high demand areas. Anyone may park at a meter, and everyone must pay. Meters are enforced from 7:30 a.m. to

5 p.m., Monday through Saturday, except for the Swem Library and Hunt Circle meters which are enforced 24 hours a day, 7 days a week. It is a violation to park in a metered space when the violation flag is visible. Multiple citations may be issued at meters.

PART VI. Enforcement.

§ 6.1. Campus Police will enforce all appropriate provisions of the motor vehicle laws described in the Code of Virginia, the City of Williamsburg Traffic Regulations and the Motor Vehicle Regulations of the College of William and Mary. Parking Services will enforce the Motor Vehicle Regulations of the College of William and Mary.

§ 6.2. After the first citation for violation of a motor vehicle regulation, any vehicle which remains in violation of the same regulation is subject to additional citations.

§ 6.3. Every attempt will be made to maintain consistency of enforcement. Lack of space in the immediate proximity to a building or observation that others have parked in violation of the regulations will not be considered a valid excuse for violating any regulation. Hazard lights do not exempt a vehicle from ticketing if they are in violation of a parking rule.

§ 6.4. The person in whose name a parking decal or permit is issued will be held responsible for any violation involving the vehicle. Citations are not excused on the plea that another person was driving at the time the citation was issued.

§ 6.5. Campus Police and Parking Services are authorized to remove, at the owner's expense, any vehicle which is in violation of these regulations. This includes towing or wheellocking.

§ 6.6. Citation fines must be paid or appealed within 10 working days from the date the ticket is issued.

§ 6.7. The owner or operator of a wheellocked vehicle must pay any outstanding fines and the additional wheellock fee (\$20.00) before the wheellock will be removed. Unauthorized removal or tampering with a wheellock may result in criminal prosecution. Vehicles wheellocked in excess of 48 hours will be towed to a private, licensed garage, and held until the owner presents a paid receipt from the college for outstanding fines, proof of ownership of the vehicle and payment of the towing fee. In addition, the garage may also charge a storage fee.

§ 6.8. Schedule of fines; payment policy.

A. Schedule of fines.

Violation	If Paid Within 10 Working Days	If Paid After 10 Working Days
No Valid Decal	\$25.00	\$30.00

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Handicapped Space	\$25.00	\$30.00
Towed - Special Event	\$25.00	\$30.00
Illegal Parking:		
Firelane	\$10.00	\$15.00
Reserved Space	\$10.00	\$15.00
Expired Meter	\$10.00	\$15.00
No Parking Zone	\$10.00	\$15.00
Vendor's Space	\$10.00	\$15.00
Improper Display	\$10.00	\$15.00
Overtime	\$10.00	\$15.00
Visitor's Space	\$10.00	\$15.00
Sidewalk/Crosswalk /Grass	\$10.00	\$15.00
Improper Parking/Other	\$10.00	\$15.00

B. The following policy establishes the accepted payment methods for outstanding parking fines:

1. Payment may be made by cash, personal check, cashier's check, money order, credit card (VISA or Master Card only) or William and Mary debit card.

2. Owners of vehicles that have been towed must pay all outstanding fines and fees using payment methods described in item 1 above. Additionally, the owner must pay the towing contractor the towing fee and any storage fees. If payment is made at Campus Police, they can accept forms of payment mentioned in item 1, with the exception of the William and Mary debit card.

3. Employees at the York River Campus may mail checks, money orders or cashier's checks to the Office of Parking Services. Checks should be made payable to the College of William and Mary. Alternatively, they may use the courier provided by Administrative Services.

C. Wheellock policy.

Vehicle owners with a vehicle that is wheelocked must pay all outstanding fines, plus a \$20 wheellock fee, within 48 hours of the wheellock. Acceptable payment methods are as described in B 1 of this section, with the exception that the debit card may only be used when paying at Parking Services from 8 a.m. to 4 p.m., Monday through Friday. Vehicles wheelocked in excess of 48 hours will be towed to a private, licensed garage. Vehicles generally become eligible for wheellock when there are three or more outstanding tickets which have not been paid or appealed within 14 days of the date of the ticket. Vehicles with two tickets which have not been paid within 30 days of the date of the ticket are also eligible for wheellock.

§ 6.9. Appeals.

A. Campus parking citations are treated as minor infractions of college regulations with the right of appeal as stated in the Student Handbook. The operation of a motor vehicle on the campus constitutes implied consent for college parking violations to be handled through written appeals made to the Traffic Appeals Board. The Traffic Appeals Board is, by Presidential appointment, the

highest authority on campus in parking matters and consists of members from all college constituencies.

B. The board does not look favorably upon the following appeals:

1. No decal/failure to buy additional decal
2. No spaces available
3. Bad weather/didn't want to walk
4. Usually park off campus
5. Didn't have time to get a decal
6. Someone else driving my vehicle
7. Residents parked in day spaces
8. Day students parked in resident spaces
9. Students in faculty/staff spaces

Nonpayment of past due fines may not entitle students to register for and attend classes.

§ 6.10. Revocation.

A maximum of five citations which have been paid are permitted within the decal year without additional punitive action. On receipt of the sixth citation during the decal year, in addition to the fine, the offender's registration is subject to revocation and the individual may be prohibited from parking a vehicle on campus for the year, unless reinstated.

Reinstatement of motor vehicle registration rights which have been revoked for any reason, can be granted by the Traffic Appeals Board upon direct written application by the offender to the committee.

If decals or permits are revoked, no refunds shall be made.

V.A.R. Doc. No. R93-779; Filed August 20, 1993, 7:31 a.m.

DEPARTMENT OF HEALTH

1994 WIC Program

NOTICE: The proposed Virginia WIC Program State Plan for Federal Fiscal Year 1994 has been filed with this office and is available for public inspection.

Please refer to the General Notices Section of the Register for a notice to provide opportunities for public input regarding the manner in which the Virginia WIC Program is administered.

V.A.R. Doc. No. R93-778; Filed August 19, 1993, 7:42 a.m.

Proposed Regulations

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-1:1. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.

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

Public Hearing Date: October 12, 1993 - 10 a.m.

Written Comments may be submitted until November 8, 1993.

(See Calendar of Events section for additional information)

Basis: Section 9-6.14:7.1 requires agencies to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

Purpose: The purpose of the amendments to the regulation is to comply with statutory changes by establishing procedures for soliciting input of interested parties in the formation and development of regulations.

Substance: The amendments set out a general policy for the use of advisory panels and to address the circumstances in which the Board of Housing and Community Development considers such panels appropriate and intends to make use of such panels.

Issues: The proposed amendments to this regulation will assist the public in providing greater input into the Board of Housing and Community Development's regulatory process by better meeting the public's need for knowledge regarding the process.

Estimated Impact: The projected number of persons affected by the amended regulatory language are all parties interested in providing input to the regulatory process. The projected cost is not anticipated to increase for implementation and compliance required by the Public Participation Guidelines.

Summary:

The proposed amendments provide for public petition of the Board of Housing and Community Development to develop or amend a regulation and clarify under what condition the board believes the use of advisory committees to be appropriate.

VR 394-01-01:1. Public Participation Guidelines.

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:

"Board" means Board of Housing and Community Development.

"Department" means Department of Housing and Community Development.

"Guidelines" means the regulations adopted by the Board of Housing and Community Development for public participation in the formulation, promulgation and adoption of regulations.

"Staff" means employees of the Department of Housing and Community Development or Board of Housing and Community Development.

§ 1.2. Application.

These guidelines apply to all regulations adopted by the board. They will be used whenever regulations are hereafter adopted, amended or deleted.

§ 1.3. Periodic review.

It is the intent of the board to conduct a periodic review of all regulations that have been adopted under state law. Such reviews will be undertaken at appropriate intervals as needed to keep the regulations up-to-date. These guidelines will be used in the review process.

PART II. PUBLIC PARTICIPATION.

§ 2.1. Mailing lists.

The department will maintain lists of individuals, businesses, associations, agencies, and public interest groups which have expressed an interest, or which could reasonably be expected to have an interest, in the board's regulations. The lists will be updated and expanded as new interested parties are identified. Deletions will be made when lack of interest is determined.

§ 2.2. Notification.

The lists will be used to notify and solicit input to the regulatory revision process from interested parties. Selected mailings will be made independently of notices in the Virginia Register of Regulations and of notices in newspapers. Advertising in department newsletters, in trade and professional publications, and in public interest group publications will be used when appropriate.

§ 2.3. Solicitation of input.

~~The staff of the department will continually receive, retain and compile all suggestions for changes and improvements to the regulations. Any person may petition the board to request the board to develop a new regulation or amend an existing regulation. The board~~

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shall receive, consider, and respond to the petition within 180 days. In addition, a notice of intent to adopt or amend regulations intended regulatory action will be published in the Virginia Register of Regulations to solicit public input before drafting the proposals.

§ 2.4. Regulatory review workshops.

Before adoption or revision of the regulations, the board may conduct one or more meetings for the general public to explain the review process and to solicit proposals for needed changes. At least thirty days' notice of such meetings will be published in the Virginia Register of Regulations and in a newspaper of general circulation published in the region in which the meeting is to be held, and in a newspaper of general circulation published in Richmond, Virginia. Press releases and other media will be used as needed. Selected interested persons and groups will be notified by mail.

§ 2.5. Preparation of preliminary draft.

The board will prepare a preliminary draft of proposed amendments to the regulations based on public input received and on the results of its own study of the regulations.

§ 2.6. Ad hoc committee review.

The board may intend to establish an *standing or ad hoc advisory committee committees* consisting of invited representatives of all groups believed to be affected by the regulations and the proposed amendments or individuals registering interest in working with the board. The board believes the use of *standing or ad hoc committees* to be appropriate when the subject matter is of an unusual technical nature, or when the regulation has significant impact on a regulated community. The board will give consideration to recommendations received from the *committee committee(s)*, and will make appropriate revisions to the draft.

§ 2.7. Public hearings.

Prior to completion of a final draft, the board will convene at least one public hearing in accordance with the procedures required by the Administrative Process Act and the Virginia Register Act, *except for those regulations which may be adopted without public comment pursuant to § 9-6.14:4.1 of the Code of Virginia.*

PART III. ACTION ON COMMENTS OF GOVERNOR AND LEGISLATURE.

§ 3.1. When Governor suspends process.

If the Governor suspends the regulatory process to require solicitation of additional public comment, the board will do so in the manner prescribed by the Governor. If no specific method is required, the board will

employ one or more of the following procedures, as deemed necessary:

1. Consult with affected persons and groups.
2. Reconvene the ad hoc review committee for further consultation.
3. Advertise and conduct an additional public hearing under the procedures prescribed by the Administrative Process Act and the Virginia Register Act.

§ 3.2. Other legislative and executive comments.

If the Governor does not require solicitation of additional public comment, but does provide suggestions, or if further suggestions are received from the required legislative review during the thirty-day final adoption period, the board will determine whether solicitation of additional public comment should be undertaken. If needed, one or more of the procedures described above may be used.

VA.R. Doc. No. R93-774; Filed August 18, 1993, 12 noon

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Title of Regulation: VR 394-01-2. Virginia Certification Standards for Building Inspection Personnel, Amusement Device Inspectors, Blasters, Plumbers, Electricians, and Building Related Mechanical Workers/ ~~1990~~ 1993.

Statutory Authority: §§ 15.1-11.4, 36-98.3, 36-137, and 27-97 of the Code of Virginia.

Public Hearing Date: October 12, 1993 - 10 a.m.

Written Comments may be submitted until November 8, 1993.

(See Calendar of Events section for additional information)

Basis: Sections 15.1-11.4, 36-98.3, 36-137 and 27-97 of the Code of Virginia requires the Board of Housing and Community Development to establish standards for the certification of local inspectors, blasters and building related tradesmen.

Purpose: The amendments proposed by the Board of Housing and Community Development will bring the ability, proficiency and qualification standards of local fire and building maintenance inspectors and of fire protection system designers and installers to a comparable level with other local inspectors and building related tradesmen and thus increase the public's health, safety and welfare.

Substance: The proposed amendments provide certification standards for local fire and building maintenance inspectors and for fire protection system designers and installers.

Issues: This amendment will provide standards for

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applicants to be certified. The standards will be based on requirements of the Virginia Building Code Academy and an approved testing agency.

Estimated Impact:

1. These amendments will affect all local fire and building maintenance inspectors and all fire protection systems designers and installers that are required to be certified.
2. No material costs increases are estimated to the Agency because the regulation only establishes standards for certification and does not provide for enforcement. Cost for exams will be according to an existing fee schedule and paid by the applicant.

Summary:

The proposed amendments would put in place certification standards to be used for the certification of local fire and building maintenance inspectors, and for the certification of fire protection system designers and installers when they are required to be certified by local governments pursuant to other laws.

VR 394-01-2. Certification Standards for Building Inspection Personnel, Amusement Device Inspectors, Blasters, Plumbers, Electricians, and Building Related Mechanical Workers/1993

PART I. GENERAL.

§ 1.1. Definitions.

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

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

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

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

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

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

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

"Board of Appeals" means the board established by a county, city or town, by local ordinance, to hear appeals concerning the application of these standards or from a decision of the local board or agent.

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

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

"Certified building official" means a person certified by the Council of American Building Officials as a certified building official.

"Code official" means the official who is charged with the administration and enforcement of Volume II of the Virginia Uniform Statewide Building Code.

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

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

"Division" means a limited certification subcategory within any of the trades, as approved by the department.

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

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

"Fire Alarm System (FAS)" means a system and associated components which provide an indication or warning of fire, smoke or combustion in its incipient stages, or other conditions which affect the operation of the fire alarm system or other systems to which it is connected.

"Fire Alarm System (FAS) Certified Design Technician" means an individual who possesses the necessary ability,

proficiency and qualifications to plan and lay out the details for installation of FAS and has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

"Fire Alarm System (FAS) Certified Installer" means an individual who does the initial placement of equipment or the extension, modification, alteration, testing, inspection or maintenance of fire alarm equipment and who has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

"Fire Official" means the designated person charged with the administration and enforcement of the Virginia Statewide Fire Prevention Code.

"Fire Protection Special Hazard System (FPSHS)" means for fire suppression purposes a nonwater based special hazard system of underground or overhead piping designed in accordance with fire protection engineering standards. Such systems include but are not limited to carbon dioxide systems, dry chemical systems, wet chemical systems, halon and other chemical or gaseous systems used for fire suppression purposes.

"Fire Protection Special Hazard System (FPSHS) Certified Design Technician" means an individual who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation of FPSHS and has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

"Fire Protection Special Hazard System (FPSHS) Certified Installer" means an individual who does the initial placement of the equipment or the extension, modification, alteration, testing, inspection or maintenance of fire protection special hazard systems and who has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

"Fire Protection Sprinkler System (FPSS)" means for fire suppression purposes an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The installation includes one or more automatic water supplies with or without other agents. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure, or area generally overhead and to which sprinklers are attached in a systematic pattern.

"Fire Protection Sprinkler System (FPSS) Certified Design Technician" means an individual who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation of FPSS and has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and

Community Development.

"Fire Protection Sprinkler System (FPSS) Certified Installer" means an individual who does the initial placement of the equipment or the extension, modification, alteration, testing, inspection or maintenance of fire protection sprinkler systems and who has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

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

"Gasfitter" means a tradesman who does gasfitting related work as a subdivision within the building-related mechanical or plumbing trades.

"Helper" or "laborer" means a person who assists a tradesman certified according to these standards.

"Inspector" means a person authorized by the building local official to perform the inspections required in the Virginia Uniform Statewide Building Code regulations adopted and promulgated by the Board of Housing and Community Development.

"Journeyman" means a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment, utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

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

"Master" means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Uniform Statewide Building Code.

"Professional Code Administrator" means a person certified by the Board of Housing and Community Development as a professional code administrator.

"Plumber" means a tradesman who does plumbing work.

"Plumbing work" means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage facilities, the venting system and the

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public or private water-supply systems within or adjacent to any building or structure.

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

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

"Technical assistant" means any person employed by, or under contract to, a Virginia governing body as an inspector for determining compliance with the building, electrical, plumbing, mechanical or fire protection provisions regulations adopted and promulgated by the Board of Housing and Community Development, including plans examination, of the Virginia Uniform Statewide Building Code.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

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

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

§ 1.2. Authority.

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

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

C. The certification standards for blasters are adopted under authority granted by Chapter 9 of Title 27 § 27-97 of the Code of Virginia.

D. These standards were adopted by order of the Board of Housing and Community Development on November 19, 1990 15, 1993. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development and is available for

public inspection.

E. The 1990 1993 edition of these standards replaces previous editions. It shall become effective on March 1, 1991 1994. Persons already enrolled in a certification program shall remain subject to the edition in effect at the time of enrollment. Subsequent enrollment shall be subject to the pertinent provisions of the standards in effect at the time of such action enrollment.

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

G. The Department of Housing and Community Development may utilize testing organizations that develop and administer examinations based on the current provisions of the Virginia Uniform Statewide Building Code, Virginia Statewide Fire Prevention Code, Virginia Amusement Device Regulations, and the model codes and standards referenced by those regulations including standards for plumbing, building-related mechanical and electrical work. The department may designate divisional examinations within these trades.

PART II.

CERTIFICATION OF TRADESMAN STANDARDS.

§ 2.1. Exemption from certification.

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

B. Helpers or laborers who assist certified tradesmen shall be exempt.

C. Any person that performs plumbing, plumbing gas-fitting, building-related mechanical gas-fitting, building-related mechanical, or electrical work on their own property rather than not for the general public or for compensation shall be exempt from local certification.

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

§ 2.2. Temporary certification.

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

competence to perform work at their desired level of certification.

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

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

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

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

§ 2.3. Evidence of ability and proficiency.

A. Applicants for examination *to be certified* as a journeyman shall furnish evidence that one of the following experience and education standards ~~have~~ *has* been attained:

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

2. Successful completion of a Registered Apprenticeship Program established in accordance with the Virginia Voluntary Apprenticeship Act; or

3. *An Associate Degree in a curriculum related to the trade for which certification is desired and two (2) years of practical experience in the trade for which certification is desired; or*

~~3.~~ 4. A Bachelor's Degree in an engineering curriculum related to the trade for which certification is desired, and one year of practical experience in the trade for which certification is desired; or

4. 5. ~~Five~~ *Seven* years of practical experience in the trade for which certification is desired.

B. Applicants ~~desiring to obtain certification for examination to be certified~~ as a Master shall furnish evidence that they ~~have one year of experience as a certified journeyman~~ *one of the following experience and*

education standards has been attained:

1. *Meet the requirements of § 2.3 A and have one additional year of supervisory experience, or*

2. *Ten years of practical experience in the trade for which certification is desired.*

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

§ 2.4. Application and issuance of certificates.

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

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

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

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

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

§ 2.5. Revocation of certification.

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

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

§ 2.6. ~~Reciprocity~~ *Other recognized programs* .

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

§ 2-7. Appeals.

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A. Each local governing body shall establish a board of appeals. The local board of appeals shall consist of not less than five members appointed by the local government. Members shall be selected on the basis of their ability to render fair and competent decisions. Employees or officials of the local government appointing the board of appeals shall not serve as members. The agent shall designate an employee to serve as secretary to the board of appeals, who shall keep a detailed record of all proceedings. The board of appeals shall hear appeals concerning the application of these standards or from a decision of the local agent or certification board. Application for appeals shall be in writing and made within 90 days of receipt of the decision of the agency or certification board. The appeals board must meet within 20 working days of the filing of an appeal. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14.1 of the Code of Virginia.

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

PART III. CERTIFICATION PROGRAM FOR BUILDING OFFICIALS AND INSPECTORS TECHNICAL ASSISTANTS .

§ 3.1. Exemption from certification.

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

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

§ 3.2. Certification.

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

1. The applicant shall be qualified according to Volume I of the Uniform Statewide Building Code (USBC).
2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
3. The applicant shall complete designated programs

the core and applicable advanced modules of the Virginia Building Code Academy.

4. The applicant shall submit an Application for Certification along with a copy of examination results from the testing agency to the Professional Services Training and Certification Office.

§ 3.3. Maintenance of certification.

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

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

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

§ 3.4. Revocation of certification.

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

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

§ 3.5. Appeals.

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

PART IV. BLASTER CERTIFICATION.

§ 4.1. Exemption from certification.

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

§ 4.2. Certification.

Certification shall be in the following two classifications:

1. Unrestricted blaster. A person classified as a certified unrestricted blaster shall be qualified to conduct appropriate blasting without limit as to size of

shot or type of detonation devices. An applicant for unrestricted blaster certification shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.

2. Restricted blaster. A person classified as a certified restricted blaster shall be qualified to conduct blasting operations involving five pounds of explosives or less per shot and use only instantaneous blasting caps. An applicant for restricted blaster certification shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.

§ 4.3. Qualifications of candidates.

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

1. Be at least 21 years of age;
2. Be able to understand and give written and oral instructions in the English language;
3. Unrestricted blaster certification. Have worked at least one year under the direct supervision of a blaster certified by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development;

Restricted blaster certification. Have worked at least one year under the direct supervision of an individual certified as an unrestricted blaster or as a restricted blaster by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development.

NOTE: In no case shall a certified restricted blaster's supervision be acceptable for an unrestricted blaster's experience requirements.

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

§ 4.4. Temporary certification.

A temporary certificate may be issued to any person who meets the applicant criteria listed in § 4.3. Any temporary certificate issued shall expire 12 months from the date of issuance. Temporary certifications shall not be renewed.

§ 4.5. Renewal.

A blasters certificate shall be renewed every three years from date of issuance. As a condition of renewal, proof of continued training or education in the use of explosives in an amount not less than 16 hours in three consecutive years shall be provided to the department. Requests for

renewal shall be submitted on forms provided by the department.

§ 4.6. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this regulation if conditions of the certification have been violated, or if there has been any false statement or misrepresentation in the application on which the certification was based or for incompetence as demonstrated by flagrant and repeated violations of the VSFPC, or participating in 3 or more incidents within a five-year period resulting in property damage, in injury or death.

PART V. CERTIFICATION OF AMUSEMENT DEVICE INSPECTOR STANDARDS.

§ 5.1. Certification.

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

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

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

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

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

§ 5.2. Maintenance of certification.

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

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

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

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certification .

§ 5.3. Revocation or suspension of certification.

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

PART VI. CERTIFICATION PROGRAM FOR FIRE OFFICIALS AND TECHNICAL ASSISTANTS.

§ 6.1. Certification.

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

1. The applicant shall be qualified according to the Virginia Statewide Fire Prevention Code (SFPC).
2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
3. The applicant shall complete the Fire Official Core of the Virginia Building Code Academy.
4. The applicant shall submit an Application for Certification and a copy of examination results from the testing agency to the Training and Certification Office.

§ 6.2. Maintenance of certification.

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

B. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes.

§ 6.3. Revocation of certification.

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

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

§ 6.4. Appeals.

Any person aggrieved by a decision based upon these

certification standards may appeal that decision, in writing, in accordance with the appeals process outlined in §§ F-105.0 and F-106.0 of the Virginia Statewide Fire Prevention Code.

PART VII. CERTIFICATION PROGRAM FOR CODE OFFICIALS AND TECHNICAL ASSISTANTS.

§ 7.1. Exemption from certification.

A. An individual employed as the code official in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the fire official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

B. An individual employed as the technical assistant in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

§ 7.2. Certification.

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

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

§ 7.3. Maintenance of certification.

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

B. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes.

§ 7.4. Revocation of certification.

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

1. Any willful misrepresentation in obtaining the certification.

2. Gross negligence or continued incompetence in the practice of the profession.

§ 7.5. Appeals.

Any person aggrieved by a decision based upon these certification standards may appeal that decision, in writing, in accordance with the appeals process outlined in § F-106.0 of the Virginia Uniform Statewide Building Code, Volume II.

PART VIII. FIRE PROTECTION SYSTEM CERTIFICATION.

§ 8.1. Certification.

Designated individuals engaged in the design and installation of Fire Alarm Systems (FAS), Fire Protection Sprinkler Systems (FPSS), or Fire Protection Special Hazard Systems (FPSHS) shall become certified within three years of the effective date of these standards.

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

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

2. The applicant shall submit an Application for Certification along with a copy of examination results from the testing agency to the Training and Certification Office.

§ 8.2. Maintenance of Certification.

A. All certified individuals shall maintain certification through continued validation as required by the approved testing agency.

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

§ 8.3. Revocation of certification.

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

1. Any willful misrepresentation in obtaining the certification.

2. Gross negligence or continued incompetence in the practice of the profession.

§ 8.4. Appeals.

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

APPENDIX A. TESTING AGENCIES.

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

Professional Code Administrator Certified Building Official

Information and registration forms may be obtained from:

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

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

Inspection Inspector Certification Program

Information and registration forms may be obtained from:

Certification Training and Education Services
BOCA International
4051 West Flossmoor Road
Country Club Hills, IL 60477
(708) 799-2300

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

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

Amusement Device Inspector Program

Information and registration forms may be obtained from:

NAI, Inc.

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National Assessment Institute
2817 Parham Road 9881 Mayland Drive, Suite 110
Richmond, VA 23294 23229
(804) 747-3297

Blaster Certification Program

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
2817 Parham Road 9881 Mayland Drive, Suite 110
Richmond, VA 23294 23229
(804) 747-3297

Professional Code Administrator Certification Program

Information and registration forms may be obtained from:

Board of Housing and Community Development
501 North Second Street
Richmond, VA 23219
Attention: Training and Certification Office
(804) 371-7180

V.A.R. Doc. No. R93-773; Filed August 18, 1993, 12 noon.

Title of Regulation: VR 394-01-4. Virginia Amusement Device Regulations/ ~~1990~~ 1993 .

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

Public Hearing Date: October 12, 1993 - 10 a.m.
Written comments may be submitted until November 8, 1993.
(See Calendar of Events section for additional information)

Basis: Sections 36-98 and 36-98.3 of the Code of Virginia direct the Board of Housing and Community Development to promulgate regulations pertaining to amusement devices.

Purpose: The purpose of the amendment to the regulation is to provide for a standard for the construction and operation of gravity rides.

Substance: The proposed amendments include the addition of definitions and construction standards for the use and inspection of gravity rides.

Issues: This amendment is to reference a national standard for the construction and operation of gravity rides, such as water slides.

Estimated Impact: Impact on owners, operators and users will be minimal since the existing operations have been complying with the standard on a voluntary basis. The standard allows for the construction of new and innovative

thrill rides. The cost of training 150 local code officials will be borne by an existing fee schedule. This regulation will be combined with two other regulations under one cover to reduce cost of publishing, and ease of use. The standard will be administered by the 160 local governments enforcing the existing regulation.

Summary:

The proposed amendments will specifically provide construction and inspection requirements for gravity ride type amusement devices.

ARTICLE 1. GENERAL PROVISIONS.

SECTION 100.0. GENERAL.

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

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

100.3. Adoption: The ~~1990~~ 1993 edition of the VADR was adopted by order of the Board of Housing and Community Development on November ~~19~~, ~~1990~~ 15, 1993 . This order was prepared according to requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The ~~1990~~ 1993 edition of the VADR shall become effective on March 1, ~~1991~~ 1994 . The construction of any amusement device that was subject to a previous edition of the USBC when constructed, shall remain subject to the edition of the USBC in effect at the time of construction. Subsequent reconstruction, reassembly, maintenance, operation and inspection of such devices shall be subject to the pertinent provisions of the VADR in effect at the time of such action.

100.5. Application: The VADR shall govern the construction, maintenance, operation and inspection of amusement devices, whether mobile or permanently fixed to a site including kiddie rides defined by § 200.0 of these regulations. These regulations do not apply to any single one, two, or three passenger coin-operated ride, manually, mechanically, or electrically operated, which customarily is placed, singularly or in groups, in a public location and which does not normally require the supervision or service of an amusement ride operator and is not considered a kiddie ride for the purpose of these regulations, or to

nonmechanized playground equipment, including swings, stationary spring-mounted animal features, rider propelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located. To the extent they are not superseded by the provisions of these regulations, all other state and local laws and regulations shall apply to amusement devices. The VADR does not supersede zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the construction, maintenance, operation and inspection of amusement devices.

SECTION 200.0. DEFINITIONS.

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

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

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

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

"ANSI" means American National Standards Institute.

"ASTM" means American Society for Testing and Materials.

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

"Bungee jumping" means that activity where a person free falls from a height and the person's descent is limited by attachment to an elastic rope known as a bungee cord.

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

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

"Committee" means the Amusement Device Technical Advisory Committee.

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

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

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

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

"Gravity ride" means a ride that is installed on an inclined surface, which depends on gravity for its operation to convey a passenger from the top of the incline to the bottom, and which conveys a passenger in or on a carrier tube, bag, bathing suit, or clothes.

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

"Kiddie ride" *"Kiddie ride (Type A)"* means an amusement ride designed primarily for use by children up to 12 years of age, that requires simple little or no reassembly procedures prior to operation; and that does not require complex inspections prior to operation.

Example:

1. Trailer mounted self contained rides.
2. Moon/space walks.

"Kiddie ride (Type B)" means an amusement ride designed primarily for use by children up to 12 years of age that requires partial or complete reassembly procedures prior to operation.

Example:

1. Merry-go-rounds.
2. Hampton type rides.
3. Swings.

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

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

"Operator" means any person or persons actually

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engaged in or directly controlling the operation of an amusement device.

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

"Passenger tramway" means a device used to transport passengers, suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans.

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

"Private Inspector" means a person performing inspections who is independent of the company, individual or organization owning, operating or having any vested interest in the amusement device being inspected.

"Reassembly" means the act of placing the component parts of an existing device into a configuration which allows its use and operation.

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

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

"Water slides." See *"Gravity Rides."*

SECTION 300.0. TECHNICAL ADVISORY COMMITTEE.

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

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

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

SECTION 400.0. REFERENCE STANDARDS.

400.1. Adoption of standards: The construction, maintenance, operation and inspection of amusement devices and passenger tramways shall be done in accordance with the following applicable referenced standards :

ANSI (American National Standards Institute, 1430 Broadway, New York, N.Y. 10018), B77.1-90.

ASTM (American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103) F 698-88, Specification for Physical Information to be Provided for Amusement Rides and Devices

ASTM F 747-86, Definitions of Terms Relating to Amusement Rides and Devices

ASTM F 770-88, Practice for Operation Procedures for Amusement Rides and Devices

ASTM F 846-86, Guide for Testing Performance of Amusement Rides and Devices

ASTM F 853-86, Practice for Maintenance Procedures for Amusement Rides and Devices

ASTM F 893-87, Guide for Inspection of Amusement Rides and Devices

ASTM F 1159-88, Practice for the Design and Manufacture of Amusement Rides and Devices

ASTM F 1193-88, Practice for an Amusement Ride and Device Manufacturer Quality Assurance Program

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

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

400.1.1. Bungee jumping activities: In addition to complying with applicable requirements of Article 1, bungee jumping activities shall meet the requirements established in Article 2 of these regulations.

400.1.2. Gravity rides: In addition to complying with the applicable requirements of Article 1, gravity rides shall meet the requirements established in Article 3 of these regulations.

SECTION 500.0. ENFORCEMENT.

500.1. Responsibility of local governments: Enforcement of these regulations shall be the responsibility of the local building department in accordance with § 36-105 of the

Code of Virginia. Inspections under these regulations shall be performed by:

1. The local building official or his representative when such official or representative has been certified by the board to inspect amusement devices pursuant to § 36-137(6) of the Code of Virginia; or, at the option of the owner or lessee or agent of either.

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

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

500.2. Qualifications of inspectors:

1. Any person seeking to become qualified to perform amusement device inspections pursuant to § 500.1 of these regulations shall successfully complete certification requirements in accordance with Part V of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen (VR 394-01-02).

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

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

SECTION 600.0. DUTIES AND POWERS OF THE BUILDING OFFICIAL.

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

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

600.3. Notices and orders: The building official shall issue necessary notices or orders to remove unsafe conditions, to require the necessary safeguards during construction or reassembly and to ensure compliance with all the VADR

requirements for the health, safety and general welfare of the public.

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

600.5. Delegation of duties and powers: The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the VADR.

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

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

SECTION 700.0. APPLICATION FOR PERMIT.

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

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

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

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700.3. Information for application: The application for a permit shall be submitted on forms supplied by the building official. The forms shall require the following information:

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

SECTION 800.0. MODIFICATION.

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

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

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

SECTION 900.0. AMUSEMENT DEVICE PERMITS.

900.1. Action on application: The building official shall examine all applications for permits within five days after filing. If the application does not conform to the requirements of the VADR, the building official shall reject such application in writing, stating the reasons for rejection. If the building official is satisfied that the proposed work or operation conforms to the requirements

of the VADR and all applicable laws and ordinances, a permit shall be issued as soon as practicable. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a permit and certificate of inspection. Such reports shall be based upon review of the application or inspection of the project as determined by the local governing body.

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

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

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

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

SECTION 1000.0. INSPECTIONS.

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

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

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

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

1. Inspect all amusement devices permanently fixed to a site,
 - a. Prior to each seasonal operation; and

b. Prior to operation following any major modification; and

c. At least once during the operating season.

2. Inspect all portable amusement devices after each reassembly and prior to operation except that the inspector may accept a valid certificate of inspection which was issued with respect to a "kiddie ride (*Type A*)" by another inspector certified in Virginia. If an inspector chooses to inspect a kiddie ride (*Type A*) which has a valid certificate of inspection, no fee shall be charged. If upon inspection, the inspector finds that a device is not in compliance with applicable standards, the certificate of inspection may be declared invalid.

3. Verify that nondestructive testing has been conducted by a recognized testing agency as prescribed by the device manufacturer and in accordance with ASTM.

4. At the discretion of the inspector, verify that the operation and maintenance of amusement devices is in accordance with the requirements of these regulations and the standards referenced therein.

5. Inspect any amusement device upon the request of the director or local building official following a report or other notification that the device or one of substantially similar design and construction has been involved in an accident resulting in a fatality or serious injury.

6. Investigate any report or other notification of a problem or a defect with respect to an amusement device and inspect the device at the request of the director or the building official to determine whether it poses a hazard or threat of injury to the public.

7. Upon completion of the amusement device, and before issuance of the certificate of inspection, a final inspection shall be made to ensure that the device conforms with the VADR.

1000.4. Notice of readiness for inspection: Every owner or operator of an amusement device shall notify the local building official when an amusement device or one that has undergone major modifications is scheduled to be ready and available for inspection.

In addition, every owner or operator of an amusement park shall notify the local building official when each amusement device located within the park is scheduled to be ready for inspection prior to its seasonal operation.

Every owner or operator of a carnival or fair shall notify the local building official of the date each amusement device is scheduled to be reassembled and ready for inspection on a site.

Note: Although no requirements are imposed on owners or operators with respect to time for giving notice of readiness for inspection, owners and operators are cautioned to refer to §§ 900.1 and 1000.5 of these regulations which require the building official to perform certain duties within five days of application or notice. Owners or operators failing to give at least five days notice of readiness for inspection will only be inspected by the building official or his authorized representative at their pleasure or convenience.

1000.5. Inspections to be prompt: The inspector shall respond to inspection requests without unreasonable delay. When given at least five days notice of readiness for inspection, the inspector shall inspect on the date designated by the owner or operator. The inspector shall approve the device or give written notice of defects to the owner or operator. Such defects shall be corrected and the amusement device reinspected before operation or proceeding with any work that would conceal the defects.

SECTION 1100.0. ACCIDENTS.

1100.1. Owner/operator to suspend operation: An owner or operator shall immediately suspend operation of any amusement device which is involved in an accident resulting in fatality or serious injury.

1100.2. Reports: Every owner or operator of an amusement device shall report to the director and the local building official the details of any accident involving an amusement device which results in a fatality or serious injury. The report shall be submitted in writing to the local building official within 24 hours, and to the director the next working day. Such report shall include but is not limited to the following information:

1. A description of the amusement device including the name of the manufacturer, the serial number and the date the device was originally constructed, if available.

2. A description of the accident including the number of people involved, number and type of injuries, number of fatalities.

3. Cause of accident if determined.

1100.3. Owner's authority to resume operation: The owner, lessee or agent of either may resume operation of an amusement device following suspension of operation under this section if, after conducting an investigation, the owner, lessee, or agent determines that the incident was in no way the result of a failure or malfunction of the device or any of its operating or safety equipment. Any investigation conducted under this section shall include (i) examination of the accident scene, (ii) interviews with witnesses, if any, (iii) review of statements made by the injured person, if any, and (iv) trial operation and inspection of the amusement device. A written record of such

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investigation shall be made and submitted to the local building official or his designee.

The decision of the owner or operator not to resume operation of the amusement device shall not be construed as an admission that the incident was caused by the failure or malfunction of the device. Nothing in this section shall be construed to waive the requirements of notification of the occurrence set forth in § 1100.2.

SECTION 1200.0. QUALIFICATION OF OPERATORS.

1200.1. Minimum age: No amusement device shall be operated by a person under 16 years of age, except that this provision shall not apply to a child under 16 years of age employed by his parents in an occupation not declared hazardous by the Commissioner of Labor and Industry.

1200.2. Requirements:

1. An operator may not operate more than one amusement device at a time unless the devices are within the sight of the operator and are operated by a common control panel or station, except that in the case of kiddie rides, *(Type A) and (Type B)*, two rides may be operated in unison under the continuous and common control of one operator provided that the farthest point of operation of either device is no more than 35 feet and the control is equipped with a positive pressure switch.

2. An amusement device shall be attended by an operator at all times during operation.

1200.3. Conduct; authority:

1. No amusement device shall be operated by an operator while under the influence of alcohol.

2. No amusement device shall be operated by an operator while under the influence of drugs which may affect the operator's judgment or ability to assure patrons' safety.

3. The operator has the authority to prohibit use of amusement devices by individuals who may present a safety threat to others or to themselves.

1200.4. Training: The ride operator shall be trained in the proper use and operation of the ride as required by ASTM F770 and ASTM F853.

SECTION 1300.0. SUSPENSION OF OPERATION.

1300.1. When director or local building official may order: The director or local building official shall order, in writing, a temporary suspension of operation of an amusement device if the director or local building official has reason to believe that the device is hazardous or unsafe, or if the director or local building official receives

a report or is otherwise notified that the amusement device has been involved in an accident resulting in fatality or serious injury.

The director or local building official may order, in writing, a temporary suspension of operation of an amusement device if (i) the director or local building official receives a report or is otherwise notified that an amusement device or one of substantially similar design has been involved in an accident resulting in a fatality or serious injury; and (ii) an inspection conducted in accordance with § 1000.0 of these regulations reveals that the ride is hazardous or poses a threat to the safety of the public.

1300.2. When operation to resume: When the operation of an amusement device has been suspended under this section, such operation shall not resume until any hazardous or unsafe condition has been corrected and a certificate of inspection has been issued with respect to such device.

SECTION 1400.0. VIOLATIONS.

1400.1. Code violations prohibited: No person, firm or corporation shall construct, reassemble, maintain, operate or inspect any amusement device regulated by the VADR, or cause same to be done in conflict with or in violation of any of the provisions of the VADR.

1400.2. Notice of violation: The building official shall serve a notice of violation on the person responsible for the construction, reassembly, maintenance, operation or inspection of any amusement device in violation of the provisions of the VADR, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the VADR. Such order shall direct the discontinuance and abatement of the violation.

1400.3. Prosecution of violation: If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of any amusement device in violation of the provisions of the VADR.

1400.4. Violation penalties: Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than ~~\$1,000~~ \$2,500.

1400.5. Abatement of violation: Conviction of a violation of the VADR shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of the VADR relating to construction, reassembly, maintenance, operation or inspection of any amusement device.

SECTION 1500.0. CERTIFICATES OF INSPECTION.

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1500.1. When certificate required: No amusement device shall be operated unless a certificate of inspection has been issued with respect to that device. A copy of the certificate shall be affixed to the entrance of the device in plain view of riders or patrons.

1500.2. Requirements: A certificate of inspection shall be issued to an owner or operator after an inspection conducted pursuant to § 1000.0 of these regulations indicates that the device is in satisfactory working order and poses no hazard or threat to the safety of the public.

1500.3. Term: A certificate of inspection will be *remain* valid:

1. For one year after the issue date, for a kiddie ride (Type A), regardless of whether the device is disassembled; or

2. Until the device, other than a kiddie ride (Type A), is disassembled except that a certificate of inspection issued with respect to a portable kiddie ride shall be valid for one year after the issue date, regardless of whether the device is disassembled; or

3. Until any major modification or alteration is made to the device; or

4. Until the inspection required by § 1000.0 is conducted on fixed site devices; or

5. Until termination of the proof of financial responsibility required by § 1600.0.

1500.4. Contents of the certificate of inspection: When an amusement device is entitled thereto, the building official shall issue a certificate of inspection. When the certificate is issued, the device shall be deemed in compliance with the VADR. The certificate shall specify the use of the amusement device, the type of construction, the occupancy load of the device, the date on which the certificate was issued, the term of the certificate, and any special stipulations and conditions. The certificate shall also include the name of the building official or his representative and a telephone number where they may be reached in case of an emergency or accident.

SECTION 1600.0. FINANCIAL RESPONSIBILITY.

1600.1. Proof of financial responsibility: The owner shall provide proof of financial responsibility in a minimum amount of \$300,000 per occurrence. Such proof shall be demonstrated by a bond or cash reserve, or certificate of insurance providing coverage for liability arising out of the use or operation of the amusement device.

1600.2. Termination of financial responsibility: Each owner or operator of an amusement device shall report immediately to the director and to the local building official that the proof of financial responsibility required by this section will be terminated and shall include in the

report the date of such termination.

SECTION 1700.0. APPEALS.

1700.1. Assistance from director: An owner of an amusement device aggrieved by a decision of the building official and the owner in resolving any questions arising from the interpretation and application of these regulations. The director may request advice or assistance from members of the Technical Advisory Committee in resolving any questions.

1700.2. Appeal to review board: When the questions cannot be resolved with the assistance of the director, the owner may appeal to the State Building Code Technical Review Board. Application for review shall be made to the review board within 15 days of the decision of the building official. The review board may request advice or assistance from members of the Technical Advisory Committee when rendering a decision.

1700.3. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the building official shall take immediate action in accordance with the decision.

1700.4. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act.

1700.2. Appeal to the State Building Code Technical Review Board (TRB): An amusement device owner or operator aggrieved by a decision of the local building department pursuant to these regulations may appeal to the TRB by submitting an application of the Office of the TRB within 14 calendar days of receipt of the decision. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the decision.

1700.2.1. Information to be submitted: A copy of the decision of the local building department to be appealed shall be submitted with the application for appeal. Upon request by the Office of the Review Board, the local building department shall submit a copy of all pertinent information concerning the appeal.

1700.2.2. Decision of TRB: Procedures of the TRB are in accordance with Article 2 (§ 36-107.1 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the local building department shall take action accordingly.

SECTION 1800.0. CONTINUATION OF COMPLIANCE.

1800.1. Continued compliance required: Amusement devices constructed or manufactured before the effective date of

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the VADR shall be maintained, reassembled, operated and inspected in accordance with the provisions of the VADR. The construction and manufacture of such devices shall remain subject to the previous edition of the USBC in effect at the time the device was constructed or manufactured.

ARTICLE 2. BUNGEE JUMPING.

SECTION 1900.0. GENERAL.

1900.1. Definitions: The following words and terms, when used in this article, shall have the following meaning, unless the context clearly indicates otherwise.

"Bungee cord" means the elastic rope to which the jumper is attached which lengthens and shortens to produce a bouncing action.

"Carabineer" means a shaped metal device with a gate used to connect sections of the bungee cord, jump rigging, equipment or safety gear.

"Ground operator" means a person who assists the jump master to prepare a jumper for jumping.

"Harness" means an assembly to be worn by a jumper to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

"Jump master" means a person who has responsibility for the bungee jumper and who takes the jumper through the final stages to the actual jump.

"Jump zone" means the space bounded by the maximum designed movements of the jumper.

"Jumper" means the person who departs from a height attached to a bungee system.

"Landing area" means the surface area of ground or water directly under the jump zone, the area where the lowering device moves the jumper to be landed away from the jump space and the area covered by the movement of the lowering device.

"Operating manual" means the document that contains the procedures and forms for the operation of bungee jumping equipment and activity at a site.

"Platform" means the equipment attached to the structure from which the jumper departs.

"Ultimate tensile strength" means the greatest amount of load applied to a bungee cord prior to failure.

1900.2. Purpose: The purpose of this article is to set minimum technical requirements for bungee jumpers and spectators in bungee jumping activities governed by these regulations.

1900.3. Scope: This article sets standards for bungee jumping operations which are open to the public and which are conducted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other types of structures, cranes or derricks is not permitted for public participation.

1900.3.1. Prohibited jumping activities: Bungee jumping activities which involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.

SECTION 2000.0. BUNGEE CORDS.

2000.1. Testing requirements: Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:

1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords.

2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.

2000.2. Cord retirement and destruction: Bungee cords shall be retired when (i) the cords exhibit deterioration or damage, (ii) they do not react according to specifications, or (iii) they have reached the maximum usage expressed in number of jumps as specified by the manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five foot lengths.

SECTION 2100.0. JUMP HARDWARE.

2100.1. Jump harnesses: Jump harnesses shall be either full body-designed, which includes a waist harness worn in conjunction with a chest harness, or ankle-designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.

SECTION 2200.0. STRUCTURE REQUIREMENTS.

2200.1. Engineering analysis: Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.

SECTION 2300.0. OPERATIONAL AND SITE REQUIREMENTS.

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2300.1. Bungee cord use: Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage or other abnormalities, unless the manufacturer specifies more frequent inspections.

2300.1.1. Determining loading of bungee cord: The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.

2300.2. Hardware inspections: All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabineers shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.

2300.3. Retrieval and lowering system: A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch or locking mechanism that will stop the lowering action shall be used in a friction lowering system.

2300.4. Site requirements: The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.

2300.4.1. Over land site requirements: An air bag, a minimum of 10 feet by 10 feet shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.

2300.4.2. Over water site requirements: Where the jump space or landing area, or both, is over sea, lake, river or harbor waters, the following shall apply:

1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular.
2. The jump space and landing area shall be free of other vessels, floating and submerged objects and

buoys. A sign of approved size which reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area.

3. The landing vessel shall be readily available for the duration of the landing procedures.

4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel.

5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper.

6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.

Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:

1. Rescue equipment shall be available, such as a life ring or safety pole.
2. The jump space and landing area shall be fenced to exclude the public.
3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.

2300.5. Storage: Storage shall be provided to protect equipment from physical, chemical and ultra-violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.

SECTION 2400.0. MANAGEMENT AND PERSONNEL RESPONSIBILITIES.

2400.1. General: All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.

2400.2. Site manager: The site manager is responsible for the following:

1. Controlling the entire operation.
2. Site equipment and procedures.
3. Determining whether it is safe to jump.
4. Selection of, and any training of personnel.
5. Emergency procedures.

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6. Maintaining records.

2400.3. Jump master: A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:

1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation and countdown for and observation of the jump.
2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area.
3. Rescue and emergency procedures.
4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.

2400.4. Ground operator: The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:

1. Ensuring that the jumper is qualified to jump.
2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging.
3. Assisting the jumper to the recovery area.
4. Maintaining a clear view of the landing area.

2400.5. Operating manual: Each site shall have an operating manual which shall include the following:

1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses and lifelines.
2. An emergency rescue plan.

2400.6. Daily operating procedures: The daily operating procedures shall be conducted in accordance with ASTM F-770 listed in Section 400.1.

2400.7. Qualification and preparation of jumpers: The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.

ARTICLE 3. GRAVITY RIDES.

SECTION 2500.0. GENERAL.

2500.1. General: Gravity rides, as defined in Section 200.1., shall comply with the following:

1. A ride using carriers shall be designed and

constructed to retain the passengers in or on a carrier during the operation of the ride and retain the carrier on or within the track, slide, or chute system during the operation of the ride.

2. A ride that conveys passengers not in or on a carrier shall be designed and constructed to retain the passengers within the chute or slide during the ride.

3. At each loading or unloading area, a hard surface which is other than earth and which is reasonably level shall be provided. The surface shall be large enough to accommodate the intended quantity of passengers.

4. Where loading or unloading platforms are elevated more than 30" from the adjacent areas, guard rails conforming to the Uniform Statewide Building Code shall be provided.

5. Passengers shall not have to step up or down more than 12" from the loading or unloading surface to enter or exit the ride.

6. The frequency of departure of carriers or riders from the loading areas shall be controlled by a ride operator. The minimum distance between departures shall be determined by the designer of the specific ride.

7. When a passenger has control of the speed or course of the carrier, the passenger shall have a clear sight distance along the course of the ride long enough to allow the passenger to avoid a collision with another person or carrier.

8. The unloading area of the ride shall be designed and constructed to bring riders and carriers to a safe stop without any action by the rider.

9. There shall be attendants at the loading and unloading area when the ride is in use.

10. If the entire course of the ride is not visible to the operator, additional persons with communications equipment shall be provided or approved visual surveillance equipment shall be installed along the course of the ride which is not visible to the operator.

11. Any moving or hot parts that may be injurious to the ride operator or the public shall be effectively guarded to prevent contact.

12. Fencing or adequate clearance shall be provided that will prevent the riders from contact with persons or nearby objects.

VA.R. Doc. No. R93-775; Filed August 18, 1993, 12:01 p.m.

Proposed Regulations

Title of Regulation: VR 394-01-6. Virginia Statewide Fire Prevention Code/ ~~1990~~ 1993 .

SECTION F-100.0.
GENERAL.

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

Public Hearing Date: October 12, 1993 - 10 a.m.

Written comments may be submitted until November 8, 1993.

(See Calendar of Events section for additional information)

Basis: Section 27-97 of the Code of Virginia empowers the Board of Housing and Community Development to adopt and promulgate a Statewide Fire Prevention Code.

Purpose: The purpose of the amendments to the regulation is to reference the 1993 Edition of the BOCA National Fire Prevention Code as the standard for the fire safe maintenance of buildings and structures in the Commonwealth of Virginia.

Substance: The reference model code has been amended through a consensus process involving nationally recognized organizations including code officials, testing agencies, material and equipment suppliers and manufacturers, design professionals and the building construction industry. The objective of the process is to implement the latest methods and technology for building safety, operations, maintenance and egress.

Issues: The proposed amendments will implement an edition of the model code that has been reformatted for simplification in use by fire officials and building owners. This amendment will establish qualification and certification requirements for fire officials and technical assistants.

Estimated Impact: The proposed amendments will simplify and streamline the fire prevention regulation for easier use by building owners and fire officials. Approximately 250 fire prevention personnel in 91 local governments will attend training on the updated regulation. The cost of training will be borne by an already in place fee levy. The agency intends to combine this regulation with one other under one cover for easier use and less cost for publishing. No requirements in these amendments are more restrictive than the previous edition. Local enforcement personnel will be allowed to remain in place without certification.

Summary:

The proposed amendments will update the existing regulation to reflect the requirements of the 1993 Edition of the National Model Fire Prevention Code.

VR 394-01-6. Virginia Statewide Fire Prevention Code/1993.

ARTICLE CHAPTER 1. ADMINISTRATION AND ENFORCEMENT .

F-100.1. Title. These regulations shall be known as the Virginia Statewide Fire Prevention Code. Except as otherwise indicated, SFPC or code shall mean the ~~1990~~ 1993 edition of the Virginia Statewide Fire Prevention Code.

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

F-100.3. Adoption. The SFPC was adopted by order of the Board of Housing and Community Development on ~~January 28, 1991~~ November 15, 1993 . This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development (DHCD), and is available for public inspection.

F-100.4. Effective date. The SFPC shall become effective on ~~April 15, 1991~~ March 1, 1994 .

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

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

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

F-100.8. Application to pre-Uniform Statewide Building Code (USBC) buildings. Pre-USBC buildings are those buildings that were not subject to the USBC when constructed. Such buildings shall be maintained in accordance with the Virginia Public Building Safety

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Regulations (VR 394-01-05) which are hereby incorporated into this code by reference, and other applicable requirements of this code.

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

F-100.9. Special provisions. The fire official shall require that buildings subject to the requirements of Section 109.0 of the Uniform Statewide Building Code, Volume II - Building Maintenance Code, ~~1990~~ 1993 Edition, shall comply with the provisions of that section.

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

SECTION F-101.0. REFERENCED STANDARDS AND AMENDMENTS.

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

The BOCA National Fire Prevention Code/ ~~1990~~ 1993 Edition, published by: Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60477.

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

F-101.3. Other amendments to the referenced model code. The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Fire Prevention Code/ ~~1990~~ 1993 Edition.

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

SECTION F-102.0. ENFORCEMENT AUTHORITY.

F-102.1. Enforcement. Any local government may enforce the SFPC after official action. The local governing body may assign responsibility for enforcement of the SFPC to the local agency or agencies of its choice. The State Fire Marshal shall have authority to enforce the SFPC in jurisdictions in which the local governments do not enforce the code. The State Fire Marshal's office shall be notified by the local government in writing when the fire official has been appointed and shall provide a copy of the resolution or ordinance adopting the enforcement

provisions of the SFPC. The terms "enforcing agency" and "fire official" apply to the agency or agencies responsible for enforcement. The terms "building official" or "building department" apply only to the local building official or building department.

F-102.1.1. Modifications. The fire official may grant modifications to any provisions of the Statewide Fire Prevention Code upon application of the owner or the owner's representative, provided that the spirit and intent of the code is observed and public health, welfare and safety are assured.

F-102.1.1.1. Records. The application for modification and the final decision of the fire official shall be in writing and shall be officially recorded.

F-102.2. Alternative methods and materials. The provisions of this code are not intended to prevent the use of any material or method of work not specifically prescribed by this code, provided that such alternative shall comply with the intent of the provisions of this code. The material, method or work offered shall be, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fireresistance, durability and safety.

F-102.2.1. Supporting data. The fire official shall require that sufficient technical data be submitted to substantiate the proposed use of any material or assembly. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire official shall approve the use of such alternative subject to the requirements of this code. Supporting data, when required by the fire official to assist in the approval of all materials or assemblies not specifically provided for in this code, shall consist of duly authenticated research reports from approved sources.

F-102.3. *Qualifications and Certification of Fire Officials and Technical Assistants*. ~~The local government shall establish qualifications for the fire official and assistants. Fire officials and technical assistants shall meet the standards set forth in Sections F-102.3.1 and F-102.3.2.~~

F-102.3.1. Certification of Fire Official. The fire official shall be certified in accordance with the Virginia Certification Standards within three years after date of employment.

Exception: An individual employed as the fire official in a locality in Virginia prior to the effective date of these regulations shall be exempt from certification while employed as the fire official in that jurisdiction. This exemption shall not apply to subsequent employment as the fire official in another jurisdiction.

F-102.3.2. Certification of Technical Assistants. The technical assistants shall be certified in accordance with the Virginia Certification Standards within three years after date of employment.

Exceptions:

1. An individual employed as a technical assistant in a locality in Virginia prior to the effective date of these regulations shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exception shall not apply to subsequent employment as a technical assistant in another jurisdiction.

2. An employee not having responsibility for code enforcement under the Virginia Statewide Fire Prevention Code shall be exempt from certification. Code enforcement shall mean, at a minimum, those actions outlined in §§ 107.7 and 107.9 of the Virginia Statewide Fire Prevention Code.

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

F-102.4. Maintenance inspections. The fire official may inspect all buildings, structures and premises to assure compliance with this code or any other ordinance affecting fire safety.

Exceptions:

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

F-102.5. Right of entry. The fire official may enter any structure or premises when there is reasonable cause to believe that an unsafe condition exists. Proper credentials shall be presented before entering occupied structures or premises. Legal assistance may be requested if entry is refused.

F-102.6. Coordinated inspections. The fire official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate with the local building department on those inspections required by the USBC, Volume I, for new construction, when involving provisions of the BOCA National Fire Prevention Code, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders. Whenever the fire official or an authorized representative observes an apparent or actual violation of the provisions of another law, ordinance or code, not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

Note: Section 110.6 110.8 of the USBC, Volume I, requires the building official to coordinate those inspections with the local fire official.

F-102.7. Records. The local fire official shall keep records of fires, inspections, notices, orders issued, and other matters as directed by the local government. Fire records shall include information as to the cause, origin and the extent of damage. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (a) after twenty years in the case of arson fires, (b) after five years in nonarson fires, and (c) after three years in the case of all other reports, notices, and orders issued.

F-102.8. Relief from personal responsibility. The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as an employee. The fire official or his subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the SFPC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as an employee, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed in the discharge of the SFPC may be defended by the enforcing agency's legal representative. The State Fire Marshal or his subordinates shall not be personally liable for damages or costs sustained by any person when the State Fire Marshal or his subordinates are enforcing this code as part of their official duties under Section F-102.1.

F-102.9. Local regulations. Local governments may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

F-102.10. Procedures or requirements. The local governing body may establish such procedures or requirements as may be necessary for the enforcement of the SFPC.

F-102.11. Control of conflict of interest. The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

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

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

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

F-103.3. Delegation of duties and powers. The fire official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with this code.

SECTION F-104.0. PERMITS.

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

F-104.1.1. State permits. The State Fire Marshal will not issue permits under the SFPC except that annual permits shall be issued under ~~Article 26~~ *Chapter 30*, Explosives, Ammunition and Blasting Agents.

F-104.1.2. Local permits. In those jurisdictions that enforce the SFPC, the Fire Official shall issue permits as required by ~~Article 26~~ *Chapter 30*, Explosives, Ammunition and Blasting Agents.

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

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

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

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

F-104.6. Approved plans. Plans approved by the fire official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

F-104.7. Revocation of permit. The local fire official may revoke a permit or approval issued under the SFPC if

conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

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

F-104.9. Fees. Fees may be levied by the enforcing agency in order to defray the cost of enforcement and appeals. The fees listed in Table F-104.9 shall be levied on those permits issued in accordance with F-104.1.1.

Table F-104.9.

FEE SCHEDULE FOR EXPLOSIVES PERMITS ISSUED BY THE STATE FIRE MARSHAL

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

SECTION F-105.0. LOCAL BOARD OF APPEALS.

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

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

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

F-105.3. Qualifications of board members. Board members shall be qualified by experience and training to rule on matters pertaining to building construction and fire prevention. Employees or officials of the local government appointing the board shall not serve as board members.

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

F-105.5. Alternates and absence of members. The local

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

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

F-105.7. Notice of meeting. The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

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

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

F-105.9. Hearing open to public. All hearings shall be open to the public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14.1 of the Code of Virginia.

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

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

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

F-105.1. General. Appeals concerning the application of the Statewide Fire Prevention Code (SFPC) by the local enforcing agency shall first lie to a local Board of Fire Prevention Code Appeals (BFPCA) established in accordance with this section. Appeals from the application

of the State Fire Marshal shall be made directly to the State Building Code Technical Review Board (TRB).

F-105.2. Membership of BFPCA. The BFPCA shall consist of at least five members appointed by the local government and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained by the enforcing agency. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

F-105.2.1. Chairman. The BFPCA shall annually select one of its regular members to serve as chairman. In the event of the absence of the chairman at a hearing, the members present shall select an acting chairman.

F-105.2.2. Secretary. The local government shall appoint a secretary to the BFPCA to maintain a detailed record of all proceedings.

F-105.3. Qualifications of BFPCA members. BFPCA members shall be selected on the basis of their ability to render fair and competent decisions regarding application of the SFPC and shall to the extent possible, represent different occupational or professional fields relating to building construction or fire prevention. Employees or officials of the local government shall not serve as members of the BFPCA.

F-105.4. Disqualification of member. A member of the BFPCA shall not hear an appeal in which that member has any personal, professional, financial or any other conflict of interest.

F-105.5. Application for appeal. An owner or occupant of a building, structure or property may appeal a decision of a local enforcing agency concerning the application of the SFPC to that building, structure or property by submitting a written request for appeal to the enforcing agency within 14 calendar days from the receipt of the decisions to be appealed. A copy of the written decision of the enforcing agency upon which the appeal is being made shall be submitted by the applicant and retained as part of the record by the secretary of the BFPCA. In the case of an appeal of the decision of the State Fire Marshal, the applicant shall submit an application for appeal to the Office of the TRB within 14 calendar days from the receipt of the decision to be appealed. A copy of the written decision of the State Fire Marshal upon which the appeal is being made shall also be submitted. The application for appeal shall be stamped or otherwise marked by the enforcing agency or the Office of the TRB to indicate the date received. Failure to submit an application for appeal within the time limit established by this action shall constitute an acceptance of the enforcing

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agency or State Fire Marshal's decision.

F-105.6. BFPCA meeting. The BFPCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

F-105.7. Hearing procedures. All hearings before the BFPCA shall be open to the public. The applicant, the enforcing agency's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. Hearings from a decision of the State Fire Marshal to the TRB are governed by Article 2 of Chapter 6 (§ 36-107.1 et seq.) of Title 36 of the Code of Virginia.

F-105.7.1. Postponement. When five members of the BFPCA are not present to hear an appeal, the applicant shall have the right to request a postponement of the hearing. The enforcing agency shall reschedule the appeal within 30 calendar days of the postponement.

F-105.8. Decision of BFPCA. The BFPCA shall have the power to reverse or modify the decision of the enforcing agency by a concurring vote of a majority of those present.

F-105.8.1. Resolution. The decision of the BFPCA shall be by resolution signed by the chairman and retained as part of the record by the enforcing agency. The following wording shall be part of the decision:

"Upon receipt of this decision, any person who was a party to the appeal may appeal to the TRB by submitting an application to the State Board within 21 calendar days. Application forms are available from the Office of the Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170."

F-105.9. Further appeal. After final determination by the BFPCA, any person who is a party to the local appeal may appeal to the TRB by submitting an application to the Office of the TRB within 21 calendar days of receipt of the decision of the BFPCA. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the enforcing agency's decision.

F-105.9.1. Information to be submitted. Copies of the decision of the enforcing agency and the resolution of the BFPCA which is being appealed shall be submitted with the application for appeal. Upon request by the Office of the Review Board, the enforcing agency shall submit a copy of all pertinent information from the record of the BFPCA.

F-105.10. Decision of TRB. Procedures of the TRB for both appeals from a decision of the State Fire Marshal and from the BFPCA are in accordance with Article 2 of Chapter 6 (§ 36-1.7.1 et seq.) of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the enforcing agency or State Fire Marshal shall take action accordingly.

SECTION F-106.0:

APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD:

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

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

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

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

F-106.5. Court review. Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 (§ 9-6.14:15 et seq.) of Chapter 1-1:1 of Title 9 of the Code of Virginia.

SECTION F-107.0 F-106.0 . UNSAFE CONDITIONS.

F-107.1 F-106.1 . General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

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

the egress of occupants or the operation of the fire department in case of fire.

4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.

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

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

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

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

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

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

F-107.2 F-106.2 . Maintenance. The owner shall be responsible for the safe and proper maintenance of any building, structure, premises or lot. In all new and existing buildings and structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

Note: Also see Sections **F-501.4 F-504.4** and **F-501.4.1 F-504.4.1** of this code for further information.

F-107.3 F-106.3 . Occupant responsibility. If an occupant of a building creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of said hazardous conditions.

F-107.4 F-106.4 . Unsafe buildings. All buildings and structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe buildings or structures. A vacant building, or portion of a building, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe buildings shall be reported to the building or maintenance

code official who shall take appropriate action under the provisions of the USBC, Volume I - New Construction Code or Volume II - Building Maintenance Code, to secure abatement by repair and rehabilitation or by demolition.

F-107.5 F-106.5 . Evacuation. When, in the opinion of the fire official, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire official may order the immediate evacuation of the building, structure or premises. All notified occupants shall immediately leave the building, structure or premises, and no person shall enter until authorized to do so by the fire official.

F-107.6 F-106.6 . Unlawful continuance. It is deemed a violation of the SFPC for any person to refuse to leave, interfere with the evacuation of the other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition.

F-107.7 F-106.7 . Notice of violation. Whenever the fire official observes a violation of this code or ordinance under the fire official's jurisdiction, the fire official shall prepare a written notice of the violation describing the condition deemed unsafe, *citing the applicable code section* and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering it in person, by delivering it to and leaving it in the possession of any person in charge of the premises, or, in case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access; such procedure shall be deemed the equivalent of personal notice.

F-107.8 F-106.8 . Failure to correct violations. If the notice of violation is not complied with in the time specified by the fire official, the fire official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate any notice of violation which is not complied with in the specified time or require removal or termination of the unlawful use of the building or structure. The local law enforcement agency of the jurisdiction shall be requested by the fire official to make arrests for any offense against this code or orders of the fire official affecting the immediate safety of the public when the fire official is not certified in accordance with § 27-34.2 of the Code of Virginia.

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~~F-107.9~~ *F-106.9* . Issuing summons for violation. If certified in accordance with § 27-34.2 of the Code of Virginia, the fire official may issue a summons in lieu of the notice of violation.

~~F-107.10~~ *F-106.10* . Penalty for violation. Violations are a Class 1 misdemeanor in accordance with § 27-100 of the Code of Virginia. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense.

~~F-107.11~~ *F-106.11* . Abatement of violation. Conviction of a violation of the SFPC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the SFPC relating to use of the building or premises.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL FIRE PREVENTION CODE/ 1990 1993 EDITION.

As provided in Section F-101.3 of the SFPC, the amendments noted in this addendum shall be made to the BOCA National Fire Prevention Code/ 1990 1993 Edition for use as part of the SFPC.

ARTICLE CHAPTER 1. ADMINISTRATION AND ENFORCEMENT .

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

ARTICLE CHAPTER 2. DEFINITIONS.

~~1. A.~~ *A.* Change Section ~~F-200.3~~ *F-201.3* to read:

~~F-200.3~~ *F-201.3* . Terms defined in the other codes. Where terms are not defined in this code and are defined in the USBC, they shall have the meanings defined by the USBC.

~~2.~~ *B.* Change the following definitions in Section ~~F-201.0~~ *F-202.0* , General Definitions, to read:

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

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

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

Note: When *"code official"* appears in the BOCA

National Fire Prevention Code, it shall mean *"fire official"* .

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term *"explosive"* includes all materials classified as Class A, Class B, or Class C explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, smokeless powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord and igniters.

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

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

~~3. C.~~ *C.* Add these new definitions to Section ~~F-201.0~~ *F-202.0* , General Definitions:

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

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

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

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

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

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

"Explosive materials" means explosives, blasting agents and detonators.

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

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

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

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

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

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

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

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

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

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

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

4. D. Delete the following definitions from Section F-201.0 F-202.0 , General Definitions:

Liquefied petroleum gas (LP-gas or LPG)

Liquefied petroleum gas equipment

ARTICLE CHAPTER 3. GENERAL PRECAUTIONS AGAINST FIRE.

1. Change Section F-301.1 to read:

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

2. Delete Section F-318.0 F-315.0 , Fire Safety During Construction, Alteration and Demolition.

ARTICLE CHAPTER 4. HAZARD ABATEMENT IN EXISTING BUILDINGS. OPEN FLAMES OR BURNING.

Change Section F-403.1 to read:

~~F-403.1. General. Open burning shall be allowed in accordance with the laws and regulations set forth by the State Air Pollution Control Board, the Department of Forestry, and as regulated by the locality.~~

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

ARTICLE CHAPTER 5. FIRE PROTECTION SYSTEMS.

1. Add new Section ~~F-518.0~~ F-519.0 , Smoke Detectors for the Deaf and Hearing-impaired, to read:

SECTION ~~F-518.0~~ F-519.0 . SMOKE DETECTORS FOR THE DEAF AND HEARING-IMPAIRED.

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~~F-518.1~~ *F-519.1* . Audible and visual alarms. Audible and visual alarms, meeting the requirements of UL Standard 1638, and installed in accordance with NFPA/ANSI 72G, shall be provided in occupancies housing the hard of hearing, as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be acceptable.

ARTICLE CHAPTER 7. EMERGENCY PLANNING AND PREPAREDNESS.

±: Add new Section ~~F-706.4~~ *F-707.4* , Fire Exit Drills, to read:

~~F-706.4~~ *F-707.4* . Fire exit drills. Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

ARTICLE 16. CHAPTER 18. OIL AND GAS PRODUCTION.

±: Delete Article 16 Chapter 18 , Oil and Gas Production, as it is covered by the Virginia Gas and Oil Act, Title 45.1, Chapter 22.1 of the Code of Virginia.

ARTICLE 26. CHAPTER 30. EXPLOSIVES, AMMUNITION AND BLASTING AGENTS.

±: Article 26 Chapter 30 , Explosives, Ammunition and Blasting Agents, is deleted in its entirety and replaced with Article 26 Chapter 30 of the SFPC, as follows:

SECTION ~~F-2600.0~~ *F-3001.0* . GENERAL.

~~F-2600.1~~ *F-3001.1* . Scope. The equipment, processes and operations involving the manufacture, possession, storage, sale, transportation and use of explosives and blasting agents shall comply with the applicable requirements of this code and the provisions of this article and shall be maintained in accordance with NFPA 495, NFPA 498, and DOT 49CFR listed in Appendix A except as herein specifically exempted or where provisions of this article do not specifically cover conditions and operations, and with the Institute of Makers of Explosives (IME) Safety Library Publications, with Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board, and with the Virginia Motor Carrier Regulations.

~~F-2600.2~~ *F-3001.2* . Exceptions. Nothing in this article shall be construed as applying to the following explosive uses:

1. The Armed Forces of the United States or of a state.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.

3. The sale or use of fireworks which are regulated by Article 27 Chapter 31 .

4. Laboratories engaged in testing explosive materials.

5. The possession, storage and use of not more than five pounds (2.27 kg) of smokeless powder, black powder, and 1000 small arms primers for hand loading of small arms ammunition for personal use.

6. The manufacture, possession, storage and use of not more than five pounds (2.27 kg) of explosives or blasting agents in educational, governmental or industrial laboratories for instructional or research purposes when under the direct supervision of experienced, competent persons.

7. The transportation and use of explosives or blasting agents by the United States Department of Alcohol, Tobacco and Firearms, the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, the Virginia Department of State Police, or qualified fire and law enforcement officials acting in their official capacity in the discharge of their duties; nor to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia (Department of Mines, Minerals and Energy).

~~F-2600.3~~ *F-3001.3* . Permit required. A permit shall be obtained from the code official for any of the following conditions or operations:

1. To possess, store, or otherwise dispose of explosives or blasting agents.

2. To use explosives or blasting agents:

a. A permit shall be issued for each project.

b. The permit shall specify the type of blasting and any special conditions. To the extent that blasting will occur within any waters of the Commonwealth or in any of the waters under its jurisdiction, evidence of a valid Marine Resources Commission permit, or "no permit necessary" authorization, will be required.

3. To operate a terminal for handling explosives or blasting agents.

4. To manufacture explosives or blasting agents, providing the following conditions are met:

a. Registration with the Department of Housing and Community Development;

b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and

c. Valid license to do business in the Commonwealth

of Virginia.

5. To sell explosives and blasting agents, providing the following conditions are met:

- a. Registration with the Department of Housing and Community Development;
- b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
- c. Valid license to do business in the Commonwealth of Virginia.

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

~~F-2600.3.1~~ *F-3001.3.1* . Prohibited permits. Permits as required above shall not be issued for:

1. Liquid nitroglycerin and nitrate esters.
2. Dynamite (except gelatin dynamite) containing over 60% of liquid explosive ingredient.
3. Leaking, damaged, or defective packages or containers of high explosives.
4. Nitrocellulose in a dry and uncompressed condition to be shipped or transported.
5. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition.

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

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

~~F-2600.4~~ *F-3001.4* . Certification required. The use of explosive materials shall be conducted or supervised on-site by blasters certified in accordance with Part IV of

the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen. The blaster shall carry proof of certification during the loading or firing of explosive materials.

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

~~F-2600.4.1~~ *F-3001.4.1* . Certification fee. The Department of Housing and Community Development shall charge a \$20 fee to applicants for *restricted blaster certification* as a or *unrestricted blaster certification* .

~~F-2600.5~~ *F-3001.5* . Liability insurance. The company or individual applying for a permit to blast, manufacture, or sell explosives shall provide proof of insurance in an amount determined by the fire official but in no case less than \$500,000.

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

SECTION ~~F-2601.0~~ *F-3002.0* . GENERAL REQUIREMENTS.

~~F-2601.1~~ *F-3002.1* . Storage. The storage of explosives and blasting agents is prohibited within the legal geographic boundaries of any district where such storage is prohibited by the authority having jurisdiction.

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

~~F-2601.2~~ *F-3002.2* . Sale and display. Explosives shall not be sold, given, delivered, or transferred to any person or company not in possession of a valid permit. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

SECTION ~~F-2602.0~~ *F-3003.0* . STORAGE OF EXPLOSIVE MATERIALS.

~~F-2602.1~~ *F-3003.1* . General. Explosives, including special industrial high explosive materials, shall be stored in magazines which meet the requirements of this article. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

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F-2602.2 F-3003.2 . Control in wholesale and retail stores. Explosive materials shall not be stored within wholesale or retail stores. The storage of explosives for wholesale and retail sales shall be in approved outdoor magazines except that not more than 50 pounds of black or smokeless powder may be stored in a Type 4 indoor magazine.

F-2602.3 F-3003.3 . Magazine clearances. Magazines shall be located away from inhabited buildings, passenger railways, public highways and other magazines in conformance with Table F-2602 F-3003 , except as provided in Section F-2602.2 F-3003.2 .

F-2602.4 F-3003.4 . Magazine construction. Magazines shall be constructed and maintained in accordance with IME publication No. 1.

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

F-2602.4.1 F-3003.4.1 . Magazine heat and light. Magazines shall not be provided with artificial heat or light, except that if artificial light is necessary, an approved electric safety flashlight or safety lantern shall be used.

F-2602.5 F-3003.5 . Safety precautions. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 50 feet (15.24m) of magazines. Combustible materials shall not be stored within 50 feet (15.24m) of magazines.

F-2602.5.1 F-3003.5.1 . Surrounding terrain. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 25 feet (7.62 m).

F-2602.5.2 F-3003.5.2 . Locking security. Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

F-2602.5.3 F-3003.5.3 . Magazine housekeeping. Magazines shall be kept clean, dry and free of grit, paper, empty packages or rubbish.

F-2602.5.4 F-3003.5.4 . Separation of detonators and explosives. Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

Table F-2602 F-3003 (3)

TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES (2)

		DISTANCES IN FEET							
QUANTITY OF EXPLOSIVE MATERIALS (Notes 1,2,3,4)		Inhabited Buildings(5)	Public Highways Class A to D(4)	Passenger Railways-Public Highways with Traffic		Separation of Magazines(12) (1)			
				Volume of more than 3,000 Vehcls/Day(10,11)					
Over	Not Over	Barri-caded (6,7,8)	Unbarri-caded (6,7,8)	Barri-caded (6,7,8)	Unbarri-caded (6,7,8)	Barri-caded (6,7,8)	Unbarri-caded (6,7,8)	Barri-caded (6,7,8)	Unbarri-caded (6,7,8)
20	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	90
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98

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2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,800	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,00	1,815	2,000	545	1,090	1,392	2,000	185	370
100,00	110,00	1,835	2,000	550	1,100	1,437	2,000	195	390
110,00	120,00	1,855	2,000	555	1,110	1,477	2,000	205	410
120,00	130,00	1,875	2,000	560	1,120	1,521	2,000	215	430
130,00	140,00	1,890	2,000	565	1,130	1,557	2,000	225	450
140,00	150,00	1,900	2,000	570	1,140	1,593	2,000	235	470
150,00	160,00	1,935	2,000	580	1,160	1,629	2,000	245	490
160,00	170,00	1,965	2,000	590	1,180	1,662	2,000	255	510
170,00	180,00	1,990	2,000	600	1,200	1,695	2,000	265	530
180,00	190,00	2,010	2,000	605	1,210	1,725	2,000	275	550
190,00	200,00	2,030	2,000	610	1,220	1,755	2,000	285	570
200,00	210,00	2,055	2,000	620	1,240	1,782	2,000	295	590
210,00	230,00	2,100	2,100	635	1,270	1,836	2,000	315	630
230,00	250,00	2,155	2,155	650	1,300	1,890	2,000	335	670
250,00	275,00	2,215	2,215	670	1,340	1,950	2,000	360	720
275,00	300,00	2,275	2,275	690	1,380	2,000	2,000	385	770

Numbers in () refer to explanatory notes

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

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

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

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

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

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

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

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

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

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

NOTE 11 - "Highway" means any public street, public alley, or public road. "Public highways Class A to D" are highways with

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average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3-74, 1956 Edition, John Wiley and Sons).

NOTE 12 NOTE 1 - When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 13 NOTE 2 - Storage in excess of 300,000 lbs. of explosive materials, in one magazine is generally not required for commercial enterprises.

NOTE 14 NOTE 3 - This table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

F-2602.5.5 F-3003.5.5 . Explosive unpacking. Metal or wooden packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet (15.24m) of a magazine.

F-2602.5.6 F-3003.5.6 . Magazine contents. Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

F-2602.6 F-3003.6 . Unstable explosives. When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if liquid leaks from any explosive, then the person in possession of such explosive shall immediately report that fact to the code official and upon his approval shall proceed to destroy such explosives and clean floors stained with nitroglycerin or other such liquids in accordance with the instructions of the manufacturer. Only qualified, experienced persons shall do the work of destroying explosives.

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

F-2602.7 F-3003.7 . Class I magazine warnings. Property upon which Class Type I magazines and outdoor magazines of Types 2, 4 and 5 are located shall be posted with signs reading stating "Explosives - Keep Off." Such signs shall be located so as to minimize such that the

possibility of a bullet traveling in the direction of shot at the sign and hitting the magazine if anyone shoots at the sign is minimized.

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

SECTION ~~F-2603.0~~ F-3004.0 . TRANSPORTATION OF EXPLOSIVES.

F-2603.1 F-3004.1 . General. The transportation of explosive materials shall comply with applicable provisions of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board.

F-2603.2 F-3004.2 . Enforcement. The Department of State Police, together with all law enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportations, in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this section. Those officers shall annually receive in-service training in current federal safety standards and safety inspection procedures pertaining to the transportation of hazardous materials.

SECTION ~~F-2604.0~~ F-3005.0 . STORAGE OF BLASTING AGENTS AND SUPPLIES.

F-2604.1 F-3005.1 . General. Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in Section ~~F-2602.0~~ F-3003.0 for explosives. The quantity of blasting agents and one half the quantity of oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

F-2604.2 F-3005.2 . Storage location. Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table ~~F-2602~~ F-3003 .

F-2604.3 F-3005.3 . Storage housekeeping. The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire-resistance rating of not less than one hour. The provisions of this section shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

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F-2604.4 F-3005.4 . Trailer storage requirements. Semitrailers or full trailers used for temporarily storing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table **F-2602 F-3003** . Trailers shall be provided with substantial means for locking and trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

F-2604.5 F-3005.5 . Oxidizers and fuels. Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

F-2604.6 F-3005.6 . Oxidizer handling. Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

SECTION **F-2605.0 F-3006.0** . HANDLING OF EXPLOSIVES.

F-2605.1 F-3006.1 . Mixing blasting agents. Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table **F-2602 F-3003** .

F-2605.2 F-3006.2 . Quantity of mixing agents. Not more than one day's production of blasting agents or the limit determined by Table **F-2602 F-3003** , whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

F-2605.3 F-3006.3 . Compounding standards. Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with NFPA 495 and DOT 49CFR listed in **Appendix A Chapter 44** .

F-2605.4 F-3006.4 . Ignition protection. Smoking or open flames shall not be permitted within 50 feet (15.24m) of any building or facility used for the mixing of blasting agents.

F-2605.4.1 F-3006.4.1 . Unpacking tools. Tools used for opening packages of explosives shall be constructed of nonsparking materials.

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

F-2605.5 F-3006.5 . Waste disposal. Empty oxidizer bags shall be disposed of daily by burning in a safe manner (in an open area and at a safe distance from buildings or combustible materials).

F-2605.5.1 F-3006.5.1 . Packing material disposal. Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved, isolated location out-of-doors, and any person shall not be closer than 100 feet (30.48 m) during

the course of said burning.

F-2605.6 F-3006.6 . Control. Explosives shall not be abandoned.

SECTION **F-2606.0 F-3007.0** . BLASTING.

F-2606.1 F-3007.1 . Time. Blasting operations shall be conducted during daylight hours except when otherwise approved.

F-2606.2 F-3007.2 . Personnel. The handling and firing of explosives shall be performed by the person certified as a blaster under Section **F-2600.2.3 F-3001.4** of this code or by employees under that person's direct on-site supervision who are at least 21 years old.

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

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

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

F-2606.3 F-3007.3 . Clearance at site. At the site of blasting operations, Class II magazines shall be located as far away as practicable from neighboring inhabited buildings, railways, highways, and other magazines.

F-2606.4 F-3007.4 . Notice. Whenever blasting is being conducted within 200 feet of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. This time limit shall not be waived except in an emergency as determined by the code official.

F-2606.5 F-3007.5 . Responsibility. Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a warning signal has been sounded.

F-2606.6 F-3007.6 . Precautions. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

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

2. The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet

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(106.75m) of the blasting operations; and

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

4. Misfires shall be handled as directed by equipment manufacturers with no one entering the blasting site, except the blaster, until the loaded charges have been made to function or have been removed.

~~F-2606.7~~ *F-3007.7* . Congested areas. As required by the fire official, when blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation susceptible to damage, the blast shall be covered before firing, with a mat or earth, or both, so that it is capable of preventing rock from being thrown into the air out of the blast area.

~~F-2606.8~~ *F-3007.8* . Blast records. A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the fire official. These records shall contain the following minimum data:

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

* - Items number eight (8) and thirteen (13) are not applicable to restricted blasters.

SECTION ~~F-2607.0~~ *F-3008.0* . STANDARDS FOR CONTROL OF AIRBLAST AND GROUND VIBRATION.

~~F-2607.1~~ *F-3008.1* . Airblast. This section shall apply to airblast effects as recorded at the location of any private dwelling, public building, school, church, and community or institutional building not owned or leased by the person conducting or contracting for the blasting operation. If requested by a property owner registering a complaint and deemed necessary by the fire official, measurements of three consecutive blasts, using approved instrumentation, shall be made near the structure in question.

~~F-2607.1.1~~ *F-3008.1.1* . Maximum airblast. The maximum airblast at any inhabited building, resulting from blasting operations, shall not exceed 130 decibels peak, or 140 decibels peak at any uninhabited building, when measured by an instrument having a flat frequency response (+3 decibels) over a range of at least six to 200 Hertz.

~~F-2607.2~~ *F-3008.2* . Ground vibration. This section shall provide for limiting ground vibrations at structures that are neither owned nor leased by the person conducting or contracting for the blasting operation. Engineered structures may safely withstand higher vibration levels based on an approved engineering study upon which the fire official may then allow higher levels for such engineered structures.

Note: Each Table, ~~F-2607A~~ *F-3008A* to ~~F-2607C~~ *F-3008C* , has an increasing degree of sophistication and each can be implemented either by the fire official as a result of complaints or by the contractor to determine site specific vibration limits. The criteria in Tables ~~F-2607~~ *F-3008* A, B, and C and Section ~~F-2607.3~~ *F-3008.3* are intended to protect low-rise structures including dwellings.

~~F-2607.2.1~~ *F-3008.2.1* . Blasting without instrumentation. Where no seismograph is used to record vibration effects, the explosive charge weight per delay (eight milliseconds or greater) shall not exceed the limits shown in Table ~~F-2607A~~ *F-3008A* . When charge weights per delay on any single delay period exceed 520 lbs., then ground vibration limits for structures shall comply with Tables ~~F-2607B~~ *F-3008B* , ~~F-2607C~~ *F-3008C* , or Section ~~F-2607.3~~ *F-3008.3* .

~~F-2607.2.2~~ *F-3008.2.2* . Monitoring with instrumentation. Where a blaster determines that the charge weights per delay given in Table ~~F-2607A~~ *F-3008A* are too conservative, he may choose to monitor (at the closest conventional structure) each blast with an approved seismograph and conform to the limits set by Tables ~~F-2607B~~ *F-3008B* , ~~F-2607C~~ *F-3008C* , or Section ~~F-2607.3~~ *F-3008.3* .

Note: From this point on, the explosive charge weight per delay may be increased, but the vibration levels detailed in Tables ~~F-2607B~~ *F-3008B* , ~~F-2607C~~ *F-3008C* , or Section ~~F-2607.3~~ *F-3008.3* shall not be exceeded.

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~~F-2607.5~~ ~~F-3008.5~~ . Seismographic records. A record of each blast shall be kept. All records, including seismograph reports, shall be retained for at least three years and shall be available for inspection. Records shall include the following information:

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

SECTION ~~F-2608.0~~ ~~F-3009.0~~ .

THEFT OR , DISAPPEARANCE , OF EXPLOSIVES INJURIES OR PROPERTY DAMAGE .

~~F-2608.1~~ ~~F-3009.1~~ . Reports of stolen explosives. Pursuant to § 27-97.1 of the Code of Virginia, any person holding a permit for the manufacture, storage, handling, use or sale of explosives issued in accordance with this code shall report to the State Police and the local law enforcement agency any theft or other disappearance of any explosives or blasting devices from their inventory. In addition, notification shall be made to the fire official having issued the permit.

~~F-2608.2~~ ~~F-3009.2~~ . Reports of injuries or property damage. The fire official shall be immediately notified of injuries to any person or damage to any property as a result of the functioning of the explosive.

~~F-2608.3~~ ~~F-3009.3~~ . Relationship of local fire official and State Fire Marshal. The local fire official shall relay information obtained from reports required by Sections ~~F-2608.1~~ ~~F-3009.1~~ and ~~F-2608.2~~ ~~F-3009.2~~ to the Office of the State Fire Marshal.

ARTICLE ~~27~~ CHAPTER 31 . FIREWORKS.

~~1.~~ A. Change Section ~~F-2700.1~~ ~~F-3101.1~~ to read:

~~F-2700.1~~ ~~F-3101.1~~ . Scope. The manufacture, transportation, display, sale or discharge of fireworks shall comply with the requirements of Chapter 11 of Title 59 of the Code of Virginia.

B. Delete Section ~~F-3102.0~~, *Definitions*.

~~2.~~ C. Delete Section ~~F-2701.1~~ ~~F-3103.1~~ , *General*.

D. Delete Section ~~F-3103.2~~, *Violations*.

E. Delete Section ~~F-3103.3~~, *Display*, and renumber subsection ~~F-3103.3.1~~ to ~~F-3103.3~~.

~~3.~~ F. Delete Section ~~F-2701.3~~ ~~F-3103.5~~ , *Exemptions Sale of fireworks* .

ARTICLE ~~28~~ CHAPTER 32 . FLAMMABLE AND COMBUSTIBLE LIQUIDS.

~~1.~~ Change Section ~~F-2803.5~~ ~~F-3205.5~~ to read as follows:

~~F-2803.5~~ ~~F-3205.5~~ . Fuel dispensing outside the building. Fuel dispensers outside the building shall be located a minimum of 10 feet (3048 mm) from the lot line and five feet (1524 mm) from any building opening. Where fuel is dispensed to motor vehicles, the motor vehicle being served shall be located on the premises.

ARTICLE ~~30~~ CHAPTER 36 . LIQUEFIED PETROLEUM GASES.

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± Change Section F-3000.± F-3601.1 as follows and delete the remainder of Article 30 Chapter 36 :

F-3000.± F-3601.1 . Scope. The equipment, processes and operation for storage, handling, transporting by tank truck or tank trailer, and utilizing LP gases for fuel purposes, and for odorization of LP gases shall comply with the Virginia Liquefied Petroleum Gas Regulations in effect at the time of construction as provided for in Chapter 7 of Title 27 of the Code of Virginia.

VA.R. Doc. No. R93-772; Filed August 18, 1993, 11:59 a.m.

* * * * *

Title of Regulation: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/ ~~1990~~ 1993 .

Statutory Authority: § 36-98 of the Code of Virginia.

Public Hearing Date: October 12, 1993 - 10 a.m.

Written comments may be submitted until November 8, 1993.

(See Calendar of Events section for additional information)

Basis: Section 36-98 of the Code of Virginia directs the Board of Housing and Community Development to adopt and promulgate a Uniform Statewide Building Code.

Purpose: The purpose of the amendments to the regulation is to reference the 1993 Edition of the BOCA National Building Code as the standard for the construction of buildings and structures in the Commonwealth of Virginia.

Substance: The reference model code has been amended through a consensus process involving nationally recognized organizations including code officials, testing agencies, material and equipment suppliers and manufacturers, design professionals and the building construction industry. The objective of the process is to implement the latest methods and technology for building safety, energy conservation, and accessibility for the disabled.

Issues: The proposed amendments will implement an edition of the model code that allows for water conservation, accessibility, interior environmental requirements, means of egress and fire protection. This edition of the model code will eliminate most amendments that are included in the Virginia Uniform Statewide Building Code.

Estimated Impact: The proposed amendments will simplify and streamline the building regulation for easier use by design professionals and local code officials. Approximately 1600 building department personnel of 160 local governments will attend training on the updated regulation. The cost of training will be borne by a fee schedule already in place. The agency intends to combine this

regulation with two others under one cover for easier use and less cost for publishing. Any requirements in these amendments that are more restrictive are offset by construction type tradeoffs.

Summary:

The proposed amendments will update the existing regulation to reflect the requirements of the 1993 Edition of the National Model Building Codes and Standards.

VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

ARTICLE CHAPTER 1.

ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0. GENERAL.

100.1. Title. These regulations shall be known as Volume I - New Construction Code of the ~~1990~~ 1993 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, USBC, and code, as used herein, shall mean Volume I - New Construction Code of the ~~1990~~ 1993 edition of the Virginia Uniform Statewide Building Code.

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

100.2. Authority. The USBC is adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Purpose and scope. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of buildings and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not effect the manner of construction or materials to be used in the construction, alteration or repair of a building.

100.4. Adoption. The ~~1990~~ 1993 edition of the USBC was adopted by order of the Board of Housing and Community Development on November ~~10~~, ~~1990~~ 15, 1993 . This order was prepared according to requirements of the

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Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.5. Effective date. The ~~1990~~ 1993 edition of the USBC shall become effective on March 1, ~~1991~~ 1994 .

100.6. Application. The USBC shall apply to all buildings, structures and associated equipment which are constructed, altered, repaired or converted in use after March 1, ~~1991~~ 1994 . Buildings and structures that were designed within one year prior to March 1, ~~1991~~ 1994 , shall be subject to the previous edition of the code provided that the permit application is submitted by March 1, ~~1992~~ 1995 . This provision shall also apply to subsequent amendments to this edition of the code based on the effective date of the amendments.

Exception: Buildings and structures for which a permit application is submitted after February 1, 1992, shall comply with applicable provisions of Section 512.0.

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

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

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

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

3. Manufacturing and processing machines and equipment; however, the buildings, including service equipment, housing such machinery and equipment shall be subject to the USBC. *All machines and equipment not supplied by the manufacturer of the manufacturing and processing machines and equipment as an integral part of the said machines*

and equipment are subject to the USBC.

Note: It is intended that such items as sprinkler systems, piping systems, motor control centers, power panels, busways, feeders, branch circuits, service equipment, disconnect switches, starters, combination starters and HVAC systems which are not an integral part of the manufacturing and processing machines and equipment not provided by the maker of the manufacturing and process machines and equipment for integral use with said machines and equipment shall be subject to the USBC.

4. Parking lots and sidewalks; however, parking lots and sidewalks which form part of an accessible route, as defined by ANSI A117.1 - 1986 shall comply with the requirements of Section ~~512.0~~ Chapter 11 .

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

SECTION 101.0.

REFERENCE STANDARDS AND AMENDMENTS.

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

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/ ~~1990~~ 1993 EDITION

(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators
International, Inc.
4051 West Flossmoor Road
Country Club Hills, Illinois 60478-5795
Telephone No. (708) 799-2300

Note: The following major subsidiary model codes are among those included by reference as part of the BOCA National Building Code/ ~~1990~~ 1993 Edition:

BOCA National Plumbing Code/ ~~1990~~ 1993 Edition

BOCA National Mechanical Code/ ~~1990~~ 1993 Edition

NFIPA National Electrical Code/ 1990 1993 Edition

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

CABO ONE AND TWO FAMILY DWELLING CODE/ 1989 1992 EDITION and 1990 1993 Amendments (also referred to herein as One and Two Family Dwelling Code)

Jointly published by:

Building Officials and Code Administrators International, Inc.

Southern Building Code Congress International, Inc. and International Conference of Building Officials.

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

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

101.3. Amendments to the BOCA Code. The amendments noted in Addendum 1 of the USBC shall be made to the specified articles and sections of the BOCA National Building Code/ 1990 1993 Edition for use as part of the USBC.

101.4. Amendments to the One and Two Family Dwelling Code. The amendments noted in Addendum 2 of the USBC shall be made to the indicated chapters and sections of the One and Two Family Dwelling Code/ 1989 1992 Edition and 1990 1993 Amendments for use as part of the USBC.

SECTION 102.0.

LOCAL BUILDING DEPARTMENTS.

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

employees may be designated by such names or titles as the local government considers appropriate.

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

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

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

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

Exception: An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment as the building official in another jurisdiction.

102.3. Qualifications of technical assistants. A technical assistant shall have at least three years of experience in general building construction. Any combination of

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

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

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

102.4. Relief from personal responsibility. The local building department personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The building official or subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

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

SECTION 103.0. DUTIES AND POWERS OF THE BUILDING OFFICIAL.

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

103.2. Modifications. The building official may grant modifications to any of the provisions of the USBC upon

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

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

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

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

103.3. Delegation of duties and powers. The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the USBC.

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

SECTION 104.0. FEES.

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

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

additional fee has been paid. The local government may authorize delayed payment of fees.

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

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

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

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

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

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

SECTION 105.0. APPLICATION FOR CONSTRUCTION PERMIT.

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

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

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

Exceptions:

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

- a. Painting.
- b. Roofing when not exceeding 100 square feet of roof area.
- c. Glass when not located within specific hazardous locations as defined in Section ~~2203.2~~ 2405.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.
- d. Doors, except those in fire-rated wall assemblies or exitways.
- e. Floor coverings and porch flooring.
- f. Repairs to plaster, interior tile work, and other wall coverings.
- g. Cabinets installed in residential occupancies.
- h. Wiring and equipment operating at less than 50 volts.

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

3. Detached utility sheds 150 square feet or less in area and eight feet six inches or less in wall height when accessory to any Use Group R-3 or R-4 buildings building except use groups H and F.

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

Proposed Regulations

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

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

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

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

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.
2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in **Addenda 4 and 10 Addendum 9**.

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

105.6. Plans review. The building official shall examine all plans and applications for permits within a reasonable time after filing. If the application or the plans do not conform to the requirements of the USBC, the building official shall reject such application in writing, stating the reasons for rejection. Plans review comments requiring additional information, engineering details, or stating reasons for rejection of plans and specifications, shall be made in writing either by letter or a plans review form from the building official's office, in addition to notations or markings on the plans.

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

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

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

ratings, and firestopping affected by such penetrations.

105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1978, to be renovated or demolished until the local building department receives a certification from the owner or the owner's his agent that the affected portions of the building has have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 ; in accordance with standards developed pursuant to subdivision 1 of subsection A of § 2.1-526.14.1 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M) the management standards for asbestos-containing materials prepared by the Department of General Services in accordance with § 2.1-526.14.2 of the Code of Virginia , and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto.

Exceptions:

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

The provisions of this section shall not apply to single-family dwellings, or residential housing with four or fewer units unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.

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

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

105.10.2. Reoccupancy: An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed and final clearances have been measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

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

105.12. Time limitation of application. An application for a permit for any proposed work shall be considered to have been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the building official may grant one or more extensions of time.

SECTION 106.0. PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES.

106.1. Special professional services; when required. The building official may require representation by a professional engineer or architect for buildings and structures which are subject to special inspections as required by Section ~~1708.0~~ 1705.0 .

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

SECTION 107.0.

Proposed Regulations

APPROVAL OF MATERIALS AND EQUIPMENT.

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

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

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

SECTION 108.0. INTERAGENCY COORDINATION - FUNCTIONAL DESIGN.

108.1. Functional design approval. Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. State agencies with functional design approval are listed in Addendum 5 4 . For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a building permit or certificate of use and occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

SECTION 109.0. CONSTRUCTION PERMITS.

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

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

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

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

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

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

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

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

109.8. Suspension of permit. Any permit issued shall become invalid if the authorized work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the building official that work has not been suspended or abandoned. Upon written request the building official may grant one or more extensions of time not to exceed six months per extension.

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

SECTION 110.0.

INSPECTIONS.

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

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

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

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

1. The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.
2. The installation of piling. The building official may require the installation of pile foundations be supervised by the owner's professional engineer or architect or by such professional service as approved by the building official.
3. Reinforced concrete beams, or columns and slabs after all reinforcing is set and before any concrete is placed.
4. Structural framing and fastenings prior to covering with concealing materials.
5. All electrical, mechanical and plumbing work prior to installation of any concealing materials.
6. Required insulating materials before covering with any materials.
7. Upon completion of the building, and before issuance of the certificate of use and occupancy, a final inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.

110.3.1. Special inspections. Special inspections required by this code shall be limited to only those required by Section ~~1308.0~~ 1705.0 .

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the

stages of construction are reached that require an inspection under Section 110.3 and to confirm continuation of work per Section 109.8 or for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

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

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

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

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

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

SECTION 111.0. WORKMANSHIP.

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

SECTION 112.0. VIOLATIONS.

Proposed Regulations

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

112.2. Notice of violation. The building official shall serve a notice of violation on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the USBC. Such order shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. Such notice of violation shall be in writing and be served by either delivering a copy of the notice to such persons by mail to the last known address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

112.3. Prosecution of violation. If the notice of violation is not complied with, the building official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of the building in violation of the provisions of the USBC. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

112.4. Violation penalties. Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than \$2,500.

112.5. Abatement of violation. Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the USBC relating to construction and use of the building or premises.

SECTION 113.0. STOP WORK ORDER.

113.1. Notice to owner. When the building official finds that work on any building is being executed contrary to the provisions of the USBC or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work

may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

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

SECTION 114.0. POSTING BUILDINGS.

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

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

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

SECTION 115.0. CERTIFICATE OF USE AND OCCUPANCY.

115.1. When required. Any building or structure constructed under this code shall not be used until a certificate of use and occupancy has been issued by the building official. *Final inspection approval(s) shall serve as the certificate of use or occupancy for any addition or alteration to a building or structure which already has a valid certificate of use or occupancy.*

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

115.3. Contents of certificate. When a building is entitled thereto, the building official shall issue a certificate of use and occupancy. The certificate shall state the purpose for which the building may be used in its several parts. When the certificate is issued, the building shall be deemed to be in compliance with the USBC. The certificate of use

and occupancy shall specify the use group, the type of construction, the occupancy load in the building and all parts thereof, the edition of the USBC under which the building permit was issued, and any special stipulations, conditions and modifications.

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

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

115.6. Suspension or revocation of certificate of occupancy: The building official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.

SECTION 116.0.

LOCAL BOARD OF BUILDING CODE APPEALS.

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

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

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

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

116.2.1. Qualifications of board members. Board members shall be selected by the local government on the basis of their ability to render fair and competent decisions regarding application of the code, and shall, to the extent

possible, represent different occupational or professional fields. Employees or officials of the local government appointing the board shall not serve as board members.

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

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

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

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

116.6. Notice of meeting. The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

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

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

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

116.8. Hearing open to public. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14.1 et

Proposed Regulations

seq. of the Code of Virginia:

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

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

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

116.12. Appeal by State Fire Marshal. This section shall apply only to buildings subject to inspection by § 36-130.3 of the Code of Virginia. The State Fire Marshal, appointed pursuant to § 36-130.2 of the Code of Virginia, shall have the right to inspect applications for building permits or conversions of use group. The State Fire Marshal may appeal to the local building code board of appeals from the decision of the building official when it is claimed that the true intent of the USBC has been incorrectly interpreted as applied to the proposed construction or conversion. Such appeals shall be filed before the required permits are issued. The State Fire Marshal may also inspect the building during construction, repair or alteration and may appeal to the local building code board of appeals from the decision of the building official when it is claimed that the construction, repairs or alterations do not comply with the approved plans. Such appeals shall be filed prior to the issuance of the new or revised certificate of occupancy. Copies of all appeals shall be furnished to the building official and to the applicant for the building permit.

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

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

117.1. Appeal to the State Building Code Technical Review Board. Any person aggrieved by a decision of the local board of building code appeals who was a party to the appeal may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 21 calendar days of receipt of the decision of the local appeals board by the aggrieved party.

117.2. Control of conflict of interest. A member of the

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

117.3. Enforcement of decision. Upon receipt of the written decision of the State Building Code Technical Review Board, the building official shall take immediate action in accordance with the decision.

117.4. Court review. Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with a location when not the provisions of the Administrative Process Act, Article 4 (§ 9-6.14:15 et seq.) of Chapter 1-1-1 of Title 9 of the Code of Virginia.

116.1. Local Board of Building Code Appeals (BBCA). Each jurisdiction shall have a BBCA to hear appeals as authorized herein. The BBCA shall also hear appeals under Volume II of the USBC, the Building Maintenance Code, if the jurisdiction has elected to enforce that code. The jurisdiction may have separate BBCA's provided that each BBCA complies with this section. An appeal case decided by a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

116.2. Membership of BBCA. The BBCA shall consist of at least five members appointed by the jurisdiction and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the jurisdiction. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one year period.

116.2.1. Chairman. The BBCA shall annually select one of its regular members to serve as chairman. In the event of the absence of the chairman at a hearing, the members present shall select an acting chairman.

116.2.2. Secretary. The jurisdiction shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

116.3. Qualifications of BBCA members. BBCA members shall be selected by the jurisdiction on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. Employees or officials of the jurisdiction shall not serve as members of

the BBCA. At least one member should be an experienced builder and one member a licensed professional engineer or architect.

116.4. Disqualification of member. A member shall not hear an appeal in which that member has any personal, professional, financial or any other conflict of interest.

116.5. Application for appeal. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the jurisdiction concerning the application of the USBC or its refusal to grant a modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that building or structure. The applicant shall submit a written request for appeal to the jurisdiction within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the jurisdiction shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the jurisdiction to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the jurisdiction's decision.

116.6. Notice of meeting. The BBCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

116.7. Hearing procedures. All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the jurisdiction's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

116.7.1. Postponement. When five members of the BBCA are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The jurisdiction shall reschedule the appeal within 30 calendar days of the postponement.

116.8. Decision. The BBCA shall have the power to reverse or modify the decision of the jurisdiction by a concurring vote of a majority of those present.

116.8.1. Resolution. The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the jurisdiction. The following wording shall

be part of the decision:

"Upon receipt of this decision, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to the State Board within 21 calendar days. Application forms are available from the Office of the Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170."

Copies of the decision shall be furnished to all parties.

116.9. Appeal to the TRB. After final determination by the BBCA, any person who was a party to the local appeal may appeal to the TRB. Appeals by an involved state agency from the decision of the building official for state-owned buildings shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the jurisdiction or building official's decision.

116.9.1. Information to be submitted. Copies of the decision of the jurisdiction and the resolution of the BBCA shall be submitted with the application for appeal. Upon request by the Office of the Review Board, the jurisdiction shall submit a copy of all pertinent information from the record of the BBCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the building official's decision and other relevant information.

116.9.2. Decision of TRB. Procedures of the TRB are in accordance with Article 2 of Chapter 6 (§ 36-107.1 et seq.) of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the jurisdiction or building official shall take action accordingly.

SECTION ~~118.0~~ 117.0 . EXISTING BUILDINGS AND STRUCTURES.

~~118.1~~ **117.1 .** Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fire-resistance rating shall be made with materials required for a new structure.

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

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

Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial automatic alarm system may be installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.

~~118.1.1~~ *117.1.1* . Damage, restoration or repair in flood hazard zones. Buildings located in any flood hazard zone which are altered or repaired shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the start of construction of the improvement.

Exceptions:

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

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

~~118.1.2~~ *117.1.2* . Requirements for accessibility. Buildings and structures which are altered or to which additions are added shall comply with applicable requirements of ~~Section 512.0~~ *Chapter 11* .

~~118.2~~ *117.2* . Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.

~~118.3~~ *117.3* . Alternative method of compliance. Compliance with the provisions of ~~Article 32~~ *Chapter 34* for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of complying with this code.

SECTION ~~110.0~~ *118.0* . MOVED BUILDINGS.

~~110.1~~ *118.1* . General. Any building moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation.

1. No change has been made in the use of the building.

2. The building complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.

3. The building has not become unsafe during the moving process due to structural damage or for other reasons.

4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

~~110.2~~ *118.2* . Certificate of use and occupancy. Any moved building shall not be used until a certificate of use and occupancy is issued for the new location.

SECTION ~~120.0~~ *119.0* . UNSAFE BUILDINGS.

~~120.1~~ *119.1* . Right of condemnation before completion. Any building under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe building. Any such unsafe building shall be made safe through compliance with the USBC or shall be taken down and removed, as the building official may deem necessary.

~~120.1.1~~ *119.1.1* . Inspection of unsafe buildings; records. The building official shall examine every building reported as unsafe and shall prepare a report to be filed in the records of the department. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

~~120.1.2~~ *119.1.2* . Notice of unsafe building. If a building is found to be unsafe the building official shall serve a written notice on the owner, the owner's agent or person in control, describing the unsafe condition and specifying the required repairs or improvements to be made to render the building safe, or requiring the unsafe building or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare without delay to the building official the acceptance or rejection of the terms of the notice.

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~~120.1.3~~ 119.1.3 . Posting of unsafe building notice. If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

~~120.1.4~~ 119.1.4 . Disregard of notice. Upon refusal or neglect of the person served with a notice of unsafe building to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

~~120.1.5~~ 119.1.5 . Vacating building. When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building, or any part thereof, which would endanger life, or when any building or part of a building has fallen and life is endangered by occupancy of the building, the building official may order the occupants to vacate the building forthwith. The building official shall cause a notice to be posted at each entrance to such building reading as follows. "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Building Official." No person shall thereafter enter such a building except for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections authorized by the building official.

~~120.1.6~~ 119.1.6 . Temporary safeguards and emergency repairs. When, in the opinion of the building official, there is immediate danger of collapse or failure of a building or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, he shall cause the necessary work to be done to the extent permitted by the local government to render such building or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

~~120.2~~ 119.2 . Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, may be exercised after official action by the local governing body pursuant to § 36-105 of the Code of Virginia.

~~120.3~~ 119.3 . Abatement or removal. Whenever the owner of a building that has been deemed to be a public nuisance or unsafe, pursuant to Section ~~120.1~~ 119.1 or Section ~~120.2~~ 119.2 , fails to comply with the requirements of the notice to abate, the building official may cause the building to be razed or removed.

Note: A local governing body may, after official action pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of

Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county, city or town may abate, raze, or remove such public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

SECTION ~~121.0~~ 120.0 . DEMOLITION OF BUILDINGS.

~~121.1~~ 120.1 . General. Demolition permits shall not be issued until the following actions have been completed:

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

~~121.2~~ 120.2 . Hazard prevention. When a building is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of ~~Article 30~~ Chapter 33 of the BOCA Code.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/ ~~1990~~ 1993 EDITION.

As provided in Section 101.3 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the BOCA National Building Code/ ~~1990~~ 1993 Edition for use as part of the USBC.

ARTICLE CHAPTER 1. ADMINISTRATION AND ENFORCEMENT.

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

ARTICLE CHAPTER 2. DEFINITIONS.

(A) Change the following definitions in Section ~~201.0~~ 202.0 , General Definitions, to read:

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

Dwellings:

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

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

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

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

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

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

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

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

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

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and

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

(B) Add these new definitions to Section ~~201.0~~ 202.0 , General Definitions:

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

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

"Historic building" means any building that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Federal Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Virginia Department of Historic Resources' inventory of historic places; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Virginia Department of Historic Resources.

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

"Manufactured home" means a structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the

structure.

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

"Plans" means all drawings that together with the specifications, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

"Public nuisance" means, for the purposes of this code, any public or private building, wall or structure deemed to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy or use, or the condition of which constitutes a menace to the health and safety of the occupants thereof or to the public.

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

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

ARTICLE CHAPTER 3.

USE GROUP CLASSIFICATION OR OCCUPANCY .

(A) Change Section 307.2 Add an exception to Section 308.2 to read as follows:

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

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

(B) Change Add new Section 309.4 310.5.2 to read as follows:

310.5.2. Family Day Home. A family day home as defined by § 63.1-195 of the Code of Virginia shall be classified as Use Group R-3.

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

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

ARTICLE 4.

TYPES OF CONSTRUCTION CLASSIFICATION.

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

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

ARTICLE 5.

GENERAL BUILDING LIMITATIONS.

(A) Change Section 502.3 to read:

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

(B) Change Section 503.1 to read:

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

Proposed Regulations

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

SECTION 512.0. ACCESSIBILITY FOR DISABLED:

512.1. General. This section establishes requirements for accessibility by individuals with disabilities to be applied during the design, construction and alteration of buildings and structures.

512.2. Where required. The provisions of this section shall apply to all buildings and structures, including their exterior sites and facilities.

Exceptions:

1. Buildings of Use Group R-3 and accessory structures and their associated site and facilities.
2. Buildings and structures classified as Use Group U.
3. Those buildings or structures or portions thereof which are expressly exempted in the standards incorporated by reference in this section.
4. Those buildings or structures or portions thereof which are used exclusively for either private club or religious worship activities.

512.2.1. Identification of parking spaces. All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

512.3. Referenced standards. The following standards or parts thereof are hereby incorporated by reference for use in determining compliance with this section:

1. Title 24 Code of Federal Regulations, Chapter 1 - Fair Housing Accessibility Guidelines, Sections 2 through 5, 56 F.R. 9499-9515 (March 6, 1991).
2. Title 28 Code of Federal Regulations, Part 36 - Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Subpart A - General, § 36.104 Definitions and Subpart D - New Construction and Alterations, 56 F.R. 35503-35504 and 35599-35602 (July 26, 1991).

ARTICLE 6 CHAPTER 4 . SPECIAL USE AND OCCUPANCY REQUIREMENTS .

(A) Add an exception to Section 417.6 to read as follows:

Exception: The storage, dispensing and utilization of flammable and combustible liquids, in excess of the exempt amounts, at automotive service stations shall be in accordance with the fire prevention code listed in Chapter 35.

(A) (B) Change Section 610.2.1 420.0 to read as follows:

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

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

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

(C) Change Section 610.2.3 to read as follows:

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

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

(D) Change Section 610.2.5 to read as follows:

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

1. Each area does not exceed 1,500 square feet (140 m²);
2. The area is located to permit supervision by the

facility staff;

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

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

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

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

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

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

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

(F) Change Section 610.5 to read as follows:

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

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

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

SECTION 618.10. MAGAZINES.

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

(I) Change Section 619.1 to read as follows:

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

Exception: Aboveground tanks which are used to store or dispense motor fuels, aviation fuels or heating fuels

at commercial, industrial, governmental or manufacturing establishments shall be allowed when in compliance with NFPA 30, 30A, 31 or 497 listed in Appendix A.

(J) Change Section 620.0 to read as follows:

SECTION 620.0 420.0 . MOBILE UNITS AND MANUFACTURED HOMES.

620.1 420.1 . General. Mobile units, as defined in Section 201.0 202.0 , shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

620.2 420.2 . Support and anchorage of mobile units. The manufacturer of each mobile unit shall provide with each unit specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to withstand wind forces and uplift as required in Article 11 Chapter 16 for buildings and structures, based upon the size and weight of the mobile unit.

620.3 420.3 . Support and anchorage of manufactured homes. The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent foundation (i.e., tiedowns, piers, blocking, footings, etc.) based upon the design of the manufactured home. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

620.3.1 420.3.1 . Hurricane zone. Manufactured homes installed or relocated in the hurricane zone shall be of Hurricane and Windstorm Resistant design in accordance with the Federal Manufactured Housing Construction and Safety Standards and shall be anchored according to the manufacturer's specifications for the hurricane zone. The hurricane zone includes the following counties and all cities located therein, contiguous thereto, or to the east thereof. Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greensville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George.

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~~620.3.2~~ 420.3.2 . Flood hazard zones. Manufactured homes and mobile units which are located in a flood hazard zone shall comply with the requirements of Section ~~2101.6~~ 3107.1 .

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

~~620.4~~ 420.4 . Used mobile/manufactured homes. When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Appendix A Chapter 35 shall be accepted as meeting the USBC.

~~620.5~~ 420.5 . Skirting. Manufactured homes installed or relocated after July 1, 1990, shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

(C) Add new Section 422.0 to read as follows:

SECTION 422.0. MAGAZINES.

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

~~(K)~~ (D) Add new Section ~~627.0~~ 423.0 to read as follows:

SECTION ~~627.0~~ 423.0 . UNDERGROUND STORAGE TANKS.

~~627.1~~ 423.1 . General. The installation, upgrade, or closure of any underground storage tanks containing an accumulation of regulated substances, shall be in

accordance with the Underground Storage Tank Regulations adopted by the State Water Control Board. Underground Storage tanks containing flammable or combustible liquids shall also comply with the applicable requirements of Section ~~610.0~~ Sections 417.0 and 418.0 .

ARTICLE 7. INTERIOR ENVIRONMENTAL REQUIREMENTS.

(A) Add new Section 706.2.3 as follows:

706.2.3. Insect screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(B) Change Section 714.0 to read as follows:

SECTION 714.0. SOUND TRANSMISSION CONTROL IN RESIDENTIAL BUILDINGS.

714.1. Scope. This section shall apply to all common interior walls, partitions and floor/ceiling assemblies between adjacent dwellings or between a dwelling and adjacent public areas such as halls, corridors, stairs or service areas in all buildings of Use Group R.

714.2. Airborne noise. Walls, partitions and floor/ceiling assemblies separating dwellings from each other or from public or service areas shall have a sound transmission class (STC) of not less than 45 for airborne noise when tested in accordance with ASTM E90 listed in Appendix A. This requirement shall not apply to dwelling entrance doors, but such doors shall be tight-fitting to the frame and sill. 714.3. Structure borne sound. Floor/ceiling assemblies between dwellings and between a dwelling and a public or service area within the structures shall have an impact insulation class (IIC) rating of not less than 45 when tested in accordance with ASTM E492 listed in Appendix A.

714.4. Tested assemblies. Where approved, assemblies of building construction listed in GA 600, NCMA TEK 60A and BIA TN 5A listed in Appendix A shall be accepted as having the STC and IIC ratings specified therein for determining compliance with the requirements of this section.

(C) Add new Section 715.0 to read as follows:

SECTION 715.0. HEATING FACILITIES.

715.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to

furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

715.2. Other structures: Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupant thereof; and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its own heat, shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C), during all working hours in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

ARTICLE 8. MEANS OF EGRESS.

(A) Change Exception 6 of Section 813.4.1 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or S. These doors may be locked from the inside when all of the following conditions are met:

- a. The building is occupied by employees only and all employees have ready access to the unlocking device.
- b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.
- c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN

UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(B) Add new Exception 7 to Section 813.4.1 to read as follows:

Exception

7. Locking arrangements conforming to Section 813.4.5.

(C) Add new Section 813.4.5 to read as follows:

813.4.5. Building entrance doors: In Use Groups A, B, E, M, R-1 and R-2, the building entrance doors in a means of egress are permitted to be equipped with an approved entrance and egress control system which shall be installed in accordance with items 1 through 6 below.

1. A sensor shall be provided on the egress side arranged to detect an occupant approaching the doors. The doors shall be arranged to unlock by a signal from or loss of power to the sensor.

2. Loss of power to that part of the access control system which locks the doors shall automatically unlock the doors.

3. The doors shall be arranged to unlock from a manual exit device located 48 inches (1219 mm) vertically above the floor and within five feet (1524 mm) of the secured doors. The manual exit device shall be readily accessible and clearly identified by a sign. When operated, the manual exit device shall result in direct interruption of power to the lock — independent of the access control system electronics — and the doors shall remain unlocked for a minimum of 30 seconds.

4. Activation of the building fire protective signaling system, if provided, shall automatically unlock the doors, and the doors shall remain unlocked until the fire protective signaling system has been reset.

5. Activation of the building sprinkler or detection system, if provided, shall automatically unlock the doors. The doors shall remain unlocked until the fire protective signaling system has been reset.

6. The doors shall not be secured from the egress side in Use Groups A, B, E and M during periods when the building is accessible to the general public.

(D) Add new Section 826.0 to read as follows:

SECTION 826.0. EXTERIOR DOORS.

826.1. Swinging entrance doors: Exterior swinging doors of each dwelling unit in buildings of Use Group R-2 shall be equipped with a dead bolt lock, with a throw of not less

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than one inch, and shall be capable of being locked or unlocked by key from the outside and by turn-knob from the inside.

826.2. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent it being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

826.3. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

ARTICLE 10 CHAPTER 9 FIRE PROTECTION SYSTEMS.

(A) Delete Section 1000.3.

(B) Change Section 1002.6 to read as follows:

1002.6. Use Group I. Throughout all buildings with a Use Group I fire area:

Exception: Use Group I-2 child care facilities located at the level of exit discharge and which accommodate 100 children or less. Each child care room shall have an exit door directly to the exterior.

(C) Change Section 1002.8 to read as follows:

1002.8. Use Group R-1. Throughout all buildings of Use Group R-1:

Exception: Use Group R-1 buildings where all guestrooms are not more than three stories above the lowest level of exit discharge of the exits serving the guestroom. Each guestroom shall have at least one door opening directly to an exterior exit access which leads directly to the exits.

(D) (A) Change Section 1002.9 904.9 *Exceptions* to read as follows:

The following exceptions may be applied only when adequate municipal water supply is not available at the proposed building site.

1002.9. Use Group R-2. Throughout all buildings of Use Group R-2:

Exceptions.

1. Use Group R-2 buildings where all dwelling units are not more than one story above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit *Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 12 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.*

2. Use Group R-2 buildings *Buildings* where all dwelling units or bedrooms are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedrooms of a dormitory or boarding house and every two dwelling units or bedrooms of a dormitory or boarding house are separated from other dwelling units or bedrooms of a dormitory or boarding house in the building by fire separation assemblies (see Sections 900.0 and 913.0 709.0 and 713.0) having a fire resistance rating of not less than two hours.

(E) (B) Add new Section ~~1002.12~~ 904.12 to read as follows:

~~1002.12~~ 904.12 . Use Group B, when more than 50 feet in height. Fire suppression systems shall be installed in buildings and structures of Use Group B, when more than 50 feet in height and less than 75 feet in height according to the following conditions:

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or structure to the floor of the highest occupiable story of the building or structure.

2. Adequate public water supply is available to meet the needs of the suppression system.

3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 502.3, 503.1, 905.2.2, 905.3.1, 921.7.2, 921.7.2.2, 922.8.1 503.3, 504.2, 506.3, 705.2.3, 705.3.1, 720.7.1, 720.7.2, 803.4.3 , and any others not specifically listed shall be granted.

4. The requirements of Section 602.0 403.0 for high-rise buildings, such as, but not limited to voice alarm systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(F) Change Sections 1004.1 through 1004.2.2 to read as follows:

1004.1. General. Automatic sprinkler systems shall be approved and shall be designed and installed in accordance with the provisions of this code.

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1004.2. Equipped throughout. Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system, the system shall be designed and installed in accordance with Section 1004.2.1, 1004.2.2 or 1004.2.3.

Exception: Where the use of water as an extinguishing agent is not compatible with the fire hazard (see Section 1003.2) or is prohibited by a law, statute or ordinance, the affected area shall be equipped with an approved automatic fire suppression system utilizing a suppression agent that is compatible with the fire hazard.

1004.2.1. NFPA 13 systems. The systems shall be designed and installed in accordance with NFPA 13 listed in Appendix A.

Exception: In Use Group R fire areas, sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area and are located within individual dwelling units or guestrooms.

1004.2.1.1. Quick response sprinklers. NFPA 13 systems installed in Use Group I-2 fire areas shall use quick response sprinklers in patient sleeping rooms.

1004.2.2. NFPA 13R systems. In buildings four stories or less in height, systems designed and installed in accordance with NFPA 13R listed in Appendix A shall be permitted in Use Group I-1 fire areas in buildings with not more than 16 occupants, and in Use Group R fire areas.

Exception: Sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area and are located within individual dwelling units or guestrooms.

(G) Add new Section 1004.2.3 to read as follows:

1004.2.3. NFPA 13D systems. In Use Group I-1 fire areas in buildings with not more than eight occupants, systems designed and installed in accordance with NFPA 13D listed in Appendix A shall be permitted.

Exceptions:

1. Sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area.

2. A single fire protection water supply shall be permitted to serve not more than eight dwelling units.

(C) Change Section 917.4.6 to read as follows:

917.4.6. Use Group R-2. A fire protective signaling system shall be installed and maintained in all buildings of Use Group R-2 where any dwelling unit or bedroom is located three or more stories above the lowest level of exit discharge or more than one story below the highest level of exit discharge of exits serving the dwelling unit or

bedroom.

(H) (D) Add new Section 1018.3.5 917.8.3 to read as follows:

1018.3.5 917.8.3. Smoke detectors for the deaf and hearing impaired. Smoke detectors for the deaf and hearing impaired shall be provided as required by § 36-99.5 of the Code of Virginia.

CHAPTER 10. MEANS OF EGRESS.

(A) Change Section 1017.4.1 Exception 6 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or S. These doors may be locked from the inside when all of the following conditions are met:

a. The building is occupied by employees only and all employees have ready access to the unlocking device.

b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.

c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(B) Add the new Section 1017.4.4.1.

1017.4.4.1. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

(C) Add new Section 1017.4.4.2.

1017.4.4.2. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

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CHAPTER 11. ACCESSIBILITY.

Entire Chapter 11 is deleted and replaced with the following new Chapter 11.

1101.1. *General.* This chapter establishes requirements for accessibility by individuals with disabilities to be applied during the design, construction and alteration of buildings and structures.

1101.2. *Where required.* The provisions of this chapter shall apply to all buildings and structures, including their exterior sites and facilities.

Exceptions:

1. Buildings of Use Group R-3 and accessory structures and their associated site and facilities.
2. Buildings and structures classified as Use Group U.
3. Those buildings or structures or portions thereof which are expressly exempted in the standards incorporated by reference in this section.
4. Those buildings or structures or portions thereof which are used exclusively for either private club or religious worship activities.

1101.2.1. *Identification of parking spaces.* All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

512.3. *Referenced standards.* The following standards or parts thereof are hereby incorporated by reference for use in determining compliance with this section:

1. Title 24 Code of Federal Regulations, Chapter 1 - Fair Housing Accessibility Guidelines, Sections 2 through 5, 56 F.R. 9499-9515 (March 6, 1991).
2. Title 24 Code of Federal Regulations, Part 36 - Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Subpart A - General, § 36.104 Definitions and Subpart D - New Construction and Alterations, 56 F.R. 35593-35594 and 35599-35602 (July 26, 1991).

CHAPTER 12. INTERIOR ENVIRONMENT.

(A) Add new Section 1208.5 as follows:

1208.5. *Insect screens.* Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed,

manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(B) Add new Section 1216.0 as follows:

SECTION 1216.0. HEATING FACILITIES.

1216.1. *Residential buildings.* Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

1216.2. *Other structures.* Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupant thereof; and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its own heat, shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C), during all working hours in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

CHAPTER 16. STRUCTURAL LOADS.

(A) Revise Section 1612.1 by adding Exception #5 to read:

5. Building assigned to seismic performance category B, according to Section 1612.1.7 and are to seismic hazard exposure group I according to Section 1612.1.5, which comply with all of the following, need only comply with Section 1612.3.6.1.

- a. The height of the building does not exceed four

stories.

b. The height of the building does not exceed 40 feet.

c. AvS is less than 0.10 and the soil profile type has been verified.

d. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(B) Revise Section 1612.3.5.2 by adding an exception to read:

Exception: Regular or irregular buildings assigned to Category B which are seismic hazard exposure group I are not required to be analyzed for seismic forces for the building as a whole, providing all of the following apply:

1. The height of the building does not exceed four stories.

2. The height of the building does not exceed 40 feet.

3. AvS is less than 0.10 and the soil profile type has been verified.

4. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(C) Revise Section 1612.3.6.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for the building as a whole by Section 1612.3.5.2 need only comply with Section 1612.3.6.1.

ARTICLE 12. FOUNDATION SYSTEMS.

(A) Add new provision to Section 1205.0, Depth of Footings:

1205.4. Small storage sheds. The building official may accept utility sheds without footings when they are used for storage purposes and do not exceed 150 square feet in gross floor area when erected or mounted on adequate supports.

ARTICLE 13 CHAPTER 17. MATERIALS AND TESTS STRUCTURAL TESTS AND INSPECTIONS .

(A) Add new Section 1300.4 1701.4 to read as follows:

1300.4 1701.4 . Lead based paint. Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling,

dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section ~~1308.1~~ 1705.1 to read as follows:

~~1308.1~~ 1705.1 . General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

Exception: Special inspections are not required for buildings or structures unless the design involves the practice of professional engineering or architecture as required by §§ 54.1-401, 54.1-402 and 54.1-406 of the Code of Virginia.

(C) Delete Section ~~1308.8~~ 1705.12 , Special cases.

ARTICLE 17. WOOD.

(A) Change Section 1702.4.1 to read as follows:

1702.4.1. General. Where permitted for use as a structural element, fire-retardant treated wood shall be defined as any wood product which, when impregnated with chemicals by a pressure process in accordance with AWWA C20 or AWWA C27 listed in Appendix A or other means during manufacture, shall have, when tested in accordance with ASTM E84 listed in Appendix A, a flame spread rating not greater than 25 when the test is continued for a period of 30 minutes, without evidence of significant progressive combustion and the flame front shall not progress more than 10.5 feet (3200 mm) beyond the centerline of the burner at any time during the test. Fire-retardant treated wood shall be dried to a moisture content of 19% or less for lumber and 15% or less for plywood before use.

(B) Add new Sections 1702.4.1.1 and 1702.4.1.2 as follows:

1702.4.1.1. Strength modifications. Design values for untreated lumber, as specified in Section 1701.1, shall be adjusted when the lumber is pressure impregnated with fire-retardant chemicals. Adjustments to the design values shall be based upon an approved method of investigation which takes into consideration the effects of the anticipated temperature and humidity to which the fire-retardant treated wood will be subjected, the type of treatment, and the redrying procedures.

1702.4.1.2. Labeling. Fire-retardant treated lumber and plywood shall bear the label of an approved agency in accordance with Section 1307.3.2. Such label shall contain the information required by Section 1307.3.3.

ARTICLE 21. EXTERIOR WALLS.

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(A) Delete Section 2101.6.9 Alterations and repairs, but do not renumber remaining sections:

ARTICLE 25. MECHANICAL EQUIPMENT AND SYSTEMS.

(A) Change Section 2500.2 to read as follows:

2500.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Appendix A, as amended below:

1. Delete Article 17, Air Quality;
2. Add Note to M-2000.2 to read as follows:

Note: Boilers and pressure vessels constructed under this article shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

ARTICLE 27. ELECTRIC WIRING AND EQUIPMENT.

(A) Add Section 2700.5 to read as follows:

2700.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

CHAPTER 21. MASONRY.

Revise Section 2104.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for a building as a whole by Section 1612.3.5.2 are permitted to be designed in accordance with the requirements of either Section 2101.1.1 or 2101.1.2.

CHAPTER 27 ELECTRIC WIRING, EQUIPMENT AND SYSTEMS.

Add Section 2701.5 to read as follows:

2701.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

CHAPTER 28. MECHANICAL SYSTEMS.

(A) Change Section 2801.2 to read as follows:

2801.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Chapter 35, as amended below:

1. Delete chapter 17, Air Quality.
2. Add note to M-601.1 to read as follows:

Note: Boilers and pressure vessels constructed under this Chapter shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

ARTICLE 28 CHAPTER 29 . PLUMBING SYSTEMS.

(A) Change Section ~~2800.1~~ 2901.1 to read as follows:

~~2800.1~~ 2901.1 . Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings shall comply with the requirements of this article chapter and the plumbing code listed in Appendix A Chapter 35 (BOCA National Plumbing Code/ 1990 1993) as amended below:

1. Change Section ~~P-303.1~~ P-304.1 to read as follows:

~~P-303.1~~ P-304.1 . General. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to public water main and sewer respectively, if available. Where a public water main is not available, an individual water supply shall be provided. Where a public sewer is not available, a private sewage disposal system shall be provided conforming to the regulations of the Virginia Department of Health.

2. Change Section ~~P-303.2~~ P-304.3 to read as follows:

~~P-303.2~~ P-304.3 . Public systems available. A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if such premises are within (number of feet and inches as determined by the local government) measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in the USBC may be made thereto.

3. Change Section ~~P-308.3~~ P-309.4 to read as follows:

~~P-308.3~~ P-309.4 . Freezing. Water service piping and sewers shall be installed below recorded frost penetration but not less than (number of feet and inches to be determined by the local government) below grade for water piping and (number of feet and inches to be determined by the local government) below grade for sewers. In climates with freezing temperatures, plumbing piping in exterior building

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walls or areas subjected to freezing temperatures shall be adequately protected against freezing by insulation or heat or both.

4. Delete Section ~~P-311.0~~ *P-312.0* , Toilet Facilities for Workers.

5. Add new Section ~~P-604.2.1~~ *P-606.2.3* to read as follows:

~~P-604.2.1~~ *P-606.2.3* . Alarms. Malfunction alarms shall be provided for sewage pumps or sewage ejectors rated at 20 gallons per minute or less when used in Use Group R-3 buildings.

6. Add the following exception to Section ~~P-1001.1~~:

4. A grease intercepter listed for use as a fixture trap may serve a single fixture or a combination sink of not more than three compartments when the vertical distance of the fixture drain to the inlet of the grease intercepter does not exceed 30 inches and the horizontal distance does not exceed 60 inches.

7. Change Note d of Table ~~P-1202.1~~ to read:

Note d: For attached one and two family dwellings one automatic clothes washer connection shall be required per 20 dwelling units. Automatic clothes washer connections are not required for Use Group R-4.

8. Revise Table ~~P-1202.1~~ for Building Use Groups A-1, A-3, A-4 and A-5.

Building Use Group P1210.2)	Water Closets (Urinals see Section	
	Males	Females
A-1 Assembly, theaters 65	1 per 125	1 per
A-2 Assembly, nightclubs 40	1 per 40	1 per
A-3 Assembly, restaurants 75	1 per 75	1 per
A-3 Assembly, halls, museums, etc. 65	1 per 125	1 per
A-4 Assembly, churches(b) 75	1 per 150	1 per
A-5 Assembly, stadiums, pools, etc. 50	1 per 100	1 per

9. Add Note e to Table ~~P-1202.1~~ to reference Use

Group I-2 day nurseries to read as follows:

Note e: Day nurseries shall only be required to provide one bathtub or shower regardless of the number of occupants.

~~10 6~~ . Delete Section ~~P-1203.0~~ *P-1205.0* , Handicap Accessible Plumbing Facilities ; but do not renumber the remaining sections in the article .

~~11 7~~ . Add new Section ~~P-1501.3~~ *P-1503.3* :

~~P-1501.3~~ *P-1503.3* . Public water supply and treatment. The approval, installation and inspection of raw water collection and transmission facilities, treatment facilities and all public water supply transmission mains shall be governed by the Virginia Waterworks Regulations. The internal plumbing of buildings and structures, up to the point of connection to the water meter shall be governed by this code. Where no meter is installed, the point of demarcation shall be at the point of connection to the public water main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building.

Note: See Memorandum of Agreement between the Board of Housing and Community Development and the Virginia Department of Health, signed July 21, 1980.

12. Add the following exception to ~~P-1503.8~~:

Exception: Pursuant to § 36-00-10 of the Code of Virginia, based upon the lack of present or future water supply, local government may elect to apply the provisions of Section ~~P-1503.0~~ to all or a portion of their locality.

13. Add new Section ~~P-1503.0~~ to read as follows:

~~P-1503.0~~: Maximum flow and water consumption: The maximum water consumption flow rates and quantities for all plumbing fixtures and fixture fittings shall be in accordance with Table ~~P-1503.0~~. Water consumption for water closets listed in the exceptions below shall use a maximum of four gallons per flushing cycle. Water consumption for urinals listed in the exceptions below shall use a maximum of 1-1/2 gallons per flush.

Exceptions:

1. Blowout design fixtures.
2. Penalware.
3. Clinical sinks.
4. Service sinks.
5. Emergency showers.

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6. Water closets provided for public use in buildings of Use Groups A-1, A-2, A-3, and A-5.

7. Water closets provided for patients and residents in buildings of Use Group I-2.

8. Water closets provided for inmates and residents in buildings of Use Group I-3.

Table P-1503.0.

Maximum Flow Rates and Consumption for Plumbing Fixtures and Fixture Fittings.

PLUMBING FIXTURE OR FIXTURE FITTING	MAXIMUM FLOW RATE OR QUANTITY
Water closet	1.6 gallon per flushing cycle
Urinal	1.0 gallon per flushing cycle
Shower head	2.5 gallon per minute at 60 psi
Lavatory nonpublic	2.2 gallon per minute at 60 psi
Lavatory public	0.5 gallon per minute at 60 psi
Lavatory public self-closing	metering 0.25 gallon per metering cycle
Sink faucet	2.2 gallon per minute at 60 psi

14 8 . Add Note to P-1506.3 P-1508.4 to read as follows:

Note: Water heaters which have a heat input of greater than 200,000 BTU per hour, a water temperature of over 210°F, or contain a capacity of more than 120 gallons shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

15 9 . Delete Article Chapter 16, Individual Water Supply.

(B) Change Section 2804.3 2905.3 to read as follows:

2804.3 2905.3 . Private water supply. When public water mains are not used or available, a private source of water supply may be used. The Health Department shall approve the location, design and water quality of the source prior to the issuance of the permit. The building official shall approve all plumbing, pumping and electrical equipment associated with the use of a private source of water.

(C) Change Section 2807.1 2906.1 to read as follows:

2807.1 2906.1 . Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as

approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

ARTICLE 29 CHAPTER 31 . SIGNS SPECIAL CONSTRUCTION .

(A) Delete Section 2901.1, Owner's consent.

(B) (A) Delete Section 2901.2 3102.4.1 , New signs.

(C) Delete Section 2906.0, Bonds and Liability Insurance.

(B) Delete Section 3102.4.4, Construction Documents and Owner's Consent.

ARTICLE 30 CHAPTER 33 . PRECAUTIONS DURING BUILDING OPERATIONS SITEWORK, DEMOLITION AND CONSTRUCTION

(A) Change Section 3000.1 3301.1 to read as follows:

3000.1 3301.1 . Scope. The provisions of this article shall apply to all construction operations in connection with the erection, alteration, repair, removal or demolition of buildings and structures. It is applicable only to the protection of the general public. Occupational health and safety protection of building-related workers are regulated by the Virginia Occupational Safety and Health Standards for the Construction Industry, which are issued by the Virginia Department of Labor and Industry.

APPENDIX A CHAPTER 35 . REFERENCED STANDARDS.

(A) Add the following standards standard :

NCSBCS/ANSI A225.1-87

Manufactured Home Installations (referenced in Section 620.4 420.4).

NFPA 13D-89

Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes (referenced in Section 1004.2.3)

NFPA 30A-87

Automotive and Marine Service Station Code (referenced in Section 610.1).

NFIPA 31-87

Installation of Oil Burning Equipment (referenced in Section 610.1)

NFIPA 407-90

Aircraft Fuel Servicing (referenced in Section 610.1)

ADDENDUM 2.
AMENDMENTS TO THE CABO ONE AND TWO
FAMILY DWELLING CODE/ ~~1989~~ 1992 EDITION
AND ~~1990~~ 1993 AMENDMENTS.

As provided in Section 101.4 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the CABO One and Two Family Dwelling Code/ ~~1989~~ 1992 Edition and ~~1990~~ 1993 Amendments for use as part of the USBC.

PART I.
ADMINISTRATIVE.

Chapter 1.
Administrative.

(A) Any requirements of Sections R-101 through R-113 R-117 that relate to administration and enforcement of the CABO One and Two Family Dwelling Code are superseded by Article Chapter 1, Adoption, Administration and Enforcement of the USBC.

PART II.
BUILDING PLANNING.

Chapter 2.
Building Planning.

(A) Change Section R-203.5 to read as follows:

R-203.5. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

(A) (B) Add Section R-~~203.5~~ R-203.6 , Insect Screens:

R-~~203.5~~ R-203.6 . Insect Screens. Every door and window

or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(B) (C) Change Section R-206 to read as follows:

SECTION R-206.
SANITATION.

Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower.

Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material.

All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water, except water closets may be provided with cold water only.

Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of the building.

(C) (D) Add to Section R-211:

Key operation is permitted from a dwelling unit provided the key cannot be removed when the door is locked from the side from which egress is to be made.

(D) Change Section R-214.2 to read as follows:

~~R-214.2. Guardrails. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than 36 inches in height.~~

Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which will not allow passage of an object six inches or more in diameter.

(E) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below

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the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other detectors to provide, when activated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

(F) Add new Section R-220 R-223 :

SECTION R-220 R-223 . TELEPHONE OUTLETS.

Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. The telephone wiring shall terminate on the exterior of the building at a point prescribed by the telephone company.

(G) Add new Section R-221 R-224 :

SECTION R-221 R-224 . LEAD BASED PAINT.

Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

PART III. CONSTRUCTION.

Chapter 3. Foundations.

(A) Add Section R-301.6 to read as follows:

R-301.6. Floodproofing. All buildings or structures located in areas prone to flooding as determined by the governing body having jurisdiction shall be floodproofed in accordance with the provisions of Section 2101-6 3107.0 of the 1990 1993 BOCA National Building Code.

Chapter 9. Chimneys and Fireplaces.

(A) Add Section R-903.10 as follows:

R-903.10. Spark arrester. Spark arrester screens shown in Figure R-904 are optional unless specifically required by the manufacturer of the fireplace stove or other appliance utilizing a chimney.

PART IV. MECHANICAL.

(A) Add new Section M-1101.1:

M-1101.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C); in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

PART V. PLUMBING.

Chapter 22.

Plumbing, Drainage, Waste and Vent Systems (DWV).

(A) Change Section P-2206.8.2 to read as follows:

P-2206.8.2. Sewage ejectors or sewage pumps. A sewage ejector, sewage pump or grinder pump receiving discharge from a water closet shall have a minimum discharge velocity of 1.9 feet per second throughout the discharge piping to the point of connection with a gravity building drain, gravity sewer or pressure sewer system. A nongrinding pump or ejector shall be capable of passing a 1 1/2-inch diameter solid ball, and the discharge piping shall have a minimum diameter of two inches. The discharge piping of grinder pumps shall have a minimum diameter of 1 1/4 inches. All pumps shall be protected from backflow by a backwater or check valve. Malfunction alarms shall be provided on sewage pumps or sewage ejectors rated at 20 gallons per minute or less.

(B) Change Section P-2301 - Fixtures, fittings and appurtenances to read as follows:

P-2301.1. General. Plumbing fixtures, fittings, and appurtenances shall conform to the standards specified in Table No. P-2301 and shall be provided with an adequate supply of potable water to flush and keep the fixtures in a clean and sanitary condition without danger of backflow or cross-connection.

Exception: Pursuant to § 36-09.10 of the Code of Virginia, based upon the lack of present or future water supply, local government may elect to apply the provisions of Section P-2301.2 to all or a portion of their locality:

P-2301.2. Maximum flow and water consumption. The maximum water consumption flow rates and quantities for all plumbing fixtures and fixture fittings shall comply with the following criteria:

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1. Shower heads shall be of the water conserving type, which deliver a maximum flow rate of 2.5 gpm at 80 psi.

2. Faucets on lavatories shall be of the water conserving type, which deliver a maximum flow rate of 2.2 gpm at 60 psi.

3. Water closets shall be of the 1.6 gpf type and shall be provided with a flush tank or similar device designed and installed to supply water in sufficient quantity and flow to flush the contents of the fixture and refill the fixture trap.

4. Sink faucets shall be of the water conserving type, which deliver a minimum flow rate of 2.2 gpm at 60 psi.

PART VI. ELECTRICAL.

(A) Revise Part VI as follows:

The electrical installations shall conform to the Electrical Code for One and Two Family Dwellings (NFPA 70A-1990) published by the National Fire Protection Association.

PART VII. ENERGY CONSERVATION.

(A) Revise Part VII as follows:

The energy conservation requirements shall conform to Article 31 Chapter 13 of the BOCA National Building Code/ 1990 1993 .

V.A.R. Doc. No. R93-776; Filed August 18, 1993, 12:02 p.m.

* * * * *

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/ 1990 1993 .

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Public Hearing Date: October 12, 1993 - 10 a.m.

Written comments may be submitted until November 8, 1993.

(See Calendar of Events section for additional information)

Basis: Sections 36-98 and 36-103 of the Code of Virginia provide, as part of the Building Code, the Board of Housing and Community Development may promulgate minimum regulations for existing buildings.

Purpose: The purpose of the amendments to the regulation is to reference the 1993 Edition of the BOCA National Property Maintenance Code as the standard for the

maintenance of buildings and structures in the Commonwealth of Virginia.

Substance: The reference model code has been amended through a consensus process involving nationally recognized organizations including code officials, apartment owners, building user associations, design professionals and the building construction industry. The objective of the process is to implement the latest methods and technology for building safety, energy conservation, and accessibility for the disabled.

Issues: The proposed amendments will implement an edition of the model code that allows for the maintenance of environmental requirements, means of egress and fire protection. This edition of the model code will eliminate most amendments that are included in the Building Maintenance Code. The proposed amendment will establish qualification and certification requirements for local code officials and technical assistants.

Estimated Impact: The proposed amendments will simplify and streamline the building maintenance regulation for easier use by building owners and local code officials. Approximately 500 building department personnel of 54 local governments will attend training on the updated regulation. The cost of training will be borne by a fee schedule already in place. The agency intends to combine this regulation with one other under one cover for easier use and less cost for publishing. No requirements in these amendments are more restrictive than existing and will not impose additional cost to the public. Local code enforcement personnel will be allowed to remain in place without certification.

Summary:

The proposed amendments will update the existing regulation to reflect the requirements of the 1993 Edition of the National Model Building Maintenance Codes and Standards.

VR 394-01-22. Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1993.

Article Chapter 1.

Adoption, Administration and Enforcement .

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1990 1993 edition of the Virginia Uniform Statewide Building Code (USBC). Except as otherwise indicated, Building Maintenance Code or code, shall mean Volume II - Building Maintenance Code of the 1990 1993 edition of the USBC.

Note: See Volume I - New Construction Code of the USBC for regulations applicable to new construction.

100.2. Authority: The Building Maintenance Code is adopted

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according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Adoption: The Building Maintenance Code was adopted by order of the Board of Housing and Community Development on November 19, 1990 ~~15, 1993~~. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The Building Maintenance Code shall become effective on March 1, ~~1991~~ 1994.

100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that have been or may be enacted or adopted, except as modified by Section 100.6, below.

Note: This will not prevent adoption in accordance with Chapter 1, Title 15.1 of the Code of Virginia or other special or general legislation, or requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.6. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the USBC shall be maintained in compliance with the Building Maintenance Code. No provisions of the Building Maintenance Code shall require alterations to buildings or equipment unless an unsafe or unhealthy condition exists.

100.6.1. Hotels and motels: Pre-USBC hotels and motels shall also comply with applicable provisions of Section 109.0.

100.6.2. Nursing homes and Homes for Adults: Pre-USBC nursing homes licensed by the Virginia Department of Health, and pre-USBC Homes for Adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of section 109.0.

100.7. Application to post-USBC buildings: Buildings or portions thereof that were subject to the USBC when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

100.7.1. Hotels and motels: Post-USBC hotels and motels

shall also comply with applicable provisions of section 109.0.

100.7.2. Nursing homes and Homes for Adults: Post-USBC nursing homes licensed by the Virginia Department of Health, and post-USBC Homes for Adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of section 109.0.

100.8. Exemptions for certain equipment: The provisions of the Buildings Maintenance Code shall not apply to equipment installed by a provider of publicly regulated utility services, or to electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

Exception: Buildings or service equipment associated with the exempt equipment.

100.9. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code.

Exception: Farm structures lying within a flood plain or in a mudslide prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable.

100.10. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

SECTION 101.0. REQUIREMENTS.

101.1. Adoption of model code: The following model code, as amended by §§ 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code.

THE BOCA NATIONAL PROPERTY MAINTENANCE CODE/ 1990 1993 EDITION

Published by:

Building Officials and Code Administrators International, Inc.
4051 West Flossmoor Road
County Club Hills, Illinois 60478-5795

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Building Maintenance Code.

101.3. Other amendments to the referenced model code: The amendments noted in Addendum I shall be made to the specified articles chapters and sections of the BOCA National Property Maintenance Code/ 1990 1993 edition for use as part of this Code.

101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. In the application of the model code to other buildings, no requirement of the current edition of Volume I, New Construction Code of the USBC shall be exceeded.

SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to a local agency or agencies of its choice. The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. The terms "building official" or "building department" apply only to the local building official or building department.

102.2. Right of inspection: The local governing body may inspect existing buildings to enforce the Building Maintenance Code, as authorized by § 36-105 of the Code of Virginia.

102.3. Interagency coordination: When enforcement of any portion of the Building Maintenance Code is assigned to an agency other than the building department, that agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of Volume I of the USBC.

102.4. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official.

102.4.1. Appointment: The code official shall be appointed in a manner selected by the local government having jurisdiction. The local government shall notify the Training and Certification Office within 30 days of the appointment or release of the code official. The code official shall complete an orientation course approved by the Department of Housing and Community Development within 90 days of appointment.

102.4.2. Qualifications: The code official shall have at least five years of experience as a licensed professional engineer, building inspector, fire inspector, housing

inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The code official shall have general knowledge with respect to the design and construction of buildings, the basic principles of fire prevention, plumbing, electrical and mechanical systems, building safety, and other accepted requirements for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.4.3. Certification: The code official shall be certified in accordance with Part VII of the Virginia Certification Standards within three years from the date of employment.

Exception: An individual employed as the code official in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the code official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

102.5. Qualifications of local enforcing agency personnel: The local government shall establish qualifications for the code official and technical assistants adequate to ensure proper administration and enforcement of the Building Maintenance Code.

(Note: It is recommended that the code official have at least five years of building maintenance related experience. Consideration should be given to the use of certification programs offered by the Department of Housing and Community Development.)

102.5. Qualifications of technical assistants: A technical assistant shall have at least three years in general building construction, building, fire or housing inspections, and general knowledge of plumbing, electrical and mechanical systems. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.5.1. Certification of technical assistants: Any person employed by, or under contract to, a local enforcing agency for determining compliance with the Building Maintenance Code shall be certified in accordance with the Virginia Certification Standards within three years from the date of employment.

Exception: An individual employed as the technical assistant in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

102.6. Relief from personal responsibility: The local

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enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The code official or the code official's subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by such officer or employee in the discharge of official duties and under the provisions of the Building Maintenance Code may be defended by the enforcing agency's legal representative.

102.7. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the Virginia Comprehensive Conflict of Interest Act.

~~102.8. Assistance by state: Upon notification of appointment of a code official, the Professional Services Office shall advise the official of all services offered and will keep the official continually informed of developments affecting the code and its interpretation and administration.~~

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

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

Note: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

103.2. Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this code for the health, safety and general welfare of the public.

103.3. Delegation of duties and powers: The code official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the code.

103.4. Modifications: The code official may grant modifications to any of the provisions of this code upon application by the owner or the owner's agent provided the spirit and intent of the Building Maintenance Code are observed and public health, welfare, and safety are

assured. A copy of the application for a modification and a copy of the final decision of the code official shall be kept in the permanent records of the enforcing agency.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, converted, or repaired before the effective date of the initial edition of the USBC, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the official may order the minimum changes needed to remedy the hazardous condition.

Note: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty design or equipment, that constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the USBC. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to section 103.2 of the administrative provisions of the Volume I of the USBC, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (a) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (b) after three years in the case of all other buildings.

SECTION 104.0. VIOLATIONS.

104.1. Code violations prohibited: Buildings and equipment in violation of the provisions of this code shall not be used except as approved by the code official.

104.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this code. Such order shall reference the code section that serves as a basis for the violation and specify a time limit for the discontinuance or abatement of the violation. Such notice of violation shall be in writing, and be served by either delivering a copy of the notice to such person by mail to the last known post office address, ~~delivered~~ *delivering* in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

104.3. Prosecution of violation: If the notice of violation is not complied with, the code official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation; or to require the removal or termination of the use of the building in violation of the provisions of this code.

104.4. Violation penalties: Violations of this code are a misdemeanor in accordance with § 36-106 of the Code of Virginia, and upon conviction, may be punished by a fine of not more than \$2,500.

104.5. Abatement of violation: Conviction of a violation of this code shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of this code relating to maintenance and use of the building or premises.

104.6. Suspension or revocation of certificate of occupancy: The code official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.

SECTION 105.0. UNSAFE BUILDINGS.

105.1. General: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a hazard or public nuisance, or are otherwise dangerous to human life, health or safety, or the public welfare. All such buildings or other structures declared by the code official to be a public nuisance or unfit for human habitation shall either be: made safe through compliance with this code, or be vacated and secured against public entry, or taken down and removed as determined by the code official. A vacant building, unsecured or open at door or window, may be deemed a fire hazard and unsafe within the meaning of this section.

105.2. Inspection of unsafe buildings: The code official shall examine any building reported as unsafe, and shall prepare a report to be filed in the records of the enforcing agency. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

105.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, the owner's agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay acceptance or rejection of

the terms of the notice.

Note: Whenever possible, the notice of unsafe building should also be given to the tenants of the unsafe building.

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

105.5. Disregard of notice: If the person served with a notice of unsafe building refuses or neglects to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the code official may cause the building to be closed through any available means.

105.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life; or when a building or other structure is declared a public nuisance, or unfit for human habitation, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections.

105.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or any part of a building which would endanger life, or when a violation of this code results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

105.8. Abatement or removal: Whenever the owner of a building or structure that has been deemed to be a public nuisance pursuant to § 105.1 fails to comply with the requirements of the notice to abate, the code official may cause the building to be razed or removed.

Note: A local governing body may, after official action

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pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county, city or town may abate, raze, or remove such public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

SECTION 106.0. APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

106.1. *Procedures: Appeals from the application of the Building Maintenance Code may be made by the owner of a building or structure to the local board of building code appeals (BBCA) of the jurisdiction established under Volume I of the USBC, including the right of appeal to the State Building Code Technical Review Board after final determination by the BBCA. Those procedures established in Volume I shall be used.*

Grounds for appeal: The owner of a building or the owner's agent may appeal from a decision of the code official to the local Building Code Board of Appeals established under Volume I of the USBC within 21 calendar days after the notice is served when it is claimed that:

1. The code official has refused to grant a modification of the provisions of the code;
2. The true intent of this code has been incorrectly interpreted; jurisdiction and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.
3. The provisions of this code do not fully apply;
4. The use of a form of compliance that is equal to or better than that specified in this code has been denied.

106.2. **Form of application:** Applications for appeals shall be submitted in writing to the Local Building Code board of Appeals.

106.3. **Notice of meeting:** The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

106.4. **Hearing open to public:** All hearings shall be public in accordance with the Virginia Freedom of Information Act. The appellant, the appellant's representative, the code official of the jurisdiction and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.

106.5. **Postponement of hearing:** A quorum shall be more than 50% of the board. When a quorum of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the building official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 14 calendar days. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official.

106.6. **Form of decision, notification:** Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant, to the building official, and to the code official.

106.7. **Enforcement of decision:** The code official shall take immediate action in accordance with the decision of the board.

SECTION 107.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

107.1. **Appeal to the State Building Code Technical Review Board:** Any person aggrieved by a decision of the local Board of Building Code Appeals, who was a party to the appeal, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 21 calendar days of receipt of the decision of the local appeals board by the aggrieved party.

107.2. **Enforcement of decision:** Upon receipt of the written decision of the State Building Code Technical Review Board, the code official shall take immediate action in accordance with the decision.

107.3. **Court review:** Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the circuit court of original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 of Chapter 1-1 of Title 9 of the Code of Virginia.

SECTION 108.0 107.0 . DEMOLITION OF BUILDINGS.

108.1 *107.1* . **Procedures for demolition:** Whenever a building is to be demolished pursuant to any provision of this code, the work shall be carried out in compliance with the requirements of Volume I of the USBC.

SECTION 109.0 108.0 . SPECIAL PROVISIONS.

109.1 *108.1* . **General:** The provisions of this section contain requirements for improving the safety of certain buildings by requiring the installation of materials or equipment not originally required. Unless otherwise noted, these provisions shall apply equally to both pre- and post-USBC buildings.

109.2 *108.2* . **Hotels and motels:** Existing hotels and motels

shall comply with the provisions of this section.

109.2.1 108.2.1 . Fire sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment (effective date March 1, 1990), for Use Group R-1, shall be installed throughout existing hotels and motels by either March 1, 1997, or within seven years of the date upon which an adequate water supply is made available to meet the needs of the suppression system, whichever is later.

Exceptions:

1. Hotels and motels that are equipped throughout with an automatic sprinkler system.
2. Hotels and motels which are three stories or less in height.

109.2.2. Single and multiple station smoke detectors: Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group R-1, shall be installed in existing hotels and motels by March 1, 1993.

Exception: Hotels and motels that are equipped throughout with single and multiple station smoke detectors.

109.3 108.3 . Nursing homes and nursing facilities: Existing nursing homes and nursing facilities licensed by the Virginia Department of Health shall comply with the provisions of this section.

109.3.1. Automatic sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment (effective date October 1, 1990), for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by January 1, 1993, as follows:

1. NFPA 13D Standard for one story buildings.
2. NFPA 13R Standard for buildings two or three stories in height.
3. NFPA 13 Standard for buildings four or more stories in height.

Exceptions:

1. Nursing homes and nursing facilities which are equipped throughout with an automatic sprinkler system.
2. Nursing facilities consisting of certified long-term care beds located on the ground floor of general hospitals.

109.3.1.1. Quick response sprinklers: Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to section 109.3.1.

109.3.1.2. Exceptions provided for: Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFPA 13 shall be permitted to use the exceptions provided in the USBC, Volume I, 1987 Edition, Third Amendment including, but not limited to, the following:

1. Section 502.3 (Area Increase)
2. Section 503.1 (Height Increase)
3. Section 610 (Use Group I-2 Areas)
4. Section 807 (Types and Location of Means of Egress)
5. Section 808 (Capacity of Egress Components)
6. Section 809 (Number of Exits)
7. Section 810 (Exit Access Passageways and Corridors)
8. Section 921 (Firestopping and Draftstopping)

109.3.2 108.3.1 . Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

Exception: Nursing homes and nursing facilities that are equipped throughout with an automatic fire protective signaling system.

109.3.3 108.3.2 . Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

109.3.3.1 108.3.2.1 . Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from section 109.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group I-2.

109.4 108.4 . Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

109.4.1 108.4.1 . Fire protective signaling system and fire detection system: A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with a fire protective signaling system and an automatic

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fire detection system.

~~109.4.2~~ *108.4.2* . Single and multiple station smoke detectors: Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with single and multiple station smoke detectors.

~~109.5.~~ *108.5.* Identification of handicapped parking spaces: All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with a bottom edge no lower than four feet nor higher than seven feet above the parking surface. Such signs shall be installed in accordance with applicable provisions of the current edition of Volume I of the USBC by January 1, 1993.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL PROPERTY MAINTENANCE CODE/ 1990 1993 EDITION.

As provided in Section 101.3 of Volume II - Building Maintenance Code of the 1990 1993 edition of the USBC, the amendments noted in this Addendum shall be made to the BOCA National Property Maintenance Code/ 1990 1993 edition for use as part of the Building Maintenance Code.

ARTICLE CHAPTER 1. ADMINISTRATION AND ENFORCEMENT.

(A) ~~Article Chapter 1~~, Administration and Enforcement, is deleted in its entirety and replaced with ~~Article Chapter 1~~ of the Building Maintenance Code.

ARTICLE CHAPTER 3. ENVIRONMENTAL REQUIREMENTS.

- (A) Delete Section ~~PM-301.1~~ *PM-303.1* .
- (B) Delete Section ~~PM-301.4~~ *PM-303.4* .
- (C) Delete Section ~~PM-301.5~~ *PM-303.5* .
- (D) Delete Section ~~PM-301.8~~ *PM-303.8* .

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-97(7) of the Code of Virginia.

(E) Change Section ~~PM-302.1~~ *PM-304.1* to read:

~~PM-302.1~~ *PM-304.1* . General: The exterior of all structures, occupied, vacant or otherwise, shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public

health, safety or welfare.

(F) Change Section ~~PM-302.12~~ *PM-304.12* to read:

~~PM-302.12~~ *PM-304.12* . Insect screens: During the period from April 1 to December 1 every door, window and other outside opening required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required for out-swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

(G) Change Section ~~PM-303.4~~ *PM-305.4* to read as follows:

~~PM-303.4~~ *PM-305.4* . Lead-based paint: Interior and exterior painted surfaces of dwellings, child and day care facilities, including fences and outbuildings, that contain in excess of 0.5% lead by weight shall be removed or covered in an approved manner.

(H) Delete Section ~~PM-306.2~~.

(I) Delete Section ~~PM-306.3~~.

ARTICLE CHAPTER 4. LIGHT, VENTILATION AND SPACE REQUIREMENTS OCCUPANCY LIMITATIONS .

(A) Change Section ~~PM-401.1~~ *PM-403.1* to read:

~~PM-401.1~~ *PM-403.1* . Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

(B) Delete Section ~~PM-403.10~~ *PM-405.10* .

ARTICLE CHAPTER 6.

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MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) Change Section ~~PM-601.1~~ *PM-602.2* to read:

~~PM-601.1~~ *PM-602.2* . Residential buildings: Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours. ~~The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.~~ When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in ~~Appendix A Chapter 8~~ , the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in a full open position.

(B) ~~Delete Sections PM-602.2.1 and PM-602.2.2.~~

(B) (C) Change Section ~~PM-601.2~~ *PM-602.3* to read:

~~PM-601.2~~ *PM-602.3* . Nonresidential structures: Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. ~~The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.~~

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(C) (D) Add new Section ~~PM-603.3~~ *PM-606.3* to read:

~~PM-603.3~~ *PM-606.3* . Inspection: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in ~~Appendix A Chapter 8~~ .

ARTICLE CHAPTER 7. FIRE SAFETY REQUIREMENTS.

(a) Add new section ~~PM-704.5.2~~ *PM-705.5.4* .

~~PM-704.5.2~~ *PM-705.5.4* . Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFPA 72G shall be provided in occupancies housing the hard of hearing as required by §

36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

ARTICLE 8:

(A) ~~Delete Section PM-801.2.~~

(B) ~~Delete Section PM-801.3.~~

ARTICLE 9:

(A) ~~Delete Article 9.~~

APPENDIX A CHAPTER 8. REFERENCED STANDARDS.

(A) Change Appendix A as follows:

1. (A) Delete standard reference number BOCA NBC 90 93 , BOCA National Building Code and substitute the Virginia Uniform Statewide Building Code, Volume I 1990 1993 edition.

2. (B) Delete standard reference number BOCA NFPC 90 93 , BOCA National Fire Prevention Code and substitute the Virginia Statewide Fire Prevention Code/ 1990 1993 Edition.

V.A.R. Doc. No. R93-771; Filed August 18, 1993, 11:59 a.m.

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Title of Regulation: VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1993.

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

Public Hearing Date: October 12, 1993 - 10 a.m.

Written Comments may be submitted through November 8, 1993.

(See Calendar of Events section for additional information)

Basis: Section 36-73 and 36-85.7 of the Code of Virginia requires the Board of Housing and Community Development from time to time to promulgate regulations as necessary to implement the Industrialized Building and Manufactured Home Standards.

Purpose: The purpose of the amendments to the regulation is to reference the 1993 Edition of the BOCA National Building Code as the standard for the construction of buildings and structures in the Commonwealth of Virginia.

Substance: The reference model code has been amended through a consensus process involving nationally recognized organizations including code officials, testing agencies, material and equipment suppliers and manufacturers,

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design professionals and the building construction industry. The objective of the process is to implement the latest methods and technology for building safety, energy conservation, and accessibility for the disabled.

Issues: The proposed amendments will implement an edition of the model code that allows for water conservation, accessibility, interior environmental requirements, means of egress and fire protection. This amendment will implement the same requirements for construction on industrialized buildings as are on-site built buildings.

Estimated Impact: The proposed amendments will simplify and streamline the building regulation for easier use by design professionals and local code officials. Approximately 1600 building department personnel of 160 local governments will attend training on the updated regulation. The cost of training will be borne by a fee schedule already in place. The agency intends to combine this regulation with two others under one cover for easier use and less cost for publishing. Any requirements in these amendments that are more restrictive are offset by construction type tradeoffs. Manufacturing personnel will be offered training on the regulation at the expense of the manufacturer.

Summary:

The proposed amendments will update the existing regulation to reflect the requirements of the 1993 edition of the National Model Building Maintenance Codes and Standards.

VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1993.

PART ONE. INDUSTRIALIZED BUILDINGS.

ARTICLE 1. ADMINISTRATION.

SECTION 100.0. GENERAL.

100.1. Title: Articles 1 through 6 of these regulations shall be known as the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part One. Except as otherwise indicated, regulations, or these regulations, as used in Articles 1 through 6, shall mean the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part One.

100.2. Authority: These regulations are adopted according to the authority granted the Board of Housing and Community Development by the Virginia Industrialized Building Safety Law, Chapter 4, Title 36 of the Code of Virginia.

100.3. Adoption: The Virginia Industrialized Building and Manufactured Home Safety Regulations were adopted by

order of the Board of Housing and Community Development on November 15, 1993. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Application: Part One shall apply to industrialized buildings, as defined in Section 200.0.

100.5. Effective date: The effective date of Part One of these regulations is March 1, 1994.

100.5.1. Compliance after effective date: No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building produced after the effective date of any provision of these regulations unless it conforms with such provision of the regulations.

100.6. Continued compliance: Industrialized buildings and mobile homes subject to any edition of these regulations when constructed shall be maintained in compliance with the applicable edition by the owners and/or occupants.

100.6.1. Relocated industrialized buildings and mobile homes: Industrialized buildings and mobile homes constructed prior to the effective date of the first edition of these standards (January 1, 1972) when relocated shall be subject to Section 119.0 of the Virginia Uniform Statewide Building Code, Volume I.

100.7. Purpose: The purpose of these regulations is to ensure safety to life, health, and property through compliance with uniform statewide construction standards for industrialized buildings.

SECTION 101.0. ENFORCEMENT GENERALLY.

101.1. General: These regulations shall be enforced as authorized by Chapter 4 of Title 36 of the Code of Virginia. (Note: See Addendum 3, "Virginia Industrialized Building Safety Law.")

101.2. Inspection and enforcement: The Code Enforcement and Manufactured Housing Office is designated as the administrator's representative for the enforcement of these regulations. It shall have authority to make such inspections and to take such other actions as are required to enforce the regulations.

Note: The Code Enforcement and Manufactured Housing Office shall act as the Building Official for registered industrialized buildings.

101.2.1. Factory inspections: The administrator's representative shall, during reasonable hours, make such inspections of factories producing industrialized buildings as may be necessary to determine whether the compliance assurance agency having jurisdiction is performing its evaluation and compliance assurance functions in a

satisfactory manner.

101.2.2. Field inspections: The administrator's representative may, during reasonable hours, make inspections to determine whether industrialized buildings, not at the time occupied as dwellings, are in compliance with these regulations. Such inspections may include but are not limited to: industrialized buildings on dealer lots, or industrialized buildings that are otherwise offered for sale to the public. Industrialized buildings that are occupied as dwellings may be inspected at the request of the owners or occupants.

101.2.3. Notice of violation: Where the administrator finds any violation of the provisions of these regulations, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.

101.2.4. Placarding units in violation: Wherever the administrator finds any violations of the regulations, placards may be required on the noncomplying unit. Such placards shall not be removed except upon permission of the administrator. The placard shall list the violations and may prohibit the use of any unit, until the necessary corrections have been made.

101.2.5. Referral to local building officials: If the nature of the violation is such that it may be remedied under Section 102.0 of these regulations, the administrator may refer the matter to the local building official for enforcement.

101.3. Appeals: ~~Local Appeals from local building officials, compliance assurance agencies or manufacturers of industrialized buildings may appeal concerning the department's application of these regulations. or notice of violation to will be heard by the State Building Code Technical Review Board (TRB) established by § 36-108 of the Code of Virginia. Such appeals shall be according to the procedures and time limits established in the Uniform Statewide Building Code, Volume I - New Construction, Section 117.0: upon application by the aggrieved party. The application shall be submitted to the Office of the Technical Review Board (TRB) within 21 calendar days of receipt of the decision by the department. A copy of the decision of the department to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the department's decision. Decision of TRB procedures of the TRB are in accordance with Article 2 (§ 36-107.1 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom.~~

101.3.1. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the administrator shall take immediate action in accordance with the decision.

101.3.2. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4, § 9-6.14:1 of Title 9 of the Code of Virginia.

101.4. Limitation of manufacturer's liability: The manufacturer of the building shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the registered industrialized building.

101.5. Penalty for violation: Any person, firm or corporation violating any provisions of these regulations shall be considered guilty of a Class 1 misdemeanor and, upon conviction, shall be fined not more than \$1,000 (§ 36-83 of the Code of Virginia).

SECTION 102.0. ENFORCEMENT IN LOCALITIES.

102.1. Responsibility of local building officials: Every local building official is authorized to and shall enforce the provisions of these regulations within the limits of his jurisdiction. He shall not permit the use of any industrialized building that does not comply with these regulations.

102.2. Registered industrialized buildings: Industrialized buildings that are registered shall be accepted in all localities as meeting the requirements of this law. Notwithstanding this provision, local building officials are authorized to carry out the following functions that apply to registered industrialized buildings provided such functions do not involve disassembly of the registered building or change of design, or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by these regulations.

1. They shall verify that it has not been damaged in transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems and gas piping and tests for shorts at the meter connection in the electrical system.
2. They shall verify that supplemental components required by the label or by these regulations are properly provided.
3. They shall verify that the instructions of the label for installation and erection are observed.
4. They shall verify that any special conditions or limitations of use that are stipulated by the label in accordance with the standards of Article 3 of these regulations are observed.
5. They may require submission and approval of plans and specifications for the supporting structures,

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foundations including anchorages, and all other components necessary to form the completed building. They may require such architectural and engineering services as may be specifically authorized by the standards of Article 3 of these regulations to assure that the supporting structures, foundations including anchorages, and other components necessary to form the completed building are designed in accordance with these regulations.

6. They shall enforce applicable requirements of these regulations and the USBC - Volume I for alterations and additions to the units or to the buildings. As an aid, they may require submission of plans and specifications of the model of the unit. Such plans and specifications may be furnished on approved microfilm.

7. They shall enforce the requirements of the Uniform Statewide Building Code applicable to utility connections, site preparation, fire limits, building permits, certificates of use and occupancy, and all other applicable requirements of the USBC, except those governing the design and construction of the registered building.

8. They shall verify that the building displays the required state registration seal and the proper label of the compliance assurance agency.

102.3. Unregistered industrialized buildings: The building official shall determine whether any unregistered industrialized building complies with these regulations and shall require any noncomplying unregistered building to be brought into compliance with these regulations. The building official shall enforce all applicable requirements of these regulations including those relating to the sale, rental and disposition of noncomplying buildings. The building official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. The government of any locality for which a building official has not been appointed may exercise the powers of enforcement for unregistered industrialized buildings that are granted to the local building official, except for inspection.

102.3.1. Unregistered industrialized buildings offered for sale: Unregistered industrialized buildings offered for sale by dealers in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with these regulations and must be inspected and approved by the local building official having jurisdiction. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door.

102.4. Disposition of noncomplying building: When a building is found to be in violation of these regulations,

the local building official may require the violations to be corrected before occupancy of the building is permitted and may require the building to be conspicuously placarded to indicate that it may not be used in this Commonwealth until the corrections have been made. If the building is moved to another locality before the violations are corrected, such placard shall not be removed except upon permission of the building official in the new locality. If such locality has no building official, permission shall be obtained from the department before the placard is removed.

102.5. Report to the Code Enforcement and Manufacturing Housing Office: If the building is moved from the jurisdiction before the violations have been corrected, the local building official shall make a prompt report of the circumstances to the Code Enforcement and Manufacturing Housing Office. The report shall include the following:

1. A list of the uncorrected violations.
2. All information contained on the label pertinent to the identification of the building, the manufacturer and the compliance assurance agency.
3. The number of the Virginia registration seal.
4. The new destination of the building, if known.
5. The party responsible for moving the building.
6. Whether the building was placarded for violation.

SECTION 103.0. MODIFICATION OF THE REGULATIONS.

103.1. When modification may be granted: The administrator shall have the power upon request in specific cases to authorize modification of the regulations so as to permit certain specified alternatives where the objectives of this law can still be fulfilled. Such request shall be in writing and shall be accompanied by the plans, specifications and other information necessary for an adequate evaluation of the modification requested.

103.1.1. Input by local building official: Before a modification is authorized, the building official having local jurisdiction may be afforded an opportunity to present his views and recommendations.

ARTICLE 2. DEFINITIONS.

SECTION 200.0. DEFINITIONS.

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

"Administrator" means the Director of the Department

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of Housing and Community Development or his designee.

"Approved" as applied to a material, device, method of construction, registered building or as otherwise used in these regulations means approved by the administrator, unless the context clearly indicates another meaning.

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

"Code Enforcement Office Code Enforcement and Manufacturing Housing Office" means the office of the Department of Housing and Community Development which has been designated to carry out the state plan for enforcement of the Virginia Industrialized Building and Manufactured Home Safety Regulations.

"Compliance assurance agency" means an architect or professional engineer registered in Virginia, or an organization, determined by the department to be specially qualified by reason of facilities, personnel, experience and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to those promulgated by the board; to provide adequate follow-up services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each manufactured section or module.

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

"Industrialized building" means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in § 36-85.3 and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act shall not be considered industrialized buildings for the purpose of this law.

"Local building official" means an official designated by any city, town, or county to enforce structural, plumbing, electrical, mechanical or other building regulations for safety to life, health and property.

"Model" means a specific design, as designated by the producer, of an industrialized building. Production buildings of any model may include variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical or electrical systems or any other items governed by these regulations.

"Registered" means an industrialized building which displays a registration seal issued by the Department of Housing and Community Development in accordance with Article 5 of these regulations.

"Regulations" means regulations as defined by Section 100.1.

"State building official" means the Code Enforcement and Manufactured Housing Office.

"The law" or *"this law"* means the Virginia Industrialized Building Safety Law as embraced in Chapter 4 (§ 36-70 et seq.) of the Code of Virginia.

ARTICLE 3. SAFETY STANDARDS FOR INDUSTRIALIZED BUILDINGS.

SECTION 300.0. REQUIREMENTS.

300.1. Hazards prohibited and standards specified: Industrialized buildings produced after the effective date of these regulations shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the codes and standards specified in Section 301.0, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision.

SECTION 301.0. REFERENCE STANDARDS.

301.1. Reference standards and time limits established: The standards and time limitations specified below are those referred to in Section 300.0:

BOCA NATIONAL BUILDING CODE

Published by: Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795

1. 1987 1990 Edition - until April June 1, 1991 1994
2. 1990 1993 Edition - no time limit

BOCA NATIONAL PLUMBING CODE

1. 1984 1990 Edition - until April June 1, 1991 1994
2. 1990 1993 Edition - no time limit

BOCA NATIONAL MECHANICAL CODE

1. 1987 1990 Edition - until April June 1, 1991 1994
2. 1990 1993 Edition - no time limit

NATIONAL ELECTRICAL CODE - NFPA NO. 70

Published by: National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269

1. 1987 1990 Edition - until April June 1, 1991 1994

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2. ~~1990~~ 1993 Edition - no time limit

301.2. Optional standard: The following standard may be used for one and two family dwellings only, as an alternative to the standards specified in Section 301.1.

ONE AND TWO FAMILY DWELLING CODE

Jointly published by: BOCA; Southern Building Code Congress International, 900 Montclair Road, Birmingham, Alabama 35213; International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601

1. 1986 1989 Edition and 1987 Supplement 1990 Amendments - until April June 1, 1991 1994

2. 1989 1992 Edition and 1990 Supplement 1993 Amendments - no time limit

301.3. General *administrative* amendment to reference codes and standards: All requirements of the referenced model codes and standards that relate to fees, permits, certificates of use and occupancy, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the procedural, administrative and enforcement provisions of these regulations and the applicable provisions of Article Chapter 1 of the Virginia Uniform Statewide Building Code.

301.3.1. *Technical amendments to referenced codes and standards: The 1993 editions of the standards listed in Section 301.1 are amended as per USBC, Volume I, Addendum 1.*

301.3.2. *Technical amendments to optional standard: The 1992 edition and 1993 amendments of the standard listed in Section 301.2 are amended as per USBC, Volume I, Addendum 2.*

301.5. *Insect screens: Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.*

ARTICLE 4.

COMPLIANCE ASSURANCE AGENCIES.

SECTION 400.0. PROCEDURES FOR APPROVAL.

400.1. Application to administrator: Application may be made to the administrator for acceptance as a compliance assurance agency as defined in Article 2 Section 200.0 . Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the administrator to determine whether the applicant

is specially qualified by reason of facilities, personnel, experience and demonstrated reliability to investigate, test and evaluate industrialized buildings for compliance with these regulations, and to provide adequate follow-up and compliance assurance services at the point of manufacture.

Note: A suggested format for the application for acceptance as a compliance assurance agency may be obtained from the Code Enforcement and Manufactured Housing Office.

400.2. Freedom from conflict of interest: A compliance assurance agency shall not be affiliated with nor influenced or controlled by producers, suppliers, or vendors of products in any manner which might affect its capacity to render reports of findings objectively and without bias. A compliance assurance agency is judged to be free of such affiliation, influence, and control if it complies with all of the following conditions:

1. It has no managerial affiliation with producers, suppliers or vendors, and is not engaged in the sale or promotion of any product or material.

2. The results of its work accrue no financial benefits to the agency through stock ownership and the like, of any producer, supplier or vendor of the product involved.

3. Its directors and other management personnel, in such capacities, receive no stock option, or other financial benefit from any producer, supplier, or vendor of the product involved.

4. It has sufficient interest or activity that the loss or award of a specific contract to determine compliance of a producer's, supplier's or vendor's product with these regulations would not be a determining factor in its financial well-being.

5. The employment security status of its personnel is free of influence or control by producers, suppliers, or vendors.

400.3. Information required by the administrator: The following information and criteria will be considered by the administrator in designating compliance assurance agencies:

1. Names of officers and location of offices.

2. Specification and description of services proposed to be furnished under these regulations.

3. Description of qualifications of personnel and their responsibilities. Personnel involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors shall meet the requirements of the American Society for Testing and Materials (ASTM) Standards E-541-84, Criteria for Agencies Engaged in System Analysis and Compliance

Assurance for Manufactured Buildings.

4. Summary of experience within the organization.
5. General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory follow-up, quality assurance, labeling of production buildings, and specific information to be furnished on or with labels.
6. Procedures to deal with any defective buildings resulting from oversight.
7. Acceptance of these services by independent accrediting organizations and by other jurisdictions.
8. Proof of independence and absence of conflict of interest.

ARTICLE 5. LABELING, REGISTRATION AND FEES.

SECTION 500.0. LABELS.

500.1. Minimum information required: Every registered industrialized building shall be marked with a label, seal, or similar evidence of compliance supplied by the compliance assurance agency that includes the following information directly or by reference:

1. Name and address of compliance assurance agency.
2. List of codes and standards for which the building has been evaluated, inspected and found in compliance by the compliance assurance agency and the type of construction classification, the use group classification and occupancy under those codes and standards.
3. Serial number of label.
4. Special instructions for handling, installation and erection, or list of such instructions that are furnished separately with the building.
5. Special conditions or limitations of use of the building under the standards for which the building has been evaluated, or list of such conditions and limitations that are furnished separately with the building.

500.2. Mounting of label: To the extent practicable, the label shall be so installed that it cannot be removed without destroying it. It shall be applied in the vicinity of the electrical distribution panel or other location that is readily accessible for inspection. When a building is comprised of more than one section or module, the required label may be furnished as a single label for the entire building, provided each section or module is marked by the compliance assurance agency in a clearly identifiable manner that is listed with the label.

500.3. Manufacturer's data plate and other markings: The following information shall be placed on one or more permanent manufacturer's data plates in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance assurance agency shall approve the form, completeness and location of the data plate to include the information listed below:

1. Manufacturer's name and address.
2. Serial number of the label of the compliance assurance agency.
3. Serial number of the building.
4. Name of manufacturer and model designation of major factory installed appliances.
5. Where applicable, identification of permissible type of gas for appliances, designation of electrical ratings for single and multiple cord entrance, and directions for water and drain connections.
6. Serial number of the registration seal.
7. Seismic design zone number.
8. Design Loads: Live load, Dead load, Snow load, and Wind load.

500.4. Label control: The labels shall be under direct control of the compliance assurance agency until applied by the manufacturer to buildings that comply fully with these regulations. The manufacturer shall place its order for labels with the compliance assurance agency. The manufacturer is not permitted to acquire labels from any other source. Each compliance assurance agency shall keep a list of the serial numbers of labels issued to each manufacturer's plant in such manner that a copy of the record can be submitted to the administrator upon request.

SECTION 501.0. REGISTRATION OF LABELED UNITS.

501.1. Industrialized buildings eligible for registration: Any industrialized building must meet the following requirements to be registered and eligible for a Virginia Registration Seal:

1. The design of the building has been found by a compliance assurance agency to be in full compliance with these regulations; and
2. The compliance assurance agency has conducted any necessary testing and evaluation of the building and its component parts; and
3. The compliance assurance agency has provided the required inspections and other quality assurance follow-up services at the point of manufacture to

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assure the building complies with these regulations; and

4. The building has been provided with appropriate evidence of such compliance with a label, seal or similar device permanently affixed by the compliance assurance agency.

501.2. Registration seal for industrialized buildings: Registered industrialized buildings shall be marked with an approved registration seal issued by the department. The seal shall be applied by the manufacturer to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture.

501.2.1. Number of seals required: Registered industrialized buildings shall bear a registration seal for each dwelling unit in residential occupancies. For nonresidential occupancies, a registration seal is required for each registered building of a single occupancy and use group.

501.3. Purchase of registration seals: Approved registration seals may be purchased from the Department of Housing and Community Development in advance of use. The fee for each registration seal shall be set by the board. Checks shall be made payable to "Treasurer of Virginia." Payment for the seals shall (must) be received by the administrator before the seals can be sent to the user.

501.4. Mounting of registration seal: To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. It shall be installed near the label applied by the compliance assurance agency.

ARTICLE 6. INSTALLATION REQUIREMENTS.

SECTION 600.0. MANUFACTURER'S INSTRUCTIONS.

600.1. General: The manufacturer of each industrialized building shall provide with each building, specifications or instructions, or both, for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.

600.2. Installations: Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.

PART TWO. MANUFACTURED HOMES SUBJECT TO FEDERAL REGULATIONS.

ARTICLE 11.

ADMINISTRATION.

SECTION 1100.0. GENERAL.

1100.1. Title: Articles 11 through 14 shall be known as the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part Two. Part Two shall mean the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part Two.

1100.2. Authority: These regulations are adopted according to the authority granted the Board of Housing and Community Development by the Virginia Manufactured Housing Construction and Safety Standards Law, Chapter 4.1, Title 36 of the Code of Virginia.

1100.3. Application: Part Two shall apply to manufactured homes as defined in Section 1200.0.

1100.4. Effective date: The effective date of Part Two of these regulations is March 1, 1991.

SECTION 1101.0. ENFORCEMENT GENERALLY.

1101.1. Federal regulation: Enforcement of Part Two shall be in accordance with the Federal Manufactured Home Procedural and Enforcement Regulations, enacted May 13, 1976, under authority granted by Section 625 of the Act, and designated as Part 3282, Chapter XX, Title 24 of the department's regulations. (Part 3282 consists of subparts A through L, with Sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)

1101.2. Delegation of authority: The Department of Housing and Community Development is delegated all lawful authority for the enforcement of the federal standards pertaining to manufactured homes by the administrator according to § 36-85.5 of the Code of Virginia. The Division of Building Regulatory Services of the Department of Housing and Community Development is designated as a state administrative agency in the HUD enforcement program, and shall act as an agent of HUD. The administrator is authorized to perform the activities required of an SAA by the HUD enforcement plan, including (but not limited to) investigation, citation of violations, handling of complaints, conducting hearings, supervising remedial actions, monitoring, and making such reports as may be required.

SECTION 1102.0. ENFORCEMENT IN LOCALITIES.

1102.1. Responsibility of local building officials: All local building officials are authorized by § 36-85.11 of the Code of Virginia to enforce the provisions of Part Two within the limits of their jurisdiction. Such local building officials shall enforce Part Two, subject to the general oversight of the division, and shall not permit the use of any manufactured home containing a serious defect or imminent safety hazard within their jurisdiction.

1102.2. Effect of label: Manufactured homes displaying the

HUD label shall be accepted in all localities as meeting the requirements of this Law, which supersede the building codes of the counties, municipalities and state agencies. Notwithstanding this provision, local building officials are authorized to carry out the following functions with respect to manufactured homes displaying the HUD label, provided such functions do not involve disassembly of the units or parts of the units, change of design, or result in the imposition of more stringent conditions than those required by the federal regulations:

1. They shall verify that it has not been damaged in transit to a degree that would render it unsafe. Where indicated, tests may be made for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.
2. They shall verify that supplemental components required by the label or Part Two are properly provided.
3. They shall verify that installation or erection instructions are observed.
4. They shall verify that any special conditions or limitations of use stipulated by the label in accordance with the standards or Part Two are observed.
5. They shall enforce applicable requirements of Part Two and the USBC - Volume I for alterations and additions to manufactured homes, and may enforce the USBC - Volume II for maintenance of the homes.
6. They shall enforce the requirements of the Uniform Statewide Building Code applicable to utility connections, site preparation, fire limits, building permits, skirting, certificates of use and occupancy, and all other applicable requirements, except those governing the design and construction of the labeled units.
7. They may verify that a manufactured home displays the required HUD label.
8. They may verify that nonconforming items have been corrected.

1102.3. Action upon noncompliance: Whenever any local building official finds that a manufactured home delivered for use in his jurisdiction is in violation of Part Two, he shall initiate the corrective procedure required, in accordance with Part Two.

1102.4. Report to the department: Whenever any manufactured home is moved from a local jurisdiction before a noted violation has been corrected, the building official shall make a prompt report of the circumstances to the administrator. The report shall include a list of uncorrected violations, all information pertinent to identification and manufacture of the home contained on the label and the data plate, the destination of the home

if known, and the name of the party responsible for moving it.

SECTION 1103.0. DISTRIBUTORS AND DEALERS.

1103.1. Alterations: No distributor or dealer shall perform or cause to be performed any alteration affecting one or more requirements set forth in the federal standards, except those alterations approved by the administrator.

1103.1.1. Assistance from local building officials: In handling and approving dealer requests for alterations, the administrator may be assisted by local building officials. The building officials shall report violations of this section and failures to conform to the terms of their approval to the administrator.

1103.2. Installations: Distributors or dealers installing or setting up a manufactured home shall perform such installation in accordance with the manufacturer's installation instructions or other support and anchoring system approved by the building official in accordance with Section ~~620.0~~ 420.0 of the USBC - Addendum 1 Volume I.

1103.3. Prohibited resale: No distributor or dealer shall offer for resale any manufactured home possessing a serious defect or imminent safety hazard.

SECTION 1104.0. CONTINUING ENFORCEMENT.

1104.1. Inspections: At any time during regular business hours when a manufactured home is located on a dealer's or distributor's lot and offered for sale, the administrator shall have authority to inspect such home for transit damages, seal tampering, violations of the federal standards and the dealer's or distributor's compliance with applicable state and federal laws and regulations.

The administrator shall give written notice to the dealer or distributor when any home inspected does not comply with the federal standards.

SECTION 1105.0. CONSUMER COMPLAINTS.

1105.1. Reports: The administrator shall receive all consumer complaints on manufactured homes reported to the department by owners, dealers, distributors, code officials, and other state or federal agencies. The administrator may request such reports to be submitted by letter or on a report form supplied by the department.

1105.2. Inspections: The administrator may conduct, or cause to be conducted, an on-site inspection of a manufactured home at the request of the owner reporting a complaint with the home or under the following conditions with the permission of the owner of the home.

1. The dealer, distributor or manufacturer requests an on-site inspection; or

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2. The reported complaint indicates extensive and serious noncompliances; or

3. Consumer complaints lead the SAA to suspect that classes of homes may be similarly affected; or

4. Review of manufacturer's records, corrective action, and consumer complaint records leads the administrator to suspect secondary or associated noncompliances may also exist in a class of homes.

1105.2.1. Coordination of inspections: When conducting an on-site inspection of a home involving a consumer complaint, the administrator may request the dealer, distributor, and manufacturer of the home to have a representative present to coordinate the inspection and investigation of the consumer complaint.

1105.3. Determination: After reviewing the complaint report or the on-site inspection of the home involved, the administrator shall, where possible, indicate the cause of any nonconformance and, where possible, indicate the responsibility of the manufacturer, dealer, distributor or owner for the noncompliance and any corrective action necessary.

1105.4. Referral: The administrator shall refer to the manufacturer of the home, in writing, any consumer complaint concerning that home reported to the administrator. The administrator may refer any such reported complaint to HUD, to the SAA in the state where the manufacturer is located and to the inspection agency involved with certifying the home.

1105.4.1. Referral to the Virginia Department of Motor Vehicles Manufacturing Housing Board: When a review of the reported complaint or the on-site investigation of the complaint indicates a dealer or distributor is in violation of or has violated these regulations, the administrator shall refer the complaint to the DMV Virginia Manufacturing Housing Board and shall provide such assistance and reports as requested by DMV Virginia Manufacturing Housing Board in their handling of the complaint.

1105.5. Follow-up: The administrator shall assist the owner, dealer, distributor and manufacturer in resolving consumer complaints. The administrator shall monitor the manufacturer's performance to assure compliance with Subpart I of the federal regulations for consumer complaint handling and shall take such actions as are necessary to assure compliance of all involved parties with applicable state and federal regulations.

ARTICLE 12. DEFINITIONS.

SECTION 1200.0. DEFINITIONS.

1200.1. Definitions from Part One: Terms defined in Part One (Article 2) shall have the same meaning in Part Two,

unless otherwise specifically indicated. Terms defined within the Federal Manufactured Home Construction and Safety Standards and the Federal Manufactured Home Procedural and Enforcement Regulations, as adopted by the United States Department of Housing and Urban Development, shall have the same meanings in these regulations.

1200.2. Additional definitions:

"Act" or "The Act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401, et seq.).

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

"Dealer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

"Defect" means a failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part of the home unfit for the ordinary use of which it was intended, but does not result in an imminent risk of death or severe personal injury to occupants of the affected home.

"Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.

"HUD" means the United States Department of Housing and Urban Development.

"Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction or safety standard.

"Label" or "certification label" means the approved form of certification by the manufacturer that, under Section 3282.362(c)(2)(i) of the Manufactured Homes Procedural and Enforcement Regulations, is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States.

"Manufactured home" means a structure subject to federal regulation which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

"*Manufacturer*" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

"*Noncompliance*" means a failure of a manufactured home to comply with a federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard.

"*Purchaser*" means the first person purchasing a manufactured home in good faith for purposes other than resale.

"*Secretary*" means the Secretary of the United States Department of Housing and Urban Development.

"*Serious defect*" means any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

"*Standards*" or "*federal standards*" means the Federal Manufactured Home Construction and Safety Standards adopted by HUD, in accordance with authority in the Act. Said standards were enacted December 18, 1975, and amended May 11, 1976, to become effective June 15, 1976.

"*State administrative agency*" or "*SAA*" means the Department of Housing and Community Development which is responsible for the administration and enforcement of this law throughout Virginia and of the plan authorized by § 36-85.5 of the Code of Virginia.

ARTICLE 13. SAFETY STANDARDS.

SECTION 1300.0. FEDERAL STANDARDS.

1300.1. Compliance required: Manufactured homes produced on or after June 15, 1976, shall conform to all the requirements of the federal standards, as amended.

SECTION 1301.0. MOUNTING AND ANCHORING.

1301.1. Reference to Uniform Statewide Building Code: Mounting and anchoring of manufactured homes shall be in accordance with the applicable requirements of the 1990 1993 Edition of the Virginia Uniform Statewide Building Code, *Volume I*.

ARTICLE 14. VIOLATIONS.

SECTION 1400.0. VIOLATIONS.

1400.1. Notice of violation: Where the administrator finds any violation of the provisions of these regulations, a

notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.

1400.2. Appeals to notice of violation: Parties aggrieved by the findings of the notice of violation may appeal to the State Building Code Technical Review Board, which shall act on the appeal in accordance with the provisions of the USBC - Volume I. The aggrieved party shall file the appeal within 10 days of the receipt of the notice of violation. Unless, the notice of violation is revoked by the review board, the aggrieved party shall comply with the stipulations of the notice of violation.

1400.3. Penalty: Any person, firm or corporation violating any provisions of these regulations shall, upon conviction, be considered guilty of a misdemeanor in accordance with § 36-85.12 of the Code of Virginia.

1990 EDITION:

VIRGINIA INDUSTRIALIZED BUILDING AND MANUFACTURED HOME SAFETY REGULATIONS. ADDENDA:

ADDENDUM 1: REQUIREMENTS FOR MOUNTING AND ANCHORING MOBILE UNITS AND MANUFACTURED HOMES.

The following requirements are from the 1990 Edition of the Virginia Uniform Statewide Building Code:

SECTION 620.0. MOBILE UNITS AND MANUFACTURED HOMES.

620.1. General: Mobile units, as defined in Section 201.0 shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

620.2. Support and anchorage of mobile units: The manufacturer of each mobile unit shall provide with each unit specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to withstand wind forces and uplift as required in Article 11 for buildings and structures, based upon the size and weight of the mobile unit.

620.3. Support and anchorage of manufactured homes: The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent

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foundation (i.e., tiedowns, piers, blocking, footings, etc.) based upon the design of the manufactured homes. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

620.3.1. Hurricane zone: Manufactured homes installed or relocated in the hurricane zone shall be of hurricane and windstorm resistive design in accordance with Federal Manufactured Housing Construction and Safety Standards and shall be anchored according to the manufacturer's specifications for the hurricane zone.

The hurricane zone includes the following counties and all cities located therein, contiguous thereto, or to the east thereof:

Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greensville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen, Prince George.

620.4. Used mobile/manufactured homes: When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Appendix A shall be accepted as meeting the USBC.

620.5. Skirting: Manufactured homes installed or relocated after July 1, 1990, shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

V.A.R. Doc. No. R93-777, Filed August 18, 1993, 11:58 a.m.

BOARD OF NURSING

Title of Regulations: VR 495-01-1. Board of Nursing Regulations.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: September 22, 1993.

Written comments may be submitted through November 5, 1993.

(See Calendar of Events section for additional information)

Basis: Title 54.1, Section 2400 of the Code of Virginia provides general authority to the Board of Nursing to license, regulate, establish and collect fees and promulgate regulations as necessary to administer its regulatory program.

Title 54.1, Section 3005 grants specific authority for the Board of Nursing to prescribe standards and approve educational programs preparing persons for licensure as registered nurses and licensed practical nurses and certification as nurse aides.

Title 54.1, Section 3408 allows for authorized agents to administer medications in specified settings provided such agents have completed a training program approved by the Board of Nursing.

Federal law requires states to provide for the regulation of nurse aides. Therefore, Part V of these regulations complies with federal rules.

Statement of Purpose: The purpose of the proposed amended and new regulations is to revise the fees for licensure to assure that revenues are sufficient to meet budgeted expenditures, to clarify regulations related to approval of educational programs, to incorporate changes required by federal rules for the certification of nurse aides, and to establish criteria for review of proposed training programs for the administration of medications pursuant to § 54.1-3408 of the Code of Virginia.

Amendments to regulations respond to comments received during the biennial review of all regulations of the Board of Nursing and represent an effort to clarify and update requirements to current practice and educational standards. Wherever possible, amendments are proposed to make the rule less burdensome and more clear to licensees.

Issues:

A. An adjustment of fees set by the board necessitated by the requirement that revenues and expenditures not exceed a 10% differential.

An increase is proposed in fees for renewal, endorsement, and other services such as providing

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duplicate licenses and transcripts of records. In 1994, a change in the testing procedure will eliminate the costs now borne by the board for giving the examination. Therefore, a reduction in the examination fee is proposed.

B. An adjustment of fees to eliminate the difference between initial licensure fees paid by R.N. and L.P.N. applicants.

Since costs associated with licensing and verifying information are the same, the board determined that the fees for licensure by examination or by endorsement should be the same for R.N. and L.P.N. applicants.

C. The need for clarification as expressed in comments received by the board and for compliance with federal rules.

Amendments proposed in Parts II and V of these regulation are the result of comments from the public in response to the Notice of Intended Regulatory Action, from educational program reviewers, and members of the Board of Nursing advisory committees. The changes are intended to simplify and clarify the regulations and in some instances reduce the regulatory burden. Changes in Part V regarding certification of nurse aides are proposed to be consistent with federal rules.

D. The need to address the problem of increasing numbers of settings where authorized agents may administer medications as provided in § 54.1-3408 of the Code of Virginia.

The authorized agents are required by statute to complete a training program approved by the board. Minimum requirements are proposed to assure consistency in the process through which the board approves such programs. Existing approved programs were reviewed and are found to be in compliance with the proposed regulations.

Estimated Impact:

A. Regulated Entities:

Registered Nurses - 68,012

(includes 297 Clinical Nurse Specialists and 2188 Nurse Practitioners, 311 with prescriptive authority)

Licensed Practical Nurses - 24,235

Certified Nurse Aides - 29,212

Educational Programs

1. for registered nurse license - 37
2. for practical nurse license - 49
3. for nurse aide certificate - 248

B. Projected Costs to Regulated Entities:

There are 25 amendments proposed to regulations. Of these, 17 are made for clarity and simplicity, to delete rules found to be unnecessary, unenforceable or burdensome, or to comply with federal rules.

The remaining amendments may have an impact in the costs to regulated entities as discussed below:

1. § 1.3. Fees.

a. Proposed amendments will lower the fees charged to R.N. and L.P.N. applicants for licensure by examination and eliminate the difference in fees charged to the two groups. A reduction in application fees is proposed because the board costs for administering the examination has been eliminated by the use of a testing service for that purpose. Application fees for R.N. applicants will be reduced from \$46 to \$25 and for L.P.N. applicants from \$36 to \$25.

b. The fee for licensure by endorsement will be increased from \$46 to \$50 for R.N. applicants and from \$36 to \$50 for L.P.N. applicants. The differential in fees between the two groups has been eliminated because the costs incurred in processing and approving applications are identical.

c. The biennial renewal fee will be increased from \$29 to \$40. The last major increase in fees was in 1987. In FY1988, the budget for the board was \$1,201,430. In FY93, it is \$2,276,640 due to increases in numbers of licensees and certificate holders, in numbers of disciplinary cases, and in regulatory responsibilities.

d. Increases in fees for a duplicate license, verification of license, and a transcript of records are proposed to reflect actual costs to the board.

e. The fees for initial licensure and renewal include \$1 for the nursing scholarship fund established by the General Assembly in 1991.

(See Fee Projections - Appendix D)

2. § 2.2 H 2 proposes to eliminate a requirement that certain curriculum changes be submitted to the board for approval. It will result in reduced costs to educational programs for preparing, copying, mailing, and in most instances, travel to present information to the board.

3. § 2.2 H 2 proposes to increase by three the number of copies of materials to support program changes presented for board approval. Proposals vary in length, so cost for copying and mailing would also vary.

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4. § 3.6 proposes to eliminate the required notice to the board of a lost license and the form to be used for requesting a duplicate. The impact of the amendment on the licensee will be less cost for mailing and a time savings in the process of obtaining a duplicate license.

5. § 5.3 C 6 requires instructional personnel to be on site solely to supervise nurse aide students. The board has interpreted the current regulation accordingly and therefore views the amendment as clarifying and having no impact.

6. §§ 5.5 B 4 and 5.5 C 2 remove a requirement to repeat an educational program prior to renewal or reinstatement of nurse aide certification after a period of inactivity. The change is consistent with a change in federal requirements and thus eliminates costs associated with enrolling in a program. It also decreases the time required for an applicant to renew or reinstate the certificate.

7. Part VI provides standards for entities to offer Medication Administration Training Programs for board approval pursuant to § 54.1-3408 of the Code of Virginia. Approval is currently required by law, so no additional fiscal impact is anticipated. Proposed regulations may result in a decrease in costs to entities by facilitating the process of the development and approval of a program.

C. Projected Cost for Implementation:

There are no additional costs anticipated for implementation and enforcement except that of communicating with persons on our Public Participation Guidelines list, reprinting final regulations, and reprinting of applications with new fees. Those costs have been anticipated in ordering copies of current regulations and applications, so additional costs of copying mailing can be absorbed in the current budget of the board.

Preamble:

These regulations state the requirements for approval of nursing and nurse aide education programs, the licensing of registered nurses and practical nurses, the registration of clinical nurse specialists and the certification of nurse aides in the Commonwealth of Virginia. The regulations have been adopted by the Virginia State Board of Nursing under the authority of Chapter 24 (§ 54.1-2400) and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

The board believes that each practitioner of nursing is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of nursing.

The registered nurse shall be responsible and accountable for making decisions that are based upon

educational preparation and experience in nursing. The registered nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself or others who are under his supervision. The registered nurse who is a clinical nurse specialist is authorized to provide advanced nursing services consistent with the requirements of law and regulations.

The licensed practical nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself based upon educational preparation and experience.

The certified nurse aide is required to meet standards consistent with federal and state law and regulations in employment settings receiving Medicare and Medicaid reimbursement for care rendered.

Summary:

The Board of Nursing proposes amendments to its regulations as a result of the biennial regulatory review during which all regulations were examined for their continued effectiveness, necessity, clarity, and cost of compliance. The amendments proposed are made in response to public comments received, to changes in nursing education, to new federal rules for nurse aides, or in an effort to clarify and simplify the regulations.

The proposed amendments make adjustments in fees based on a change in the method of administering the licensure examination and on the requirement that revenues of the board cover its expenditures. Amendments are also proposed to clarify requirements for the approval of nursing and nurse aide education programs and to add requirements for the approval of medication administration training programs.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

“Approval” means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

“Associate degree nursing program” means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, State Council of

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Higher Education or an Act of the General Assembly.

"Baccalaureate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate degree with a major in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, the State Council of Higher Education or an Act of the General Assembly.

"Board" means the State Board of Nursing.

"Clinical nurse specialist" means a licensed registered nurse who holds:

1. A master's degree from a board approved program which prepares the nurse to provide advanced clinical nursing services; and
2. Specialty certification from a national certifying organization acceptable to the board or an exception available from March 1, 1990, to July 1, 1990.

"Conditional approval" means a time-limited status which results when an approved nursing education program has failed to maintain requirements as set forth in § 2.2 of these regulations.

"Cooperating agency" means an agency or institution that enters into a written agreement to provide learning experiences for a nursing education program.

"Diploma nursing program" means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

"National certifying organization" means an organization that has as one of its purposes the certification of a specialty in nursing based on an examination attesting to the knowledge of the nurse for practice in the specialty area.

"Nursing education program" means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree, diploma or certificate.

"Practical nursing program" means a nursing education program preparing for practical nurse licensure, offered by a Virginia school, that leads to a diploma or certificate in practical nursing, provided the school is authorized by the appropriate governmental agency.

"Program director" means a registered nurse who has been designated by the controlling authority to administer the nursing education program.

"Provisional approval" means the initial status granted

to a nursing education program which shall continue until the first class has graduated and the board has taken final action on the application for approval.

"Recommendation" means a guide to actions that will assist an institution to improve and develop its nursing education program.

"Requirement" means a mandatory condition that a nursing education program must meet to be approved.

§ 1.2. Delegation of authority.

A. The executive director of the board shall issue a certificate of registration to each person who meets the requirements for initial licensure under §§ 54.1-3017, 54.1-3018, 54.1-3020 and 54.1-3021 of the Code of Virginia. Such certificates of registration shall bear the signature of the president of the board, the executive director and the director of the Department of Health Regulatory Boards.

B. The executive director shall issue license to each applicant who qualifies for such license under § 54.1-3011 of the Code of Virginia. Such licenses shall bear the name of the executive director.

C. The executive director shall be delegated the authority to execute all notices, orders and official documents of the board unless the board directs otherwise.

§ 1.3. Fees.

Fees required in connection with the licensing of applicants by the board are:

- | | |
|--|----------------------|
| 1. Application for R-N Licensure by Examination | \$46 \$25 |
| 2. Application for L-P-N Licensure by Endorsement | \$36 \$50 |
| 3. Biennial Licensure Renewal | \$20 \$40 |
| 4. Reinstatement Lapsed of License | \$50 |
| 5. Duplicate License | \$10 \$15 |
| 6. Verification of License | \$10 \$25 |
| 7. Transcript of Examination Scores | \$5 |
| 8- 7. Transcript of All or Part of Applicant/Licensee Records | \$10 \$20 |
| 9- 8. Returned Check Charge | \$15 |
| 10- 9. Application for C.N.S. registration | \$50 |
| 11- 10. Biennial renewal of C.N.S. registration | \$30 |
| 12- 11. Reinstatement of lapsed C.N.S. registration | \$25 |

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13. 12. Verification of C.N.S. registration to another jurisdiction\$25

§ 1-4. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Nursing (board) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulation.
3. Final regulation adopted.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all above-listed information. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

B. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 0-6.14.1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. Public comment period.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

D. Petitions to the board.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear

on the next agenda of the board. The board shall have sole authority to dispose of the petition.

E. Publication in the Virginia Register of Regulations.

At any meeting of the board or any subcommittee or advisory committee, where the formulation or adoption of regulation occurs, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

F. Advisory committee.

The board, in cooperation with the Council on Health Regulatory Boards, may appoint advisory committees as they deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

PART II. NURSING EDUCATION PROGRAMS.

§ 2.1. Establishing a nursing education program.

Phase I.

A. An institution wishing to establish a nursing education program shall:

1. Submit to the board, at least 15 months in advance of expected opening date, a statement of intent to establish a nursing education program;
2. Submit to the board, along with the statement of intent, a feasibility study to include the following information:
 - a. Studies documenting the need for the program;
 - b. Purpose and type of program;
 - c. Availability of qualified faculty;
 - d. Budgeted faculty positions;
 - e. Availability of clinical facilities for the program;
 - f. Availability of academic facilities for the program;
 - g. Evidence of financial resources for the planning, implementation and continuation of the program;
 - h. Anticipated student population;
 - i. Tentative time schedule for planning and initiating the program; and
 - j. Current catalog, if applicable.
3. Respond to the board's request for additional information.

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B. A site visit shall be conducted by a representative of the board.

C. The board, after review and consideration, shall either approve or disapprove Phase I.

1. If Phase I is approved, the institution may apply for provisional approval of the nursing education program as set forth in these regulations.

2. If Phase I is disapproved, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

Phase II.

D. The application for provisional approval shall be complete when the following conditions are met:

1. A program director has been appointed and there are sufficient faculty to initiate the program (§ 2.2.C of these regulations);

2. A tentative written curriculum plan developed in accordance with § 2.2.F of these regulations has been submitted; and

E. The board, after review and consideration, shall either grant or deny provisional approval.

1. If provisional approval is granted:

a. The admission of students is authorized; and

b. The program director shall submit quarterly progress reports to the board which shall include evidence of progress toward application for approval and other information as required by the board.

2. If provisional approval is denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

F. Following graduation of the first class, the institution shall apply for approval of the nursing education program.

Phase III.

G. The application for approval shall be complete when a self-evaluation report of compliance with § 2.2 of these regulations has been submitted and a survey visit has been made by a representative of the board.

H. The board will review and consider the self-evaluation and the survey reports at the next regularly scheduled meeting.

I. The board shall either grant or deny approval. If denied, the institution may request a hearing before the

board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

§ 2.2. Requirements for approval.

A. Organization and administration.

1. The institution shall be authorized to conduct a nursing education program by charter or articles of incorporation of the controlling institution; by resolution of its board of control; or by the institution's own charter or articles of incorporation.

2. Universities, colleges, community or junior colleges, proprietary schools and public schools offering nursing education programs shall be accredited by the appropriate state agencies and the Southern Association of Colleges and Schools.

3. Hospitals conducting a nursing education program shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations.

4. Any agency or institution that is utilized by a nursing education program shall be one that is authorized to conduct business in the Commonwealth of Virginia, or in the state in which the agency or institution is located.

5. The authority and responsibility for the operation of the nursing education program shall be vested in a program director who is duly licensed to practice professional nursing in Virginia and who is responsible to the controlling board, either directly or through appropriate administrative channels.

6. A written organizational plan shall indicate the lines of authority and communication of the nursing education program to the controlling body; to other departments within the controlling institution; to the cooperating agencies; and to the advisory committee, if one exists.

7. Funds shall be allocated by the controlling agency to carry out the stated purposes of the program. The program director of the nursing education program shall be responsible for the budget recommendations and administration, consistent with the established policies of the controlling agency.

B. Philosophy and objectives.

Written statements of philosophy and objectives shall be:

1. Formulated and accepted by the faculty;

2. Directed toward achieving realistic goals;

3. Directed toward the meaning of education, nursing and the learning process;

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4. Descriptive of the practitioner to be prepared; and
5. The basis for planning, implementing and evaluating the total program.

C. Faculty.

1. Qualifications.

a. Every member of a nursing faculty, including the program director, shall hold a current license to practice as a registered nurse in Virginia.

b. Every member of a nursing faculty responsible for teaching students in a cooperating agency located outside the jurisdictional limits of Virginia shall meet the licensure requirements of that jurisdiction.

c. The program director and each member of the nursing faculty shall maintain professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects and professional writing.

d. For baccalaureate degree programs:

(1) The program director shall hold a doctoral degree.

(2) Every member of the nursing faculty shall hold a graduate degree. Faculty members without a graduate degree with a major in nursing shall have a baccalaureate degree with a major in nursing.

(3) At least one faculty member in each clinical area shall have master's preparation in that clinical specialty.

e. For associate degree and diploma programs:

(1) The program director shall hold a graduate degree, preferably with a major in nursing.

(2) The majority of the members of the nursing faculty shall hold a graduate degree, preferably with a major in nursing.

(3) Other members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

f. For practical nursing programs.

(1) The program director shall hold a baccalaureate degree, preferably with a major in nursing.

(2) The majority of the members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

g. Exceptions to provisions of subparagraphs d, e, and f of this subsection shall be by board approval.

(1) Initial request for exception.

(a) The program director shall submit a request for initial exception in writing for considerations at a regular board meeting prior to the term during which the nursing faculty member is scheduled to teach, and a statement of intent, from the prospective faculty member, to pursue the required degree shall accompany each request.

(2) Request for continuing exception.

(a) Continuing exception will be based on the progress of the nursing faculty member toward meeting the degree required by these regulations during each year for which the exception is requested.

(b) The program director shall submit the request for continuing exception in writing for consideration at a regular board meeting prior to the next term during which the nursing faculty member is scheduled to teach.

(c) A list of courses required for the degree being pursued and college transcripts showing successful completion of a minimum of two of the courses during the past academic year shall accompany each request.

(3) The executive director of the board shall be authorized to make the initial decision on requests for exceptions. Any appeal of that decision shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

2. Number.

a. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and such number shall be reasonably proportionate to:

(1) Number of students enrolled;

(2) Frequency of admissions;

(3) Education and experience of faculty members;

(4) Number and location of clinical facilities; and

(5) Total responsibilities of the faculty.

b. When students are giving direct care to patients, the ratio of students to faculty in clinical areas shall not exceed 10 students to one faculty member.

3. Conditions of employment.

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a. Qualifications and responsibilities for faculty positions shall be defined in writing.

b. Faculty assignments shall allow time for class and laboratory preparation; teaching; program revision; improvement of teaching methods; academic advisement and counseling of students; participation in faculty organizations and committees; attendance at professional meetings; and participation in continuing education activities.

4. Functions.

The principal functions of the faculty shall be to:

a. Develop, implement and evaluate the philosophy and objectives of the nursing education program;

b. Participate in designing, implementing, teaching, and evaluating and revising the curriculum;

c. Develop and evaluate student admission, progression, retention and graduation policies within the framework of the controlling institution;

d. Participate in academic advisement and counseling of students; and

e. Provide opportunities for student and graduate evaluation of curriculum and teaching and program effectiveness.

5. Organization.

a. The nursing faculty shall hold regular meetings for the purpose of developing, implementing and evaluating the nursing education program. ~~Written rules shall govern the conduct of meetings.~~

~~b. All members of the faculty shall participate in the regular faculty meetings.~~

~~c. Committees shall be established to implement the functions of the faculty.~~

~~d. b. Minutes of faculty and committee meetings, including actions taken, shall be recorded and available for reference.~~

~~e. c. There shall be provision for student participation.~~

D. Students.

1. Admission, promotion and graduation.

a. Requirements for admission to the nursing education program shall not be less than the statutory requirements that will permit the graduate to be admitted to the appropriate licensing examination.

(EXPLANATORY NOTE: Reference subdivision 1 of subsection A of § 54.1-3017 of the Code of Virginia: The equivalent of a four-year high school course of study is considered to be: high school equivalence; or

(2) Satisfactory completion of the college courses required by the nursing education program.)

b. Students shall be selected on the basis of established criteria and without regard to age, race, creed, sex or national origin.

c. Requirements for admission, readmission, advanced standing, progression, retention, dismissal and graduation shall be available to the students in written form.

E. Records.

1. School records.

A system of records shall be maintained and be made available to the board representative and shall include:

a. Data relating to accreditation by any agency or body,

b. Course outlines,

c. Minutes of faculty and committee meetings,

~~d. Reports of standardized tests~~ *A record of the performance of graduates on the licensing examination ,*

e. Survey reports.

2. Student records.

a. A file shall be maintained for each student. Each file shall be available to the board representative and shall include:

(1) The student's application,

(2) High school transcript or copy of high school equivalence certificate,

(3) Current record of achievement.

b. A final transcript shall be retained in the permanent file of the institution.

c. Provision shall be made for the protection of student and graduate records against loss, destruction and unauthorized use.

3. School bulletin or catalogue.

Current information about the nursing education

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program shall be published periodically and distributed to students, applicants for admission and the board. Such information shall include:

- a. Description of the program.
- b. Philosophy and objectives of the controlling institution and of the nursing program.
- c. Admission and graduation requirements.
- d. Fees.
- e. Expenses.
- f. Financial aid.
- g. Tuition refund policy.
- h. Education facilities.
- i. Living accommodations.
- j. Student activities and services.
- k. Curriculum plan.
- l. Course descriptions.
- m. Faculty-staff roster.
- n. School calendar.

F. Curriculum.

1. Curriculum shall reflect the philosophy and objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing.
2. The ratio between nursing and nonnursing credit shall be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing.
3. Learning experiences shall be selected to fulfill curriculum objectives.
4. Nursing education programs preparing for practical nursing licensure shall include:
 - a. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;
 - b. Basic concepts of the nursing process;
 - c. Basic concepts of anatomy, physiology, chemistry, physics and microbiology;

d. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;

e. Ethics, nursing history and trends, vocational and legal aspects of nursing, including regulations and sections of the Code of Virginia related to nursing; and

f. Basic concepts of pharmacology, nutrition and diet therapy.

5. Nursing education programs preparing for registered nurse licensure shall include:

a. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness throughout the life cycle for individuals, groups and communities;

b. Concepts of the nursing process;

c. Concepts of anatomy, physiology, chemistry, microbiology and physics;

d. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;

e. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

f. Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing, including regulations and sections of the Code of Virginia related to nursing; and

g. Concepts of leadership, management and patient education.

G. Resources, facilities and services.

1. Periodic evaluations of resources, facilities and services shall be conducted by the administration, faculty, students and graduates of the nursing education program.

2. Secretarial and other support services shall be provided.

3. Classrooms, conference rooms, laboratories, clinical facilities and offices shall be available to meet the objectives of the nursing education program and the needs of the students, faculty, administration and staff.

4. The library shall have holdings that are current, pertinent and accessible to students and faculty, and sufficient in number to meet the needs of the students and faculty.

5. Written agreements with cooperating agencies shall

be developed, maintained and periodically reviewed. The agreement shall:

a. Ensure full control of student education by the faculty of the nursing education program, including the selection and supervision of learning experiences.

b. Provide that an instructor shall be present on the clinical unit(s) to which students are assigned for direct patient care.

c. Provide for cooperative planning with designated agency personnel.

6. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives.

7. Cooperating agencies shall be approved by the appropriate accreditation, evaluation or licensing bodies, if such exist.

H. Program changes requiring board of nursing approval

1. The following proposed changes require board approval prior to their implementation:

1- a. Proposed changes in the nursing education program's philosophy and objectives that result in program revision.

2- b. Proposed changes in the curriculum that result in alteration of the length of the nursing education program.

3- 2. ~~Proposed~~ Other additions, deletions or major revisions of courses shall be reported to the board with the annual report required in § 2.3 A of these regulations .

I. Procedure for approval of program change.

1. When a program change is contemplated, the program director shall inform the board or board representative.

2. When a program change is requested, a plan shall be submitted to the board including:

a. Proposed change,

b. Rationale for the change,

c. Relationship of the proposed change to the present program.

3. ~~Twelve~~ Fifteen copies of these materials shall be submitted to the board at least three weeks prior to the board meeting at which the request will be

considered.

§ 2.3. Procedure for maintaining approval *Maintaining an approved nursing education program .*

A. The program director of each nursing education program shall submit an annual report to the board.

B. Each nursing education program shall be reevaluated at least every eight years and shall require:

1. A comprehensive self-evaluation report based on § 2.2 of these regulations, and

2. A survey visit by a representative(s) of the board on dates mutually acceptable to the institution and the board.

C. The self-evaluation and survey visit reports shall be presented to the board for consideration and action at a regularly scheduled board meeting. The reports and the action taken by the board shall be sent to the appropriate administrative officers of the institution. In addition, a copy shall be forwarded to the executive officer of the state agency or agencies having program approval authority or coordinating responsibilities for the governing institutions.

D. Interim visits shall be made to the institution by board representatives at any time within the eight-year period either by request or as deemed necessary by the board.

E. A nursing education program shall continue to be approved provided the requirements set forth in § 2.2 of these regulations are attained and maintained.

F. If the board determines that a nursing education program is not maintaining the requirements of § 2.2 of these regulations, the program shall be placed on conditional approval and the governing institution shall be given a reasonable period of time to correct the identified deficiencies. The institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

G. If the governing institution fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.) Sections 2.4 B and C of these regulations shall apply to any nursing education program whose approval has been withdrawn.

§ 2.4. Closing of an approved nursing education program.

A. Voluntary closing.

When the governing institution anticipates the closing of a nursing education program, it shall notify the board in writing, stating the reason, plan and date of intended

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closing. The governing institution shall choose one of the following closing procedures:

1. The program shall continue until the last class enrolled is graduated.

a. The program shall continue to meet the standards for approval until all of the enrolled students have graduated.

b. The date of closure is the date on the degree, diploma or certificate of the last graduate.

c. The governing institution shall notify the board of the closing date.

2. The program shall close after the governing institution has assisted in the transfer of students to other approved programs.

a. The program shall continue to meet the standards required for approval until all students are transferred.

b. A list of the names of students who have been transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

c. The date on which the last student was transferred shall be the closing date of the program.

B. Closing as a result of denial or withdrawal or approval.

When the board denies or withdraws approval of a program, the governing institution shall comply with the following procedures:

1. The program shall close after the institution has made a reasonable effort to assist in the transfer of students to other approved programs. A time frame for the transfer process shall be established by the board.

2. A list of the names of students who have transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

3. The date on which the last student was transferred shall be the closing date of the program.

C. Custody of records.

Provision shall be made for custody of records as follows:

1. If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The institution shall inform

the board of the arrangements made to safeguard the records.

2. If the governing institution ceases to exist, the academic transcript of each student and graduate shall be transferred by the institution to the board for safekeeping.

§ 2.5. Clinical nurse specialist education program.

An approved program shall be offered by:

1. A nationally accredited school of nursing within a college or university that offers a master's degree in nursing designed to prepare a registered nurse for advanced practice in a clinical specialty in nursing; or

2. A college or university that offers a master's degree consistent with the requirements of a national certifying organization as defined in § 1.1 of these regulations.

PART III. LICENSURE AND PRACTICE.

§ 3.1. Licensure by examination.

A. The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice a year.

B. The minimum passing score on the examination for registered nurse licensure shall be determined by the board.

C. If a candidate does not take the examination when scheduled, the application shall be retained on file as required for audit and the candidate must file a new application and fee to be rescheduled.

D. Any applicant suspected of giving or receiving unauthorized assistance during the writing of the examination shall be noticed for a hearing before the board to determine whether the license shall be issued.

E. The board shall not release examination results of a candidate to any individual or agency without written authorization from the applicant or licensee.

F. An applicant for the licensing examination shall:

1. File the required application and fee no less than 60 days prior to the scheduled date of the examination.

2. Arrange for the board to receive the final certified transcript from the nursing education program at least 15 days prior to the examination date or as soon thereafter as possible. The transcript must be received prior to the reporting of the examination results to candidates.

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G. Fifteen days prior to an examination date, all program directors shall submit a list of the names of those students who have completed or are expected to complete the requirements for graduation since the last examination. Any change in the status of a candidate within the above specified 15-day period shall be reported to the board immediately.

H. Practice of nursing pending receipt of examination results.

1. Graduates of approved nursing education programs may practice nursing in Virginia pending the results of the first licensing examination given by a board of nursing following their graduation, provided they have filed an application for licensure in Virginia. Candidates taking the examination in Virginia shall file the application for licensure by examination. Candidates taking the examination in other jurisdictions shall file the application for licensure by endorsement.

2. Candidates who practice nursing as provided in § 3.1 I 1 of these regulations shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N. Applicant" shall not be used by applicants who do not take or who have failed the first examination for which they are eligible.

I. Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for reexamination shall file the required application and fee no less than 60 days prior to the scheduled date of the examination.

3. Applicants who have failed the licensing examination in another U.S. jurisdiction and who meet the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

§ 3.2. Licensure by endorsement.

A. A graduate of an approved nursing education program who has been licensed by examination in another U.S. jurisdiction and whose license is in good standing, or is eligible for reinstatement, if lapsed, shall be eligible for licensure by endorsement in Virginia, provided the applicant satisfies the requirements for registered nurse or practical nurse licensure.

B. An applicant for licensure by endorsement shall submit the required application and fee and submit the required form to the appropriate credentialing agency in the state of original licensure for verification of licensure. Applicants will be notified by the board after 30 days, if the completed verification form has not been received.

C. If the application is not completed within one year of the initial filing date, the application shall be retained on file by the board as required for audit.

§ 3.3. Licensure of applicants from other countries.

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in § 3.3 B and C of these regulations.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and

2. Submit the required application and fee for licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;

2. Provide evidence of secondary education to meet the statutory requirements;

3. Request that the credentialing agency, in the country where licensed, submit the verification of licensure; and

4. Submit the required application and fee for licensure by examination.

§ 3.4. Renewal of licenses.

A. Licensees born in even-numbered years shall renew their licenses by the last day of the birth month in even-numbered years. Licensees born in odd-numbered years shall renew their licenses by the last day of the birth month in odd-numbered years.

B. No less than 30 days prior to the last day of the licensee's birth month, an application for renewal of license shall be mailed by the board to the last known address of each licensee, who is currently licensed.

C. The licensee shall complete the application and return it with the required fee.

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D. Failure to receive the application for renewal shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

E. The license shall automatically lapse if the licensee fails to renew by the last day of the birth month.

F. Any person practicing nursing during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54.1-3008 of the Code of Virginia.

§ 3.5. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may request evidence that the nurse is prepared to resume practice in a competent manner.

§ 3.6. Replacement of lost *Duplicate* license.

A. ~~The licensee shall report in writing the loss of the original certificate of registration or the current license.~~

B. A duplicate license for the current renewal period shall be issued by the board upon receipt of the required ~~form~~ information and fee.

§ 3.7. Evidence of change of name.

A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.

§ 3.8. Requirements for current mailing address.

A. All notices, required by law and by these regulations to be mailed by the board to any licensee, shall be validly given when mailed to the latest address on file with the board.

B. Each licensee shall maintain a record of his current mailing address with the board.

C. Any change of address by a licensee shall be submitted in writing to the board within 30 days of such change.

§ 3.9. Licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a registered nurse or a licensed dentist within the context of § 54.1-3408 of the Code of Virginia.

§ 3.10. Clinical nurse specialist registration.

A. Initial registration.

An applicant for initial registration as a clinical nurse specialist shall:

1. Be currently licensed as a registered nurse in Virginia;
2. Submit evidence of graduation from an approved program as defined in § 2.5 of these regulations;
3. Submit evidence of current specialty certification from a national certifying organization as defined in § 1.1 of these regulations; and
4. Submit the required application and fee.

B. Renewal of registration.

1. Registration as a clinical nurse specialist shall be renewed biennially at the same time the registered nurse license is renewed.

2. The clinical nurse specialist shall complete the renewal application and return it with the required fee and evidence of current specialty certification unless registered in accordance with an exception.

3. Registration as a clinical nurse specialist shall lapse if the registered nurse license is not renewed and may be reinstated as follows:

- a. Reinstatement of R.N. license;
- b. Payment of reinstatement and current renewal fees; and
- c. Submission of evidence of continued specialty certification unless registered in accordance with an exception.

§ 3.11. Clinical nurse specialist practice.

A. The practice of clinical nurse specialists shall be consistent with the

1. Education required in § 2.5 of these regulations, and
2. Experience required for specialist certification.

B. The clinical nurse specialist shall provide those advanced nursing services that are consistent with the standards of specialist practice as established by a national certifying organization for the designated specialty and in accordance with the provisions of Title 54.1 of the Code of Virginia.

C. Advanced practice as a clinical nurse specialist shall include but shall not be limited to performance as an expert clinician to:

1. Provide direct care and counsel to individuals and

groups;

2. Plan, evaluate and direct care given by others; and
3. Improve care by consultation, collaboration, teaching and the conduct of research.

PART IV. DISCIPLINARY PROVISIONS.

§ 4.1. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

A. Fraud or deceit shall mean, but shall not be limited to:

1. Filing false credentials;
2. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
3. Giving or receiving assistance in writing the licensing examination.

B. Unprofessional conduct shall mean, but shall not be limited to:

1. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 of Title 54.1, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;
2. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;
3. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
4. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
5. Falsifying or otherwise altering patient or employer records;
6. Abusing, neglecting or abandoning patients or clients; or
7. Practice of a clinical nurse specialist beyond that defined in § 3.11 of these regulations.
8. Holding self out as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the board.

§ 4.2. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

PART V. CERTIFIED NURSE AIDES.

§ 5.1. Definitions.

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

"Nurse aide education program" means a program designed to prepare nurse aides for certification.

"Nursing facility" means a licensed nursing home or an entity which is certified for Medicare or Medicaid certified skilled or intermediate care facility or unit long term care reimbursement.

"Primary instructor" means a registered nurse who is responsible for teaching and evaluating the students enrolled in a nurse aide education program.

"Program coordinator" means a registered nurse who is administratively responsible and accountable for a nurse aide education program.

"Program provider" means an entity which conducts a nurse aide education program.

§ 5.2. Delegation of authority.

The executive director of the board shall issue a certificate as a certified nurse aide to each applicant who qualifies for such a certificate under §§ 54.1-3025, 54.1-3026 and 54.1-3028 of the Code of Virginia.

§ 5.3. Nurse aide education programs.

A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit an application to the board at least 90 days in advance of the expected opening date.
2. The application shall provide evidence of the ability of the institution to comply with § 5.3 B of these regulations.
3. The application shall be considered at a meeting of the board. The board shall, after review and consideration, either grant or deny approval.
4. If approval is denied the program provider may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

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B. Maintaining an approved nurse aide education program.

To maintain approval, the nurse aide education program shall demonstrate evidence of compliance with the following essential elements:

1. Curriculum content and length as set forth in §§ 5.3 D and 5.3 G of these regulations.
2. Maintenance of qualified instructional personnel as set forth in § 5.3 C of these regulations.
3. Classroom facilities that meet requirements set forth in § 5.3 H of these regulations.
4. Maintenance of records as set forth in § 5.3 E of these regulations.
5. Skills training experience in a nursing facility which has not been subject to penalty or penalties as provided in 42 FR 483151(b)(2) (Medicare and Medicaid Programs: Nurse Aide Training and Competency Evaluation Programs, effective April 1, 1992) in the past two years.
6. Agreement that board representatives may make unannounced visits to the program.
7. Impose no fee for any portion of the program on any nurse aide who, on the date on which the nurse aide begins the program, is either employed or has an offer of employment from a nursing facility.
8. Must report all substantive changes in subdivisions 1 through 7 of § 5.3 B of these regulations within 10 days of the change to the board.

C. Instructional personnel.

1. Program coordinator.

a. The program coordinator in a nursing facility based program may be the director of nursing services. The director of nursing may assume the administrative responsibility and accountability for the nurse aide education program but shall not engage in the actual classroom and clinical teaching.

b. The primary instructor may be the program coordinator in any nurse aide education program.

2. Primary instructor.

a. Qualifications.

(1) The primary instructor, who does the actual teaching of the students, shall hold a current Virginia license as a registered nurse; and

(2) Shall have two years of experience as a

registered nurse and at least one year of experience within the previous five years in the provision of long term care facility services. Such experience may include, but not be limited to, employment in a nurse aide education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care or other long-term care setting. Experience should include varied responsibilities, such as direct resident care, supervision and education.

b. Responsibilities. The primary instructor shall:

(1) Participate in the planning of each learning experience;

(2) Ensure that course objectives are accomplished;

(3) Ensure that the provisions of § 5.3 C 6 of these regulations are maintained;

(4) Maintain records as required by § 5.3 E of these regulations; and

(5) Perform other activities necessary to comply with § 5.3 B of these regulations.

(6) Ensure that students do not perform services for which they have not received instruction and been found proficient by the instructor.

3. Other instructional personnel.

a. Qualifications.

(1) A registered nurse shall:

(a) Hold a current Virginia license as a registered nurse; and

(b) Have had at least one year, within the preceding five years, of direct patient care experience as a registered nurse with the elderly or chronically ill, or both, of any age.

(2) A licensed practical nurse shall:

(a) Hold a current Virginia license as a practical nurse;

(b) Hold a high school diploma or equivalent;

(c) Have been graduated from a state-approved practical nursing program; and

(d) Have had at least two years, within the preceding five years, of direct patient care experience with the elderly or chronically ill, or both, of any age.

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b. Responsibilities. Other personnel shall provide instruction under the general supervision of the primary instructor.

4. Prior to being assigned to teach the nurse aide education program, all instructional personnel shall demonstrate competence to teach adults by one of the following:

a. Complete satisfactorily a "train-the-trainer" program approved by the board. Such a program shall be approved by the board for five years, at which time the sponsor must request reapproval of the program. The content of the program must include:

- (1) Basic principles of adult learning;
- (2) Teaching methods and tools for adult learners; and
- (3) Evaluation strategies and measurement tools for assessing the learning outcomes; or

b. Complete satisfactorily a credit or noncredit course or courses approved by the board. Such courses shall be evaluated for approval by the board upon request from the individual taking the course. The content of such credit or noncredit course shall be comparable to that described in § 5.3 C 4 a of these regulations; or

c. Provide evidence acceptable to the board of experience in teaching adult learners within the preceding five years.

5. The program may utilize resource personnel who have had at least one year of experience in their field to meet the planned program objectives for specific topics.

6. When students are giving direct care to clients in clinical areas, instructional personnel must be on site *solely* to supervise the students and the . The ratio of students to each instructor shall not exceed 10 students to one instructor.

D. Curriculum.

1. The objective of the nurse aide education program shall be to prepare a nurse aide to provide quality services to clients under the supervision of licensed personnel. The graduate of the nurse aide education program shall be prepared to:

- a. Communicate and interact competently on a one-to-one basis with the clients;
- b. Demonstrate sensitivity to clients' emotional, social, and mental health needs through skillful directed interactions;

c. Assist clients in attaining and maintaining functional independence;

d. Exhibit behavior in support and promotion of clients' rights; and

e. Demonstrate skills in observation and documentation needed to participate in the assessment of clients' health, physical condition and well-being.

2. Content. The curriculum shall include, but shall not be limited to, classroom and clinical instruction in the following:

a. Initial core curriculum (~~minimum 16 hours~~) . The classroom instruction prior to the direct involvement *Prior to the direct contact* of a student with a nursing facility client , must include, at a ~~minimum~~, the topics listed below a total of at least 16 hours of instruction in the following areas must be presented :

- (1) Communication and interpersonal skills,
- (2) Infection control,
- (3) Safety and emergency procedures, including the Heimlich Maneuver,
- (4) Promoting client independence, and
- (5) Respecting clients' rights.

b. Basic skills.

- (1) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor.
- (2) Measuring and recording routine vital signs.
- (3) Measuring and recording height and weight.
- (4) Caring for the clients' environment.
- (5) Measuring and recording fluid and food intake and output.
- (6) Performing basic emergency measures.
- (7) Caring for client when death is imminent.

c. Personal care skills.

- (1) Bathing and oral hygiene.
- (2) Grooming.
- (3) Dressing.

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- (4) Toileting.
- (5) Assisting with eating and hydration including proper feeding techniques.
- (6) Caring for skin.
- (7) Transfer, positioning and turning.

d. Individual client's needs including mental health and social service needs.

- (1) Identifying the psychosocial characteristics of the populations who reside in nursing homes.
- (2) Modifying the aide's behavior in response to behavior of clients.
- (3) Identifying developmental tasks associated with the aging process.
- (4) Providing training in and the opportunity for self care according to clients' capabilities.
- (5) Demonstrating principles of behavior management by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated.
- (6) Demonstrating skills supporting age-appropriate behavior by allowing the client to make personal choices, providing and reinforcing other behavior consistent with clients' dignity.
- (7) Utilizing client's family or concerned others as a source of emotional support.
- (8) Responding appropriately to client's behavior.

e. Care of the cognitively impaired client.

- (1) Using techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others).
- (2) Communicating with cognitively impaired residents.
- (3) Demonstrating and understanding the behavior of cognitively impaired residents.
- (4) Responding appropriately to the behavior of cognitively impaired residents.
- (5) Using methods to reduce the effects of cognitive impairment.

f. Skills for basic restorative services.

- (1) Using assistive devices in transferring, ambulation, eating and dressing.

- (2) Maintaining range of motion.
- (3) Turning and positioning, both in bed and chair.
- (4) Bowel and bladder training.
- (5) Caring for and using prosthetic *and orthotic* devices.
- (6) Teaching the client in self-care according to the client's abilities as directed by a supervisor.

g. Clients' rights.

- (1) Providing privacy and maintaining confidentiality.
- (2) Promoting the client's right to make personal choices to accommodate individual needs.
- (3) Giving assistance in resolving grievances *and disputes*.
- (4) Providing assistance necessary to participate in client and family groups and other activities.
- (5) Maintaining care and security of the client's personal possessions.
- (6) Promoting the resident's rights to be free from abuse, mistreatment and neglect and the need to report any instances of such treatment to appropriate staff.
- (7) Avoiding the need for restraints in accordance with current professional standards.

h. Legal aspects of practice as a certified nurse aide.

3. Unit objectives.

a. Objectives for each unit of instruction shall be stated in behavioral terms *including which are measurable performance criteria*.

b. Objectives shall be reviewed with the students at the beginning of each unit.

E. Records.

1. Each nurse aide education program shall develop an individual ~~performance~~ record of major ~~duties and skills taught~~ *and the date of performance by the student*. This record will consist of, at a minimum, a listing of the duties and skills expected to be learned in the program, space to record when the nurse aide student performs this duty or skill, spaces to note satisfactory or unsatisfactory performance, the date of performance, and the instructor supervising the performance. At the completion of the nurse aide

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education program, the nurse aide and his employer must receive a copy of this record.

2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

F. Student identification.

The nurse aide students shall wear identification that is clearly recognizable to clients, visitors and staff.

G. Length of program.

1. The program shall be at least 80 hours in length.

2. The program shall provide for at least 16 hours of instruction prior to direct involvement contact of a student with a nursing facility client.

3. Skills training in clinical settings shall be at least 40 hours. Five of the clinical hours may be in a setting other than a nursing home.

4. Employment orientation to facilities used in the education program must not be included in the 80 hours allotted for the program.

H. Classroom facilities.

The nurse aide education program shall provide facilities that meet federal and state requirements including

1. Comfortable temperatures.

2. Clean and safe conditions.

3. Adequate lighting.

4. Adequate space to accommodate all students.

5. All equipment needed, including audio-visual equipment and that needed for simulating resident care.

I. Program review.

1. Each nurse aide education program shall be reviewed on site by an agent of the board at least every two years following initial review.

2. The report of the site visit shall be presented to the board for consideration and action. The report and the action taken by the board shall be sent to the appropriate administrative officer of the program.

3. The program coordinator shall prepare and submit a program evaluation report on a form provided by

the board in the intervening year that an on site review is not conducted.

4. A nurse aide education program shall continue to be approved provided the requirements set forth in subsections B through H of § 5.3 of these regulations are maintained.

5. If the board determines that a nurse aide education program is not maintaining the requirements of subsections B through H of § 5.3 of these regulations, with the exception of § 5.3 B 5 of these regulations, the program shall *may* be placed on conditional approval and be given a reasonable period of time to correct the identified deficiencies. The program provider may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

6. If the program *either fails to maintain the requirements of subsections B through H of § 5.3 of these regulations or to correct the identified deficiencies within the time specified by the board*, the board shall *may* withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.)

J. Curriculum changes.

Changes in curriculum must be approved by the board prior to implementation and shall be submitted for approval at the time of a report of a site visit or the report submitted by the program coordinator in the intervening years.

K. Interruption of program.

1. *When a program provider does not wish to admit students for a period not to exceed one year, the provider may request that the program be placed on inactive status and shall not be subject to compliance with § 5.3 B of the regulations for the specified time.*

2. *Unless the program provider notifies the board that it intends to admit students, the program will be considered closed at the end of the one-year period and be subject to the requirements of § 5.3 L of these regulations.*

K. L. Closing of a nurse education program.

When a nurse aide education program closes, the program provider shall:

1. Notify the board of the date of closing.

2. Submit to the board a list of all graduates with the date of graduation of each.

§ 5.4. Nurse aide competency evaluation.

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A. The board may contract with a test service for the development and administration of a competency evaluation.

B. All individuals completing a nurse aide education program in Virginia shall successfully complete the competency evaluation required by the board prior to making application for certification and to using the title Certified Nurse Aide.

C. The board shall determine the minimum passing score on the competency evaluation.

§ 5.5. Nurse aide registry.

A. Initial certification by examination.

1. To be placed on the registry and certified, the nurse aide must:

a. Satisfactorily complete a nurse aide education program approved by the board; or

b. Be enrolled in a nursing education program preparing for registered nurse or practical nurse licensure, have completed at least one nursing course which includes clinical experience involving client care; or

c. Have completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; and

d. Pass the competency evaluation required by the board; and

e. Submit the required application and fee to the board.

2. Initial certification by endorsement.

a. A graduate of a state approved nurse aide education program who has satisfactorily completed a competency evaluation program and ~~been~~ *is currently* registered in another state may apply for certification in Virginia by endorsement.

b. An applicant for certification by endorsement shall submit the required application and fee and submit the required verification form to the credentialing agency in the state where registered, certified or licensed within the last two years.

3. Initial certification shall be for two years.

B. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, an application for renewal shall be mailed by the board to the last known address of each currently registered certified nurse

aide.

2. The certified nurse aide shall return the completed application with the required fee and verification of performance of nursing-related activities for compensation within the preceding two years.

3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.

4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat ~~an approved nurse aide education program~~ and *pass* the nurse aide competency evaluation prior to applying for recertification.

C. Reinstatement of lapsed certification.

An individual whose certification has lapsed shall file the required application and renewal fee and:

1. Verification of performance of nursing-related activities for compensation *prior to the expiration date of the certificate and* within the preceding two years; or

2. When nursing activities have not been performed during the preceding two years, evidence of having repeated ~~an approved nurse aide education program~~ and *passed* the nurse aide competency evaluation.

D. Evidence of change of name.

A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order authorizing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence and the required fee.

E. Requirements for current mailing address.

1. All notices required by law and by these regulations to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address on file with the board.

2. Each certificate holder shall maintain a record of his current mailing address with the board.

3. Any change of address by a certificate holder shall be submitted in writing to the board within 30 days of such change.

§ 5.6. The board has the authority to deny, revoke or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that he has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in

the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit shall mean, but shall not be limited to:
 - a. Filing false credentials;
 - b. Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or
 - c. Giving or receiving assistance in taking the competency evaluation.
2. Unprofessional conduct shall mean, but shall not be limited to:
 - a. Performing acts beyond those authorized for practice as a nurse aide as defined in Chapter 30 of Title 54.1;
 - b. Assuming duties and responsibilities within the practice of a nurse aide without adequate training or when competency has not been maintained;
 - c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
 - d. Falsifying or otherwise altering client or employer records;
 - e. Abusing, neglecting or abandoning clients; or
 - f. Having been denied a license or having had a license issued by the board revoked or suspended.

**PART VI.
MEDICATION ADMINISTRATION TRAINING
PROGRAM.**

§ 6.1. Medication administration training program.

A. Establishing a medication administration training program.

1. A program provider wishing to establish a medication administration training program pursuant to § 54.1-3408 of the Code of Virginia shall submit an application to the board at least 90 days in advance of the expected beginning date.
2. The application shall be considered at a meeting of the board. The board shall, after review and consideration, either grant or deny approval.
3. If approval is denied, the program provider may request a hearing before the board, and the provisions of the Administrative Process Act shall apply (§ 9-6.14:1 et seq.).

B. Qualifications of instructional personnel.

Instructors shall be licensed health care professionals who, consistent with provisions of the Drug Control Act, are authorized to administer, prescribe or dispense drugs and who have completed a program designed to prepare the instructor to teach the course as it applies to the clients in the specific setting in which those completing the course will administer medications.

C. Content.

The curriculum shall include classroom instruction and practice in the following:

1. Preparing for safe administration of medications to clients in specific settings by:

- a. Demonstrating an understanding of the client's rights regarding medications, treatment decisions and confidentiality.
- b. Recognizing emergencies and other health-threatening conditions and responding accordingly.
- c. Identifying medication terminology and abbreviations.

2. Maintaining aseptic conditions by:

- a. Implementing universal precautions.
- b. Insuring cleanliness and disinfection.
- c. Disposing of infectious or hazardous waste.

3. Facilitating client self-administration or assisting with medication administration by:

- a. Reviewing administration records and prescriber's orders.
- b. Facilitating client's awareness of the purpose and effects of medication.
- c. Assisting the client to interpret prescription labels.
- d. Observing the five rights of medication administration and security requirements appropriate to the setting.
- e. Following proper procedure for preparing medications.
- f. Measuring and recording vital signs to assist the client in making medication administration decisions.
- g. Assisting the client to administer oral

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medications.

h. Assisting the client with administration of prepared instillations and treatments of:

(1) Eye drops and ointments.

(2) Ear drops.

(3) Nasal drops and sprays.

(4) Topical preparations.

(5) Compresses and dressings.

(6) Vaginal and rectal products.

(7) Soaks and sitz baths.

(8) Inhalation therapy.

(9) Oral hygiene products.

i. Reporting and recording the client's refusal to take medication.

j. Documenting medication administration.

k. Documenting and reporting medication errors.

l. Maintaining client records according to facility policy.

m. Sharing information with other staff orally and by using documents.

n. Storing and securing medications.

o. Maintaining an inventory of medications.

p. Disposing of medications.

4. Facilitating client self-administration or assisting with the administration of insulin.

Instruction and practice in the administration of insulin shall be included only in those settings where required by client needs and shall include:

a. Cause and treatment of diabetes.

b. The side effects of insulin.

c. Preparation and administration of insulin.

VA.R. Doc. No. R93-760; Filed August 16, 1993, 10:50 a.m.

**DEPARTMENT OF SOCIAL SERVICES (STATE BOARD
OF)**

Title of Regulation: VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.

Statutory Authority: § 63.1-248.6 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until November 8, 1993.

(See Calendar of Events section for additional information)

Basis: These regulations are issued under the authority granted by the Code of Virginia, Title 63.1.

Purpose: The intent of these regulations is to establish guidelines for mandatory sharing of information which will be in the interest of the children and families involved in child protection matters. Existing regulations permit this information-sharing on a discretionary basis.

Substance: The regulations will require that information on founded child abuse/neglect complaints in military families be provided to the Family Advocacy Program.

Issues: The regulations will permit the provision of treatment services and tracking within the military system of all military families involved in founded child abuse and neglect cases. Such military families might object to this personal information being shared with the Family Advocacy Program.

Impact: Cost of implementation. No cost to the Virginia Department of Social Services is anticipated.

Persons affected. The regulation will impact all active duty military members and members of their households who are involved in a child abuse/neglect investigation determined to be founded. No specific data exists to identify the number of military families who will be subject to this information-sharing mandate. In the general state population, the incidence of children on whom founded dispositions are made is approximately 6 per 100,000 children under age 18. The incidence in the military population is probably similar.

Localities affected. Although the regulation will affect all localities, the volume of applicable cases will be higher in areas with larger military populations such as in Tidewater and Northern Virginia.

Cost of compliance. The cost to local departments of social services to comply with these regulations primarily involves photocopying and mailing costs, anticipated not to exceed \$1,000 annually for the entire state.

Effective Date: February 1, 1994.

Summary:

The amendment to the existing regulations is intended to reflect the requirement of § 63.1-248.6 of the Code

of Virginia which was amended by the 1993 General Assembly requires that information regarding founded child abuse/neglect complaints involving active duty military personnel or members of their households be shared with Family Advocacy Program representatives of the United States Armed Forces. Existing regulations permit this information sharing on a discretionary basis.

VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.

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:

"Alleged abuser/neglector" means any person who is the subject of a complaint and is suspected of or is found to have committed the abuse or neglect of a child pursuant to § 63.1-248 et seq. of the Code of Virginia.

"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, and providing social casework and other services for the child, his family, and the alleged abuser/neglector.

"Complaint" means a valid report of suspected child abuse/neglect which must be investigated by the local department of social services.

"Family Advocacy Program representative" means the professional employed by the United States Armed Forces who has responsibility for the program which is designed to address prevention, identification, evaluation, treatment, rehabilitation, follow-up and reporting of family violence.

"Founded" means that a review of the facts shows clear and convincing evidence that child abuse or neglect has occurred.

"Investigation" means the formal fact-finding process utilized by the local department of social services in determining whether or not abuse/neglect has occurred. This process is employed for each valid complaint received by the local department.

"Reports" means any information transmitted to the local department of social services relating the suspicion of possible abuse/neglect of a child pursuant to § 63.1-248 et seq. of the Code of Virginia.

PART II. POLICY.

§ 2.1. Release of information to Family Advocacy Program representatives of the United States Armed Forces.

Information regarding child protective services reports, complaints, investigations and related services and follow-up may be shared with the appropriate Family Advocacy Program representative of the United States Armed Forces when the local agency determines such release to be in the best interest of the child. Provision of information as addressed in this regulation shall apply to instances where the alleged abuser/neglector is a member (or the spouse of a member) of the United States Armed Forces. In these situations coordination between child protective services and the Family Advocacy Program is intended to facilitate identification, treatment and service provision to the military family.

§ 2.2. *In founded complaints in which the abuser/neglector is an active duty member of the United States Armed Forces, or the spouse of a member residing in the member's household, information regarding the disposition, type of abuse/neglect, and the identity of the abuser/neglector shall be provided to the appropriate Family Advocacy Program representative. This notification shall be made in writing within 30 days of advising the abuser/neglector of the founded disposition. A copy of the disposition notification letter to the abuser may be used for this purpose if it does not contain confidential information such as the names of victim children who are not a part of the military family.*

The military member shall be advised that this information is being provided and shall be given a copy of the written notification sent to the Family Advocacy Program representative.

When needed by the Family Advocacy Program representative to facilitate treatment and service provision to the military family, additional related information shall also be provided to the Family Advocacy Program representative.

VA.R. Doc. No. R93-764; Filed August 16, 1993, 12:08 p.m.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-04-28. Regulation Governing the Oxygenation of Gasoline.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Effective Date: November 1, 1993.

Summary:

The final regulation continues authority contained in an emergency regulation to expire on October 31, 1993, governing the oxygenation of gasoline.

The regulation assures that motor fuels dispensed in this Commonwealth comply with any oxygenation requirements specified by the federal Clean Air Act pertaining to motor fuels. The 1990 amendments to the federal Clean Air Act require states with carbon monoxide nonattainment areas with design values of 9.5 parts per million (ppm) or more to implement an oxygenated gasoline program in all such designated nonattainment areas. Title II of the 1990 amendments to the federal Clean Air Act (hereinafter "Title II") requires that states institute an oxygenated gasoline program by establishing "control areas" in any Metropolitan Statistical Area (MSA) which contains one or more carbon monoxide nonattainment areas. Pursuant to such provisions, the Department of Air Pollution Control (now Department of Environmental Quality) has designated as the control area the Virginia counties within the Washington, D.C. Metropolitan Statistical Area (MSA) consisting of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the Virginia cities within the Washington, D.C. MSA consisting of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

The oxygen content requirement applies during the portion of the year in which the control area is prone to high ambient concentrations of carbon monoxide. The Environmental Protection Agency has established this control period (which the Board of Agriculture and Consumer Services anticipates will recur annually) to be, in the case of Virginia, a specified four months out of twelve. In Virginia this control period will begin on November 1 of one year and continue through the last day of February of the following year.

The proposed regulation:

- a. Specifies carbon monoxide nonattainment areas;
- b. Specifies the control area;
- c. Specifies the control period;
- d. Specifies a minimum oxygenate content in gasoline during the control period;
- e. Requires all persons regulated to keep records of classes of oxygenates and oxygenate content;
- f. Requires gasoline pump labelling;
- g. Specifies methods of sampling, testing, and oxygen content calculations; and
- h. Specifies means of compliance and methods of enforcement

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Lawrence H. Redford, Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-3539. There may be a charge for copies.

VR 115-04-28. Regulation Governing Oxygenation of Gasoline.

§ 1. Definitions.

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

"Administrator" means the Administrator of the United States Environmental Protection Agency."¹

"ASTM" means the American Society for Testing and Materials.

"Batch" means any discrete amount of gasoline.

"Blender" means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility.

"Bulk gasoline plant operator" means any person who

owns, leases, operates, or controls a plant which is a secondary distribution point for delivering gasoline to local farms, businesses, service stations, and other distribution points, where the total gasoline throughput is 20,000 gallons or less per working day, based on the daily average for the most recent 12-month period.

"Bulk gasoline terminal operator" means any person who owns, leases, operates, or controls a terminal which is a primary distribution point for delivering gasoline to bulk plants, service stations, and other distribution points, where the total gasoline throughput is greater than 20,000 gallons per working day, based on the daily average for the most recent 12-month period.

"Control area" means the Virginia counties within the Washington, D.C. Metropolitan Statistical Area (MSA) consisting of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the Virginia cities within the Washington, D.C. MSA consisting of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

"Control period" means a specified four months out of 12, beginning on November 1 of one year and continuing through the last day of February of the following year.

"Owner" means any person who owns or controls any batch of gasoline.

"Oxygenate" means any [combustible] substance or substances which, when added to gasoline, increases the amount of oxygen in that gasoline blend.

"Oxygenated gasoline" means gasoline which contains a measurable amount of oxygenate.²

"Person" includes an individual, corporation, partnership, association, state, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.³

"Record" means any document which takes the form of, but is not limited to, a bill of lading, invoice, receipt, commodity manifest, or delivery ticket.

"Retail outlet operator" means any person who owns, leases, operates, or controls any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in a motor vehicle.

"Sell or transfer" means to sell, exchange, ship, receive, or to offer or expose for sale.

"Substantially similar" means "substantially similar" as stated in § 211(f)(1) of the federal Clean Air Act, 42 USC § 7545(f)(1).

"Terminal operator" means any person who owns, leases, operates or controls a gasoline terminal at which gasoline is sold or dispensed into trucks or other

containers for transportation to retail outlets or wholesale purchaser-consumer facilities, and shall include, but not be limited to, any bulk gasoline plant operator and any bulk gasoline terminal operator.

"Ultimate consumer" means any person who purchases gasoline for any purpose other than resale.

"Wholesale purchaser-consumer" means any person who is an ultimate consumer of gasoline and who purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of gasoline into a storage tank or other gasoline container.

"Wholesale purchaser-consumer facility" means any facility at which a wholesale purchaser-consumer stores gasoline in a storage tank or other gasoline container.

§ 2. Exception for aircraft.

Nothing in this regulation shall apply to any person who sells or transfers any batch of gasoline for use in aircraft.

§ 3. Minimum oxygenate content.

No person may sell or transfer gasoline to a retail outlet operator or wholesale purchaser-consumer who is within the control area during a control period unless the gasoline contains a minimum of 2.7% oxygen by weight as determined in accordance with § 7 of this regulation.

§ 4. Nature of oxygenates.

A. No person may sell or transfer gasoline to a retail outlet operator or wholesale purchaser-consumer located in the control area during a control period unless such gasoline contains an oxygenate which is:

1. Of the type and quality allowed under the federal Clean Air Act;
2. Of a type "substantially similar" under § 211(f)(1) of the federal Clean Air Act, 42 USC § 7545(f)(1); or
3. Approved through the waiver granted under § 211(f)(4) of the federal Clean Air Act, 42 USC § 7545(f)(4).

B. No person may sell or transfer to a retail outlet operator or wholesale purchaser-consumer located in the control area during a control period gasoline that exceeds the maximum oxygen content specified by the "substantially similar" definition of § 211(f)(1) of the federal Clean Air Act, 42 USC § 7545(f)(1), unless such gasoline is approved through the waiver ("the waiver") granted by the administrator under the authority of § 211(f)(4) of the federal Clean Air Act, 42 USC § 7545(f)(1);

No person may sell or transfer to a retail outlet operator or wholesale purchaser-consumer located in the

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control area during the control period gasoline approved through the waiver unless the oxygen content of such gasoline is no more than that specified by the waiver.

C. No person may use any oxygenate unless it is "substantially similar" as defined by this regulation, or unless it is approved through the waiver.

§ 5. Record keeping and transfer requirements.

A. Any terminal operator who ships or causes to have shipped gasoline to or within the control area during a control period shall make a record to be made no later than the time of shipment of the gasoline. Any person who ships the gasoline to or within the control area during a control period shall carry a copy of the record made by the terminal operator. The terminal operator shall retain for one year after the creation of the record or until this regulation ceases to have effect, whichever is the sooner, a copy the record and shall make such record available for inspection by the commissioner. Such record shall contain for each batch of gasoline leaving the terminal operator:

1. The volume of gasoline;
2. The class of oxygenate in the gasoline, if any, that is to say whether the gasoline contains an ether or an alcohol based oxygenate;
3. The oxygen content, if any;
4. A declaration of whether the destination of the batch of gasoline leaving the terminal operator is within the control area or not; and
5. The name and address of the person to whom the terminal operator shipped the batch of gasoline and the date of such shipment.

B. Any blender who ships or causes to have shipped gasoline to or within the control area during a control period shall make a record to be made no later than the time of shipment of the gasoline.

Any person who ships the gasoline to or within the control area during a control period shall carry a copy of the record made by the terminal operator. The blender shall retain for one year after the creation of the record or until this regulation ceases to have effect, whichever is the sooner, a copy of the record and shall make such record available for inspection by the commissioner. Such record shall contain for each batch of gasoline leaving the blender:

1. The volume of gasoline;
2. The class of oxygenate in the gasoline, if any, that is to say whether the gasoline contains an ether or an alcohol based oxygenate;

3. The oxygen content, if any;

4. A declaration of whether the destination of the batch of gasoline leaving the blender is within the control area or not; and

5. The name and address of the person to whom the blender shipped the gasoline and the date of the shipment.

C. Any retail outlet operator who purchases or receives the gasoline and record specified in § 5 A or § 5 B of this regulation shall retain the record for one year after the creation of the record or until this regulation ceases to have effect, whichever is the sooner, and shall make such record available for inspection by the commissioner.

D. Any wholesale purchaser-consumer who purchases or receives the gasoline and record specified in § 5 A or § 5 B of this regulation shall retain the record for one year after the creation of the record or until this regulation ceases to have effect, whichever is the sooner, and shall make such record available for inspection by the commissioner.

E. Any blender or terminal operator who ships or causes to have shipped gasoline destined for the control area during a control period other than to be sold to a retail outlet operator or a wholesale purchaser-consumer shall make a record to be made no later than the time of shipment of the gasoline. Any person who ships the gasoline destined for the control area during a control period shall carry a copy of the record made by the blender or terminal operator. The blender or the terminal operator shall retain for one year after the creation of the record or until this regulation ceases to have effect, whichever is sooner, a copy of the record and shall make such record available for inspection by the commissioner. Such record shall contain for each batch of gasoline shipped the following information:

1. The date of the shipment of the gasoline;
2. The name and address of the blender or terminal operator shipping or causing to have shipped the gasoline and where the blender or terminal operator is not the person shipping the gasoline, the name and address of the person shipping the gasoline;
3. The name and address of the recipient of the gasoline;
4. The volume of gasoline shipped;
5. The identification of the gasoline as nonoxygenated or oxygenated; and
6. The class of oxygenate used in the gasoline, if any, that is to say whether the gasoline contains an ether or an alcohol based oxygenate, and the oxygen content of the gasoline, if any, required by § 3 of this

regulation.

The person shipping the gasoline destined for the control area during a control period shall provide the recipient of the gasoline with a copy of the record required by this subsection E upon delivery of the gasoline to the recipient. The recipient shall retain for one year after the creation of the record or until this regulation ceases to have effect, whichever is the sooner, a copy of the record and shall make such record available for inspection by the commissioner.

§ 6. Gasoline pump labeling.

A. The retail outlet operator shall post a label on any gasoline pump located in the control area from which gasoline is dispensed and which is operated by the retail outlet operator. The retailer shall ensure that the label remains permanently affixed to the gasoline pump. The label shall be worded as follows:

"The following statement is applicable only from November 1 through the last day of February: The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

B. The retail outlet operator shall post the label required by § 6 A of this regulation in block letters of no smaller than 20-point bold type, in a color contrasting with the background. The label shall be placed in the upper two-thirds of the front panel of the gasoline pump on the vertical surface of the same side as the price and gallonage or quantity display of the gasoline pump in a position plain and conspicuous from the driver's position.

C. The retail outlet operator shall also label the pump with:

1. The brand name, trademark or trade name of the motor fuel it contains;
2. The grade, blend or mixture of the motor fuel it contains;
3. The octane ... rating of the motor fuel it contains; and
4. If the product contains one percent or more ethanol or methanol, information identifying the kind of alcohol and the percentage of each at the time of blending, in letters not less than one inch in height. 4

§ 7. Sampling, testing, and oxygen content calculations.

A. Sampling methodologies used by the commissioner to determine compliance with this regulation shall be those set forth in Appendix D, 40 CFR Part 80, which is hereby adopted by reference.

B. Determination by the commissioner of the oxygenate

and its weight and volume in gasoline shall be in accordance with test method ASTM D 4815-89 as set forth in ASTM specification D 4814 or other methods developed or approved by the United States Environmental Protection Agency.

C. Oxygen content shall be calculated by the commissioner by multiplying the mass concentration of each oxygenate in gasoline by the oxygen molecular weight contribution of the oxygenate. All volume measurements shall be adjusted to 60 degrees Fahrenheit. For the purpose of calculating oxygen content, the following oxygen molecular weight contributions shall be used:

Oxygenate	Oxygen Mass Fraction	Relative Density 60/60°F
Methyl Alcohol	0.4993	0.7963
Ethyl Alcohol	0.3473	0.7939
n-Propyl Alcohol	0.2662	0.8080
Isopropyl Alcohol	0.2662	0.7899
n-Butyl Alcohol	0.2158	0.8137
Isobutyl Alcohol	0.2158	0.8058
sec-Butyl Alcohol	0.2158	0.8114
tertiary-Butyl Alcohol	0.2158	0.7922
Methyl Tertiary-Butyl Ether	0.1815	0.7460
Ethyl tertiary-Butyl Ether	0.1566	0.7452
tertiary-Amyl Methyl Ether	0.1566	0.7752
tertiary-Hexyl Methyl Ether	0.1377	0.7860
Dilso propyl ether	0.1566	0.7300

D. Oxygenated gasoline shall consist of a single homogenous mixture, presenting no indication of phase separation when tested by the commissioner in accordance with the test method described in Annex A3 of ASTM Specification D-4814.

1. -8°C (17°F) during the month of January.
2. -7°C (19°F) during the month of February.
3. -3°C (26°F) during the month of March.
4. 3°C (37°F) during the month of April.
5. 9°C (48°F) during the month of May.
6. 10°C (50°F) during the months of June, July, August, and September.
7. 4°C (39°F) during the month of October.

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8. -2°C (28°F) during the month of November.

9. -7°C (19°F) during the month of December.

§ 8. Compliance and enforcement.

A. Any retail outlet operator or wholesale purchaser-consumer will be deemed in compliance with the requirements of this regulation during a transitional period comprising the first 10 days of the control period, provided that for all deliveries of gasoline during the five days immediately preceding the control period the gasoline delivered to that retail outlet operator or wholesale purchaser-consumer complies with the minimum oxygenate content specified by § 3 of this regulation.

B. Any retail outlet operator or wholesale purchaser-consumer who purchases or receives, and offers for sale, or dispenses gasoline found not to be in compliance with the requirements of this regulation will be subject to having such gasoline ordered off sale or removed from use by the commissioner. After such ordering off sale or removal from use, the retail outlet operator or wholesale purchaser-consumer may:

1. Re-offer for sale gasoline that has been ordered off sale or removed from use, provided that prior to such re-offering for sale such gasoline has been blended by any person with additional oxygenates sufficient to comply with the minimum oxygenate content specified by § 3 of this regulation, and provided that prior to such re-offering for sale the sampling taken by the commissioner meets the minimum oxygenate content specified by § 3 of this regulation;

2. Sell or transfer gasoline for use outside the control area that has been ordered off sale or removed from use, provided that the retail outlet operator or wholesale purchaser-consumer complies with the record keeping requirements of § 5 C (in the case of the retail outlet operator) and § 5 D (in the case of the wholesale purchaser-consumer) of this regulation, and provided that prior to the sale or transfer the retail outlet operator or wholesale purchaser-consumer provides the commissioner with an affidavit stating that the retail outlet operator or the wholesale purchaser-consumer will not sell or transfer the gasoline in or to the control area during the control period, and also stating the proposed disposition of the gasoline; or

3. Have gasoline that has been ordered off sale or removed from use released and returned to the retail outlet operator or wholesale purchaser-consumer by the commissioner, provided that prior to such release the retail outlet operator or wholesale purchaser-consumer provides the commissioner with an affidavit stating that the retail outlet operator or wholesale purchaser-consumer will not sell or transfer the gasoline in or to the control area during the control period, and also stating the proposed

disposition of the gasoline.

¹ Clean Air Act § 302(a), 42 USC § 7602(a).

² Proposed federal regulation as contained in Federal Register July 9, 1991. The placement of this definition as proposed in the Federal Register would be at 40 CFR § 80.1 (oo).

³ Clean Air Act § 302(e), 42 USC § 7602(e).

⁴ From § 59.1-167 A of the Code of Virginia.

⁵ Extrapolated, below freezing temperature.

V.A.R. Doc. No. R93-765; Filed August 17, 1993, 2:56 p.m.

DEPARTMENT OF HEALTH (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(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. 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 355-25-01. Rules and Regulations for the Reporting of Chemical Substances Manufactured or Used in Manufacturing (REPEALED).

Statutory Authority: § 32.1-12 of the Code of Virginia.

Summary:

On January 25, 1993, the Virginia Board of Health approved repeal of the regulation entitled "Rules and Regulations for the Reporting of Chemical Substances Manufactured or Used in Manufacturing." The regulation is no longer needed since the 1992 General Assembly passed legislation eliminating the statutory requirements for reporting of toxic substances and the maintenance of the Virginia Department of Health (VDH) Toxic Substances Chemical Inventory. This inventory maintained by the VDH was similar to one maintained by the Department of Environmental Quality (DEQ) formerly the Department of Waste Management. The DEQ inventory is required by federal law. To avoid duplication of effort, it was decided that the Toxic Substances Chemical Inventory maintained by the VDH would be discontinued as of February 1, 1992. The funding for this inventory was eliminated during the 1991 General Assembly session.

V.A.R. Doc. No. R93-769; Filed August 18, 1993, 10:46 a.m.

STATE COUNCIL OF HIGHER EDUCATION FOR
VIRGINIA

REGISTRAR'S NOTICE: Pursuant to subsection I of § 23-7.4 of the Code of Virginia, these guidelines are exempt from the Administrative Process Act. However, the guidelines have been filed pursuant to § 9-6.15 of the Virginia Register Act and are being published for informational purposes at the agency's request.

Title of Regulation: VR 380-04-01. Domicile Guidelines.

Statutory Authority: § 23-7.4 of the Code of Virginia.

Effective Date: October 6, 1993.

Summary:

These guidelines promote the application of uniform criteria in determining eligibility for in-state tuition rates at public institutions of higher education in Virginia.

VR 380-04-01. Domicile Guidelines.

**PART I.
DEFINITIONS**

§ 1.1. Definitions.

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

"Date of alleged entitlement" means the first official day of class within the semester or term of the program in which the student is enrolled. For special classes, short courses, intensive courses, or courses not otherwise following the normal calendar schedule, the date of alleged entitlement refers to the starting date of the nontraditional course in which the student is enrolled.

"Dependent student" means one who (i) is listed as a dependent on the federal or state income tax returns of the parent(s) or, legal guardian(s) or, even if not so listed, (ii) receives substantial financial support from a parent or legal guardian. Substantial financial support is defined as the amount of support which equals or exceeds the amount necessary to qualify the individual to be listed as a tax dependent. In some cases, the institution may need to consult with tax authorities to determine if the amount of support a student receives from parent or legal guardian would qualify the student to be claimed as a tax dependent. Normally, a student will be classified as a dependent of the parent or legal guardian who provides more than half of the student's expenses for food, shelter, clothing, medical and dental expenses, transportation and education. As noted, the definition considers only the financial support provided by a parent or legal guardian. Earned income of the student paid by parent or legal guardian for bona fide employment is not counted as part of the parental or guardian support; however, gifts of money, or other things of value, from the parent or legal guardian to the student are counted toward the parental

(guardian) support to the extent relied upon by the student for his total support. Three additional points are to be noted: first, a dependent student is not required to live with a parent or legal guardian; second, a dependent student does not have to be a full-time student; and third, a dependent student may be over the age of 18. In fact, a married student may be a dependent student if listed as a tax dependent or provided substantial financial support as above indicated.

The definition of a dependent student should be compared and contrasted with the definition of an independent student. In the case of the independent student, the parents or guardian do not list the student on any tax return, nor have they done so for at least 12 months prior to the date of the alleged entitlement. Further, the student is not relying on a parent or legal guardian for substantial financial support.

"Domicile" and "domiciliary intent" should be considered together. Domiciliary intent is a part of the definition of domicile. A person's domicile is the present, fixed home of the person to which he or she returns following temporary absences and at which he intends to stay indefinitely. A person becomes domiciled in Virginia when he is legally capable of establishing a domicile and is physically present in Virginia with the present intention of remaining here indefinitely. Thus, a person who has never been to Virginia, or who is not here when he forms the intent to make Virginia his home indefinitely, cannot be a domicile of Virginia. To establish domicile initially, there must be physical residence in the state with the present intention of remaining indefinitely. Intending to remain indefinitely means that the individual has no fixed or specific plans to move from the Commonwealth of Virginia. Residence in Virginia for a temporary purpose or stay, even if that stay is lengthy, with present intent to return to a former state or country upon completion of such purpose, does not constitute domicile. Further, while a person may have more than one residence, a person may have only one domicile. Thus, an individual cannot claim two states as his domicile. Domiciliary intent is determined from the affirmative declaration and conduct of the person. When evidence is conflicting, the opposing facts must be balanced against each other. In the final analysis, keep in mind that the students bear the burden of demonstrating that such intent clearly and convincingly existed for the requisite one year period.

"Emancipated minor" and "unemancipated minor" should be compared and contrasted. A minor is a person under the age of 18. Emancipation requires that the parental rights to care, custody and earnings of the minor have been relinquished completely by the parents. Emancipation requires that the parents or guardian consider the child emancipated. For example, a minor who runs away from home is not necessarily emancipated, even though he may not desire any further contacts with the parents. A minor's declaration of emancipation is not conclusive. The parents or guardian must no longer support the minor and they must

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recognize the minor's right to retain his own wages, and to live independently of them. Moreover, if the parents or legal guardian list the minor as a dependent on their income tax return, he cannot be emancipated. A student who claims emancipation from the parents or legal guardian must provide evidence that his parents consider the student emancipated and do not claim the student as a tax dependent. The institution may require production of the tax return if needed to substantiate the claimed emancipation.

"Full-time employment" does not require that the person work full-time for all 50 weeks each year. Rather, the person must earn the equivalent amount of 50 weeks of work, for 40 hours, at minimum wage. As of April 1, 1991, the federal minimum wage is \$4.25 per hour. Therefore, the person must have earned income of at least \$8,500 to be considered as a full-time employee (50 x 40 x \$4.25). The person may have earned this money in less than 50 weeks, but the time period in which the money is earned (up to one year) is irrelevant. He simply must have earned this minimum amount; furthermore, these wages must be reported for income tax purposes.

"Special arrangement contract" is a new concept for the in-state tuition statute. It is a formal written contract between an institution of higher education and a Virginia employer, the authorities controlling a federal installation, or an agency located in Virginia. Under this contract the employer must be liable for the tuition for the employee. This contract must be approved as to form and legal sufficiency by the Office of the Attorney General.

A Virginia employer includes corporations, partnerships, or sole-proprietorships, organized under the laws of Virginia, or having income from Virginia sources. Thus, a private New York corporation doing business in Virginia would meet the definition. Also included are public or nonprofit organizations authorized to operate in Virginia would meet the definition. Also included are public or nonprofit organizations authorized to operate in Virginia. The State Corporation Commission maintains records of all corporations that are qualified to do business in Virginia.

"Rebuttable presumption" means that a student is presumed, or assumed, to have the fact (or domicile) in question, unless the student can show the contrary by clear and convincing evidence. The point to be made is that the student be given the chance to rebut the presumed fact.

PART II. GENERAL RULES.

§ 2.1. Assessing eligibility for in-state tuition.

Assessing eligibility for in-state tuition is essentially a three-step process. First, the institution must determine from the information furnished by the applicant whether the applicant is a dependent or independent student,

emancipated or unemancipated minor. Second, the institution must then determine whether the student has established Virginia domicile for the requisite one-year period. An independent student or emancipated minor must establish by clear and convincing evidence that for a period of at least one year prior to the date of alleged entitlement, he was domiciled in Virginia and had abandoned any previous domicile. An unemancipated minor must establish by clear and convincing evidence that for a period of at least one year prior to the date of alleged entitlement, the parent or legal guardian through whom the eligibility is claimed was domiciled in Virginia and had abandoned any previous domicile. A dependent student is rebuttably presumed to have the domicile of the parent or legal guardian listing the student as an exemption for tax purposes or providing substantial financial support. A dependent student 18 or over may seek to prove a domicile independent of such parent or legal guardian; however, the student is presumed to have the same domicile unless he can prove to the contrary by clear and convincing evidence. Note the one-year period applies to all classifications and cannot be waived. If the date of alleged entitlement is, for example, September 1, 1985, then the Virginia domicile must have been established no later than September 1, 1984, and continued for the entire year. Third, if the student is not eligible under the foregoing, then eligibility under subsections E, F and G may be available.

§ 2.2. Domicile: residence requirement.

Domicile is defined in the law as "the present fixed home of an individual to which he returns following temporary absences and at which he intends to stay indefinitely." Domicile cannot be initially established in Virginia unless one actually resides, in the sense of being physically present in Virginia, with the requisite domiciliary intent. (Note, however, that once domicile has initially been established in Virginia, actual residence here is no longer necessarily required. Temporary absence from the State does not negate a claim of Virginia domicile unless the person does something incompatible with that claim, such as registering to vote in the new state which indicates an intent to establish his domicile in another state. Keep in mind that a person who has established Virginia domicile, but resides in another state, may be required by laws of the host state to fulfill certain obligations of the host state. Performing acts in the host state that required by law of all residents, irrespective of domicile does not automatically constitute an abandonment of Virginia domicile. The question in each case is whether all of the individual's acts, most importantly, his voluntary acts, evidence the formation of a new domicile in the host state and abandonment of Virginia domicile). The physical presence requirement means that a person who has never resided in Virginia, or who was not residing here at the time he formed the intent to make Virginia his home, cannot be domiciled here. A New York resident who has resolved to move to Virginia and remain indefinitely in New York is still domiciled in New York for tuition eligibility purposes until

he actually moves to Virginia and has resided here for at least the one-year period with the requisite domiciliary intent.

§ 2.3. Domicile: intent requirement.

Where a person resides is relatively easy to determine. Whether the person has resided in Virginia with the requisite domiciliary intent is more difficult to ascertain. Intent is necessarily a subjective element; however, a person demonstrates his intent through objective conduct. One's subjective intent may be unsupportable by his conduct. In short, actions generally speak louder than words. The law requires that a person claiming eligibility for in-state tuition as a domicile (or the person through whom eligibility is being claimed) shall have demonstrated this domiciliary intent by clear and convincing evidence at least one year prior to the date of alleged entitlement. The burden is on the applicant to prove this intent.

Section 23-7.4 of the Code of Virginia includes a list of objective conduct that may be relevant in evaluating a claim of domiciliary intent. Necessarily, each of the objective criteria will not carry the same weight or importance in an individual case. The objective criteria that may be relevant are:

1. Continuous residence for at least one year prior to the date of alleged entitlement. Continuous residence during this period as evidence of domiciliary intent should be distinguished from the residence required to initially establish domicile in Virginia. As noted previously, once Virginia domicile has been affirmatively established, actual residence in Virginia is not necessarily required in order to retain it. Continuous residence here in the context of evaluating domiciliary intent may be evidence supporting that the person intends to make Virginia his home indefinitely. (If the student returns each summer to his parents' domicile outside Virginia, this change of residence may be evidence that he is retaining the previous domicile.)

2. State to which income taxes are filed or paid. Failure to file a tax return in Virginia when one is required to is evidence that one is not a Virginia domicile (since domiciliaries are required to file returns regardless of the fact that they may reside elsewhere).¹ However, this assumes that the individual had income. Moreover, under current tax law, a Virginia domicile is not required to file a return here if his adjusted gross income was less than \$3,000. Thus, failure to file a return by someone who had no income in Virginia, or whose adjusted gross income was less than \$3,000 is not determinative. Likewise, a member of the armed forces who does not claim Virginia as his tax situs for military income is normally not a Virginia domiciliary. Conversely, the filing of an income tax return in Virginia or the paying of income taxes to Virginia is not conclusive evidence that a person is domiciled in Virginia. For

example, a student with a part-time job may pay income tax to Virginia on wages earned in the state, even though he may be a temporary resident. In short, fulfilling the obligation to pay taxes to Virginia on income earned in Virginia is not conclusive of one's domicile. Moreover, paying income taxes to another state or country is not automatically determinative of domiciliary status in Virginia. A Virginia domicile may be required by another state to pay income taxes on income earned in that state irrespective of his ties to the state; however, such payment may be considered, along with all of the other evidence, in evaluating a claim of Virginia domicile.

3. Driver's license. Possession of a Virginia driver's license may be evidence of intent to be domiciled here. Possession of a driver's license from another state may be evidence of intent to retain domicile in that state.

4. Motor vehicle registration. Registration of a motor vehicle in Virginia may be evidence of intent to be domiciled here. Registration of a motor vehicle in another state may be evidence of intent to be domiciled in that state. Virginia law permits, but does not require, registration by a nonresident student. Thus, a student-owner who does register in Virginia, when not required to by law, has shown evidence of Virginia domicile.

5. Voter registration.

a. Actual voting. If a citizen has voted in person or by absentee ballot in another state or country during the year immediately prior to the date of the alleged entitlement then he will normally be ineligible for in-state tuition. Voting in Virginia, in local or state elections, is evidence of domicile, but it is not determinative. Failing to vote in state or local elections is evidence that the person is not a domiciliary; however, it is not determinative in all cases since the individual may forget to vote, choose not to, or in the case of certain aliens, may not be entitled to exercise the choice to vote.

b. Voting registration. Registering to vote in Virginia within the past year is evidence of domiciliary intent, although it is not determinative. The institution is not bound by the voting registrar's determination; however, it should be considered. The fact that a person is still registered in another state, but has not voted there in the past year, does not conclusively mean that he is not domiciled in Virginia, but must be taken into account. Failure to register to vote by a person who, on principle, has never registered to vote anywhere should not be taken as conclusive evidence that the person lacks domiciliary intent.

6. Employment. Employment is not a prerequisite to

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eligibility for in-state tuition. If a person's residence in the state and domiciliary intent have otherwise been satisfactorily documented, unemployment does not preclude a finding that the person is a Virginia domiciliary. Fulfillment of state licensing requirements in order to be certified to practice a profession in Virginia, e.g. bar examination, clinical psychologist, nursing certificates, is evidence, albeit not conclusive, of domiciliary intent.

a. *Employment in Virginia post-graduation.* If the person has accepted an offer of employment with a Virginia employer following completion of the degree program in which he is currently enrolled, this fact is evidence of domiciliary intent. The burden is on the student to demonstrate that such employment exists, for example, through a written commitment from his prospective employer. This factor is particularly important in reclassification cases.

b. *Summer employment.* Employment in Virginia during the summer may be evidence of domiciliary intent, albeit not conclusive evidence. (If the student returns each summer to his parents' domicile outside Virginia, this may be evidence that he is retaining the previous domicile.)

7. *Ownership of real property.* Ownership of real property (for example, land, a house, cottage, etc.) in Virginia may be evidence of domiciliary intent. Payment of real property taxes to Virginia in the absence of other supportive evidence is insufficient to establish that a person is domiciled in Virginia. This is because owners of real property in Virginia are required to pay real estate taxes, irrespective of their domicile of choice. A person who may have purchased real property in Virginia while domiciled here, but who subsequently left to take up residence in another state, cannot establish eligibility solely through continued ownership of Virginia property. Even though the person still has taxable real property in Virginia, the individual's actions may show that Virginia domicile has been abandoned.

8. *Sources of financial support.* Acceptance of financial assistance from public agencies or private institutions located in another state likely precludes eligibility for in-state tuition when such financial assistance is offered only to domiciliaries of the other state. Acceptance of such a loan would not prohibit a student, at a later time, from showing a change of intent or that the student did not know, at the time of the loan acceptance, that he or she was representing domicile of another state. Such claims are suspect, and must be proven by clear and convincing evidence. Otherwise, acceptance of financial assistance from sources outside Virginia is simply evidence of continued ties to the other state.

9. *Location of checking or passbook savings accounts.*

10. *Social and economic relationships.* Other social and economic relationships with the Commonwealth and other jurisdictions. The fact that a person has immediate family ties, such as a brother or sister, domiciled in Virginia may be offered to support a claim of domiciliary intent. Professional and business licenses issued by Virginia agencies support a person's claim of domicile. Other factors that may be presented are membership in religious organizations, community organizations and social clubs; involvement in political parties, and the jurisdiction in which the person's last will and testament has been executed. The foregoing is not intended as an exhaustive list of social/economic relationships with Virginia that a student may present in support of a domicile claim.

The previous determination of a student's domiciliary status by one institution is not conclusive or binding when subsequently considered by another institution; however, assuming no change of facts, the prior judgement should be taken into account in the interest of consistency.

EACH CASE PRESENTS A UNIQUE COMBINATION OF FACTORS, AND THE INSTITUTION MUST DETERMINE FROM AMONG THEM THOSE CORE FACTORS WHICH CLEARLY AND CONVINCINGLY DEMONSTRATE THE PERSON'S DOMICILIARY INTENT. HAVING ISOLATED THIS CORE OF FACTORS IN A GIVEN CASE, THE INSTITUTION MUST THEN LOOK AT THE DATE ON WHICH THE LAST OF THESE ESSENTIAL ACTS WAS PERFORMED. AT SUCH TIME, DOMICILIARY INTENT IS ESTABLISHED AND STARTS THE CLOCK RUNNING FOR PURPOSES OF THE ONE-YEAR DURATIONAL REQUIREMENT. IT MIGHT BE HELPFUL IN COMPLEX CASES TO CHART THE PERSON'S OBJECTIVE MANIFESTATIONS OF DOMICILIARY INTENT ON A TIMELINE. THE FACTORS ESSENTIAL TO THE DEMONSTRATION OF DOMICILIARY INTENT MUST EXIST FOR THE ONE-YEAR PERIOD PRIOR TO THE DATE OF ALLEGED ENTITLEMENT. IN OTHER WORDS, DOMICILE MUST CONTINUOUSLY EXIST FOR THE ENTIRE ONE-YEAR PERIOD.

It is important to reiterate the reference to clear and convincing evidence. A student who claims in-state tuition rates must establish that claim by clear and convincing evidence. Clear and convincing evidence does not mean proof beyond a reasonable doubt as required in the criminal context. It is that degree of proof that will produce a firm belief in the allegation. The evidence must justify the claim both clearly and convincingly.

In the context of determining domiciliary intent, § 23-7.4 of the Code of Virginia state two very important caveats:

1. *Mere physical presence or residence primarily for*

educational purposes does not confer domiciliary status. For example, a student who moves to Virginia for the primary purposes of becoming a full-time student is not a Virginia domicile, even if the student has been in Virginia for the statutory twelve-month period. The issue is whether the individual has moved to Virginia with the primary purpose of becoming a full-time student or with the primary purpose of establishing indefinitely his home in Virginia. In questionable cases, the acts performed by the individual which indicate his intent to become a Virginian should be closely scrutinized.

2. Domiciliary status shall not ordinarily be conferred by the performance of acts which are auxiliary to fulfilling educational objectives or which are required or routinely performed by temporary residents of the Commonwealth.

PART III. SPECIAL RULES AND EXCEPTIONS.

§ 3.1. General.

Subsection C § 23-7.4 of the Code of Virginia describes special circumstances which may affect eligibility for in-state tuition, and specifies situations in which Virginia domicile may be claimed through a parent or legal guardian.

§ 3.2. Unemancipated minors.

An unemancipated minor automatically takes the domicile of his parents. If the unemancipated minor is in the care of a legal guardian, the minor takes the domicile of the legal guardian unless there are circumstances indicating that the guardianship was created primarily for the purpose of conferring a Virginia domicile on a minor. With parents surviving, the guardianship must have been created by court order, and a copy of the court decree should routinely be required as proof of guardianship.

In most cases the domicile of the parents will be the same; however, it is possible for the parents to have different domiciles.

1. Where the parents have not been divorced or legally separated by court order, the unemancipated minor may claim the domicile of either parent. For example, in the case of military families, under federal law, the military parent may reside in Virginia but choose not to claim Virginia as his domicile. To determine the domicile of the military parent, the critical question is which state does the military parent claim as his tax situs. If taxes are paid to Virginia on all military income, that is evidence that the military parent is a Virginia domiciliary and should be evaluated with all of the other pertinent information. If the military parent claims another state as his income tax situs while stationed in Virginia, the military parent is not a Virginia

domiciliary. However, if the nonmilitary parent is a Virginia domiciliary, the unemancipated minor may claim through the nonmilitary parent and receive in-state rates if the requisite one-year period is met. As with anyone else, the strength of the nonmilitary parent's ties to Virginia should withstand scrutiny. In addition to the factors listed above under domiciliary intent, the institution should consider the duration of residence in Virginia and the nonmilitary parent's domiciliary history. Evidence that the nonmilitary parent has accompanied the military parent on each tour of duty outside Virginia and taken steps to establish domicile in other states is evidence that the nonmilitary parent has not established a Virginia domicile independent of the military parent, or that he has abandoned a Virginia domicile previously established.

Subsection E of § 23-7.4 of the Code of Virginia enlarges the eligibility of military dependents for reduced out-of-state rates. The minor may still be eligible, despite the fact that neither parent is a Virginia domicile, under the conditions set forth in subsection E of the Code of Virginia.

2. Parents are legally separated or divorced. Under the new law, the unemancipated minor is not automatically assigned the domicile of the custodial parent. Rather, the domicile of the unemancipated minor may be either the domicile of the parent with whom he resides or the domicile of the parent who claimed the minor as a dependent for federal and Virginia income tax purposes for the tax year prior to the date of alleged entitlement and is currently so claiming the minor. For example, if a minor lives with the mother in Maryland, but the father, who is a Virginia domiciliary, claims the minor as a dependent on his federal and Virginia income tax returns, the father's domicile may be used to establish a Virginia domicile for the minor. Note that if the minor lives with the mother in Maryland, and the mother also claims the minor as a dependent for tax purposes, the minor may still claim Virginia domicile through the father, if it is shown that the father provides substantial financial support to the minor who is unemancipated. This derives from the definitions of unemancipated minor and dependent student.

§ 3.3. Dependent students.

The domicile of a dependent student is rebuttably presumed to be the domicile of the parent or legal guardian claiming him as an exemption for federal or state income tax purposes currently and for the tax year prior to the date of alleged entitlement or providing substantial financial support. When the parents are separated or divorced, and the parent claiming the student as a dependent for income tax purposes is domiciled in another state, for example Maryland, the student may rebut this presumption by showing that he

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resides with the other parent, who is a Virginia domiciliary.

A dependent student 18 years of age or older may also rebut the presumption that he has the domicile of the parent claiming the student as a dependent for income tax purposes by showing that he has established a Virginia domicile independent of the parents. The burden is on the student to prove by clear and convincing evidence that he has established a Virginia domicile independent of the out-of-state parents despite the fact that the parents are claiming the student as a dependent for income tax purposes or providing substantial financial support. An example of this is the person who has lived and worked in Virginia for several years and has clearly established a Virginia domicile, but who is now returning to school and receiving substantial financial support from a parent domiciled elsewhere.

Finally, a student may rebut the presumption that he has the same domicile as an out-of-state parent by offering clear and convincing evidence that the parent claimed the student as a dependent for tax purposes illegally or unrightfully. In this case the student should be evaluated as an independent student.

§ 3.4. Independent students.

Upon reaching the age of majority (18), a student is capable of establishing a legal domicile independent of his parents or guardian. Such a student must demonstrate through positive steps the establishment of an independent domicile. Due to the one-year requirement, the earliest an independent student would be eligible for in-state rates by virtue of having established an independent domicile in Virginia would be on his 19th birthday.

§ 3.5. Emancipated minors.

The domicile of an emancipated minor is established in the same manner as that of an independent student. Note, however, that by virtue of having been emancipated prior to his 18th birthday, an emancipated minor becomes eligible to establish a domicile independent of parents as of the date of emancipation. If positive steps are necessary in order to establish a Virginia domicile, the earliest an emancipated minor may become eligible for in-state tuition is one year after the date of emancipation.

§ 3.6. Married persons.

The domicile of a married person shall be determined in the same manner as the domicile of an unmarried person. A person's domicile is not automatically altered by marriage. For example, if a woman domiciled in Virginia marries a man domiciled in Washington, D.C., her domicile remains Virginia unless she takes positive steps to acquire a Washington, D.C., domicile. By the same token, a person cannot acquire Virginia status simply by marrying a Virginia domiciliary. Marriage is a factor, but not conclusive, in determining whether or not an

individual is emancipated from his parents. Nor is there any presumption that one spouse has the same domicile as the other spouse. Each spouse must establish Virginia domicile, irrespective of the domicile of the other spouse.

§ 3.7. Aliens.

The mere fact that a person is a citizen of another country does not automatically disqualify the person from establishing domicile in Virginia. When a foreign national claims that he is a Virginia domiciliary, the institution must initially examine the federal immigration documents controlling the alien's purpose and length of stay in the United States. (For immigrants, this is usually Form I-551; for nonimmigrants, it is Form I-94). The purpose of such examination is to determine whether the alien is required to maintain a foreign domicile, as well as the terms and conditions governing the alien's presence in the United States relevant to evaluating the claim of Virginia domicile. If the immigration documents indicate that a person cannot establish domicile then the student is not eligible for in-state tuition rates. Federal immigration laws are complex and ever evolving. Treaties may also be controlling. The burden is upon any student seeking in-state status to bring pertinent information to the attention of the institution.

There are two general categories of aliens in the United States, immigrant and nonimmigrant. Immigrants are admitted for permanent residence. Nonimmigrants are usually admitted for specific time periods and for particular purposes; for example, tourism, study or temporary employment.² However, there is a third classification of persons who are on a paroled status or granted asylum. It is essential that the institution preliminarily determine which category the student falls in and then proceed with the evaluation in accordance with the following guidelines.

In reviewing the domiciliary intent factors, keep in mind that there may be factors inapplicable to foreign nationals by law, for example, aliens may not register to vote and salaries paid by many international organizations to non-U.S. citizens are exempt from federal and state taxation by treaty or international agreement (an illustration would be the International Bank for Reconstruction and Development, also known as the World Bank). In such instances, a record of nonvoting or nonpayment of taxes is immaterial to the domicile consideration. Unless the institution is aware of the inapplicability of any evidentiary factor, the responsibility and burden is always on the student to timely bring such information to the attention of the institution.

1. Immigrant. Aliens holding Form I-551 (green cards) are lawfully admitted for permanent residence in the United States.³ Such individuals are not prohibited from forming domicile in this country. Thus, immigrants may claim, and seek to prove, eligibility for in-state tuition rates as Virginia domiciles as any citizen of the United States. The burden is on the

student to establish, clearly and convincingly, his or her domicile in Virginia for the requisite one-year period.

2. *Conditional permanent resident aliens.* A person, and that person's children, may acquire permanent resident status through marriage to a United States citizen or lawful permanent resident. In order to discourage fraudulent applications based on sham marriages, the Immigration and Naturalization Service, pursuant to the Immigration and Nationality Act, is now issuing two-year "conditional" Alien Registration Receipt Cards (Form I-551) to such persons. These differ from the regular Form I-551 only insofar as there is an expiration date on the back. During the last 90 days of the two-year period, the couple must appear before the INS and file a petition to remove the condition, swearing under oath that the marriage was and is valid, and that it was not entered into for the purpose of procuring an alien's entry as an immigrant.

In these cases, the institution assumes that the conditional basis will be removed and analyzes the alien as a lawful permanent resident; however, the institution should verify at the appropriate time that the conditional basis of the alien's permanent resident status has in fact been removed. If permanent residence status is terminated by Immigration, the institution may, in accordance with the policies concerning falsification of information (below), reconsider the student's application for in-state status to determine whether it was fraudulent. If so, the institution may change the student's status retroactive to the term with respect to which the fraudulent application was made.

3. *Legalization (amnesty) program.* The Immigration Reform and Control Act provides for the legalization of aliens who establish that they were in the United States illegally as of January 1, 1982, and maintained continuous residence thereafter. Several of the usual exclusion grounds have been waived for the purposes of the legalization program, and the United States Attorney General has discretion to waive most of the others. An alien who has been convicted of a felony or three misdemeanors, however, is currently ineligible.

An applicant for legalization must go through several stages. In the first, upon filing a prima facie valid application before the May 5, 1988, deadline, the alien is issued an employment authorization card (Form I-688A) by a local INS office. The application is then forwarded to a regional processing center where it is adjudicated. If approved, the applicant is issued a Temporary Resident Card (Form I-688). Between 18 and 31 months after the Temporary Resident Card has been issued, the alien may apply for Permanent Resident status, which is granted upon a showing of minimal understanding of the English language and

American history, and absence of a criminal record. Holders of Form I-688A or I-688 are eligible to receive in-state tuition rates upon the requisite showing of Virginia domicile for the one-year period.

The standards for adjustment to permanent resident status for a special group of agricultural workers ("SAWs") who worked in seasonal agricultural services between May 1, 1985 and May 1, 1986, are even more liberal than for the main legalization program. Applications for in-state status from SAWs who have been issued Form I-688 should be analyzed in the same manner as above.

4. *Political refugees/asylees.* Such aliens are generally admitted into the United States for an indefinite period of time without domiciliary restriction. They usually carry Form I-94 endorsed to show either refugee or asylee status. Although some of the I-94s may have an expiration date, e.g. one year, they are usually renewed indefinitely until the person adjusts to Permanent Resident status. Like immigrants, political refugees and asylees are eligible for in-state tuition rates upon clear and convincing evidence that they have been domiciled in Virginia for the requisite one-year period.

5. *Nonimmigrants.* Unlike immigrants, nonimmigrants are authorized entry into the United States temporarily for specific purposes. The document showing their admission status is the Arrival-Departure Record (Form I-94), which is usually stapled into the passport. This form normally contains the nonimmigrant visa category in which the alien is admitted and an expiration date. If employment is authorized, this is also noted on the I-94. The nonimmigrant visa is a stamp placed on one of the pages of the alien's passport. It is useful to distinguish between the nonimmigrant visa and Form I-94. A visa does not guarantee entry—it merely allows a person to board a plane whose destination is the United States and to apply for admission at the border. Form I-94 determines whether the alien will be admitted and how long he or she will be permitted to stay. When the expiration dates of the visa and the I-94 are different, the I-94 controls.

The following is a general description of the present nonimmigrant categories with their symbols. The function of the institution is not to judge the appropriateness of the alien's classification, but to analyze the claim of domicile, taking into account the terms and conditions attendant to such classification and the expiration date as it appears on the I-94.

Symbol Classification

A-1

Includes ambassadors, public ministers, career diplomats and consular officers accredited by a

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	<i>foreign government and recognized by the Secretary of State and immediate family.</i>		<i>Aliens and immediate family permitted to enter United States under treaty for investment purposes.</i>
A-2	<i>Other foreign government officials and employees accepted by Secretary of State, and immediate family.</i>	F-1	<i>Bona fide student permitted entry solely for purpose of pursuing a full course of study, having a residence in a foreign country which he has no intention of abandoning.</i>
A-3	<i>Attendants, servants or personal employees of A-1 or A-2, and immediate family.</i>	F-2	<i>Spouse or child of F-1, having a residence in a foreign country which he has no intention of abandoning.</i>
B-1	<i>Temporary visitor for business having residence in foreign country which he or she has no intention of abandoning.</i>	G-1	<i>Principal resident representative or recognized foreign member government to international organization, staff and members of immediate family.</i>
B-2	<i>Temporary visitor for pleasure having residence in foreign country which he has no intention of abandoning.</i>	G-2	<i>Other representatives of recognized foreign member government to international organization and immediate family.</i>
B-1/B-2	<i>Temporary visitor for pleasure and business having residence in foreign country which he has no intention of abandoning.</i>	G-3	<i>Representative of nonrecognized or nonmember foreign government to international organization and members of immediate family.</i>
C-1	<i>Alien in immediate and continuous transit through the U.S.</i>	G-4	<i>International organization, officer or employee thereof, and members of immediate family.</i>
C-2	<i>Alien in transit to United States headquarters.</i>	G-5	<i>Attendant, servant, or personal employee of G-1, G-2, G-3 and G-4 classes and members of immediate family.</i>
C-3	<i>Foreign government officials, members of immediate family, attendants, servants, in transit.</i>	H-1	<i>Temporary worker of distinguished merit and ability.</i>
D	<i>Alien crewman serving on board a vessel or aircraft, who intends to land temporarily and solely in pursuit of his duties and to depart with vessel on which arrived or on another vessel.</i>	H-2A	<i>Aliens temporarily in the United States to perform agricultural labor or services and who have residence in foreign country which they have no intention of abandoning.</i>
E-1	<i>Aliens and immediate family permitted to enter the United States under treaty to engage in substantial business.</i>	H-2B	<i>Aliens temporarily in United States to perform</i>
E-2			

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	<i>nonagricultural labor or services and who have residence in foreign country which they have no intention of abandoning.</i>		<i>Spouse or minor child of M-1, having residence in a foreign country which he has no intention of abandoning.</i>
H-3		N	
	<i>Trainee having a residence in a foreign country which he has no intention of abandoning.</i>		<i>The parent of an alien who has been accorded the status of special immigrant, but only if and while the alien is a child; or the child of such a parent accorded the status of special immigrant.</i>
H-4		NATO-1	
	<i>Spouse or child of alien classified, H-2, H-3 and having a residence in a foreign country which he has no intention of abandoning.</i>		<i>Principal permanent representative of member of state to NATO, and resident staff and immediate family.</i>
I		NATO-2	
	<i>Representative of foreign information media, spouse and children.</i>		<i>Other representatives to NATO, including dependents of member of force entering U.S. in accordance with the NATO Status of Forces Agreement.</i>
J-1		NATO-3	
	<i>Exchange visitor under educational program designated by Secretary of State and having a residence in a foreign country which he has no intention of abandoning.</i>		<i>Official clerical staff and immediate family accompanying representative of member state to NATO.</i>
J-2		NATO-4	
	<i>Spouse or child of exchange visitor and having a residence in a foreign country which he has no intention of abandoning.</i>		<i>Officials of NATO (other than NATO-1) and immediate family.</i>
K-1		NATO-5	
	<i>Fiance or fiancée of U.S. citizen who seeks to enter United States solely to conclude a valid marriage in ninety days.</i>		<i>Experts, other than NATO officials classifiable under NATO-4, employed on missions on behalf of NATO and their dependents.</i>
K-2		NATO-6	
	<i>Minor child of fiance or fiancée of U.S. citizen.</i>		<i>Members of civilian component accompanying a force entering U.S. in accordance with the NATO Status of Forces Agreement; members of civilian components employed by Allied Headquarters; and dependents.</i>
L-1		NATO-7	
	<i>Intra-company transferee (executive, managerial, specialized personnel) continuing employment with international firm or corporation.</i>		<i>Attendants and servants of NATO-1, -2, -3, -4, -5, and -6.</i>
L-2		O	
	<i>Spouse or minor child of alien classified as L-1.</i>		<i>An alien with extraordinary ability in the sciences, arts, education, business, or athletics who is in the United States to continue work in this area and has a foreign residence which he does not intend to abandon.</i>
M-1			
	<i>Vocational or other recognized nonacademic student having residence in a foreign country which he has no intention of abandoning.</i>		
M-2			

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P

An alien who is an athlete or entertainer of international reputation and is in the United States temporarily and solely for the purpose of performing, or the spouse or child of such an alien, who has a foreign residence which he does not intend to abandon.

Q

An alien having a foreign residence that he has no intention of abandoning who is in the United States for a period not to exceed 15 months as a participant in an international cultural exchange program designated by the U.S. Attorney General.

R

An alien, and the spouse and children of that alien, if accompanying or following to join the alien, who for the two years preceding the time of application for admission to the country has been a member of a religious denomination having a bona fide, nonprofit religious organization in the United States.

6. *Restricted nonimmigrant visas. Aliens holding B, F, H(2,3,4), J, M, O, P, and Q admission categories are not eligible for in-state tuition rates. Even though the alien may subjectively wish to make Virginia his domicile of choice, nonetheless, by operation of both federal and state law, the individual cannot form domicile in this country. As a condition of entry into the United States, such aliens have pledged, and are required, to retain their foreign residence while living temporarily in this country. Aliens admitted into the United States, who are members of the armed forces, pursuant to the NATO Status of Forces Agreement are not eligible under terms of this treaty to form permanent residence of domicile in the United States.⁴ Since the NATO agreement does not apply to civilians accompanying members of the armed forces, these individual may be able to establish domicile as any other person. The alien must demonstrate the inapplicability of the treaty agreement and provide clear and convincing evidence that he is eligible to establish domicile.*

Minor children or dependents who enter the United States in any of the above restricted categories are similarly ineligible for in-state tuition rates. However, such unemancipated minors or dependent students may nonetheless be eligible for in-state status through the natural or adoptive parent or legal guardian. As with anyone else, the person through whom eligibility is claimed must be shown to be a Virginia domiciliary for the requisite one year.

7. *Pending status changes. A student who has petitioned the federal government to reclassify his restricted status to immigrant status, or some other*

nondisqualifying status, will continue to be ineligible despite the petition for reclassification. When such petition is acted favorably upon by the federal government, the student may seek to prove Virginia domicile as anyone else and may, in the interest of fairness, claim that such domicile existed back to the date of the filing of the petition, not necessarily from the date of reclassification by the federal government. An institution may require evidence of the date that the reclassification was approved and/or petition filed. For example, an alien here under a restricted visa may be permitted nonetheless by the U.S. Attorney General to remain indefinitely, and not be deported, because of racial, religious, or political persecution in his home country. The student should be prepared to submit evidence of the U.S. Attorney General's decision. On the other hand, merely receiving approval of a petition for an accelerated preference in a category with quotas does not constitute a reclassification for domicile purposes.

8. *Unrestricted nonimmigrant visas. Unrestricted classifications do not require the alien to maintain his foreign residence. This does not mean that they are automatically eligible for in-state tuition. Form I-94 must be examined regarding the intent and purpose of their residence in Virginia.*

Aliens who hold C or D visas are ineligible for in-state tuition rates as the terms of their visas are fundamentally incompatible with the formation of a bona fide domiciliary intent for the requisite one-year period. Also, such visaholders are presently ineligible to petition for an extension of stay. If there is information to the contrary, the burden is on the student to produce it.

A-1, A-2, A-3, G-1, G-2, G-3, G-4, G-5 and N classes are permitted to remain in the United States for an indefinite period, generally for so long as their authorized purpose continues.⁵ Such nonimmigrants may claim and prove eligibility for in-state tuition rates as anyone else.

Aliens in E-1 and E-2 classifications, while their form may have an expiration date, are usually permitted to remain in the U.S. indefinitely for so long as their business or investments require. Such applicants may also seek to establish Virginia domicile for the requisite one year by clear and convincing evidence.

L visaholders are granted initial admission for up to three years; two one-year renewals may be obtained for a maximum stay of five years (six in extraordinary circumstances). While their authorized stay is presently fixed in time by law, it is not clear whether Congress has thereby required such aliens to maintain their foreign domicile or prohibited domiciliary residence in the United States during their stay in the United States. Until officially clarified by Congress or the courts, the institutions should give

such applicants the benefit of the doubt and allow the opportunity to claim and prove, by clear and convincing evidence, that they have abandoned their former domicile and that Virginia is their domiciliary residence and has been for the requisite one year.

9. *Status reclassification.* It is presumed that a matriculating student who enters an institution classified as an out-of-state student remains in the Commonwealth for the purpose of attending school and not as a bona fide domiciliary. The student seeking status reclassification is required to rebut this presumption by clear and convincing evidence. The statute also explicitly states that mere physical presence or residence primarily for educational purposes shall not confer domiciliary status. Furthermore, domiciliary status shall not ordinarily be conferred by the performance of acts which are auxiliary to fulfilling educational objectives or are required or routinely performed by temporary residents of the Commonwealth.

One of the ways in which a matriculated non-Virginian may be able to clearly and convincingly rebut the above presumption is by acceptance of a post-graduation job offer from a Virginia employer.

This is likely to occur most frequently in the student's last year in a degree program. Both the offer and the acceptance should be in writing. Job offers which are remote in time, such as an offer made to a college sophomore to join a Virginia law firm as an attorney, are obviously not conclusive, but should be evaluated to determine whether the student has changed his domicile.

PART IV.

POLICY CONCERNING RECLASSIFICATION AND FALSIFICATION OF INFORMATION.

§ 4.1. Changes from out-of-state to in-state classification.

If a student is classified initially as out-of-state, it is the responsibility of the student thereafter to petition the responsible official for reclassification to in-state status if the student believes that subsequent changes in facts justify such a reclassification. The institution will not assume responsibility for initiating such an inquiry independently. The change in classification, if deemed to be warranted, shall be effective for the next academic semester or term following the date of the application for reclassification. No change to in-state status may be obtained by a student for an academic term that has begun before the date of the application for reclassification.

§ 4.2. Changes from in-state to out-of-state classification.

If a student is classified initially as in-state, again, either the student or the institution thereafter may initiate a reclassification inquiry. The institution may initiate the

reclassification inquiry independently at any time after the occurrence of events or changes in facts which give rise to a reasonable doubt about the validity of the existing residential classification.

§ 4.3. Changes due to administrative errors and fraudulent applications.

Administrative errors may include letters announcing an incorrect domicile, actual misclassification or tuition billing notices.

1. In the absence of fraud or knowingly providing false information, where a student receives from an institutional officer an erroneous notice announcing the student to be, or treating the student as, eligible for in-state tuition, the student shall not be responsible for paying the out-of-state tuition differential for any enrolled semester or term commencing before the classifying institution gives to the student notice in writing of the administrative error in the prior notice.

2. Where a student has been erroneously classified as a domicile for tuition purposes due to fraud or knowingly providing erroneous information in an attempt to evade payment of out-of-state fees, the application of the student is fraudulent. An institution may re-examine an application suspected as being fraudulent, make a domicile status redetermination thereof, and change the status of the student, if warranted, retroactively to the beginning of the term with respect to which the fraudulent application had originally been made. Such a retroactive change will make the student responsible for the out-of-state tuition differential for the enrolled term(s) intervening between the fraudulent application and its discovery. The student may also be subject to dismissal from the institution or such other action as the institution deems proper. Institutional procedures must be followed to dismiss the student and to appeal such action.

§ 4.4. Student responsibility to register under proper classification.

The responsibility to register under proper domicile classification is that of the student, and if there is any question of the right to classification as a domicile of Virginia it is the student's obligation, prior to or at the time of registration, to raise the question with the administrative officials of the institution in which the student is registering and have such classification officially determined.

§ 4.5. Responsibility for supplying information.

An applicant or enrolled student subject to either a classification or reclassification inquiry is responsible for supplying all pertinent information requested by the institution in connection with the classification process.

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Failure to comply with such requests may be attended by the following consequences:

1. Where the initial classification inquiry affects a prospective enrollee, the student shall be classified out-of-state for tuition purposes;
2. Where the reclassification petition is initiated by the student to acquire a change from out-of-state to in-state status, the student shall continue to be classified as out-of-state for tuition purposes;
3. Where the reclassification inquiry anticipates a change from in-state to out-of-state status for tuition purposes, the student may be subjected to retroactive reclassification.

A student who knowingly provides erroneous information in an attempt to evade payment of out-of-state tuition fees for each semester or term attended may be subject to dismissal or other disciplinary action by the institution. Each institution should provide in their student catalogues, handbooks, etc. the standards of conduct and the procedures to be followed when dismissing a student or cancelling enrollment.

PART V. IN-STATE TUITION FOR SPOUSES AND DEPENDENTS OF ACTIVE-DUTY MILITARY.

§ 5.1. In-state tuition for spouses and dependents of active-duty military.

A. Subsection E of § 23-7.4 of the Code of Virginia deals with spouses and dependents of military personnel who do not otherwise qualify for in-state tuition privileges, i.e., they do not meet the statutory domicile requirement.⁶ Clauses (i) and (ii) of subsection E provide a potentially long-term exception for spouses and dependents of military personnel residing in Virginia pursuant to military orders. Clause (iii) offers in-state tuition rate for a one-year period any time during the period that the military parent or spouse is residing in Virginia. Note: The 1993 General Assembly has provided funding only for 25% of the differential between in-state and out-of-state tuition rates for clause (iii).

B. Clause (i) confers in-state tuition rates on students who are the children of military parents when the following conditions are met:

1. The student is not a member of the armed forces.
2. One of the student's parents is a member of the armed forces residing in Virginia pursuant to military orders.
3. The student's nonmilitary parent has resided in Virginia, been employed full-time (defined as having an annual earned income of at least (\$8,500), and paid personal income tax to Virginia for the year

immediately prior to the semester for which reduced tuition is sought.

4. The nonmilitary parent must claim the student as a dependent for Virginia and federal income tax purposes.

C. Clause (ii) confers in-state tuition rates on students who are spouses of military members when the following conditions are met:

1. The student is not a member of the armed forces.
2. The student is the spouse of a member of the armed forces residing in Virginia pursuant to military orders.
3. The spouse of the military person has resided in Virginia, been employed full-time and paid personal income tax to Virginia for the year immediately prior to the semester for which reduced tuition is sought.

D. Clauses (i) and (ii) apply only as long as the military member is residing in Virginia pursuant to military orders and the nonmilitary parent or the spouse of the military person continues to reside in Virginia, work full-time and pay taxes to Virginia. Eligibility for in-state tuition rates must be reevaluated annually by the institution.

E. Clauses (iii) entitles the spouse and dependents of active duty military personnel who reside in Virginia pursuant to military orders one year of in-state tuition rates (subsection A of this section). The military parent or spouse must reside in Virginia in order for the student to qualify for this privilege.

1. The dependent or spouse may take advantage of the entitlement at any time during the period that the military person is residing in Virginia. Subsection E (iii) of the Code refers to the spouse and dependents of military personnel and not the military personnel themselves.
2. To be eligible for in-state tuition under clause E (iii) of § 23-7.4 E for a calendar year, the conditions for entitlement must continue to be met.
3. Under the conditions noted above, a student must be eligible to take advantage of this benefit on the first official day of class.
4. The burden is on the student to provide copies of military documents establishing his entitlement. Entitlement under this subsection shall in no instance be more than two semesters plus a summer term at the reduced rates. This entitlement commences once the student enrolls and ends one year later, whether the student is continuously enrolled or not.
5. Institutions of higher education must identify and report to the Council of Higher Education the number

of students who are eligible for in-state rates. A report form will be distributed with the annual reports calendar. All students receiving this benefit will be counted as out-of-state students for admissions, financial aid, enrollment, and tuition and fee revenue policy purposes.

F. Military personnel should be advised not only of the temporary nature of the grace period, but also of the inherent limitations of § 23-7.4 E: the privileges are forfeited when the military member is assigned to a new duty station away from Virginia. Entitlement to in-state tuition rates can be preserved by the military member's adoption of Virginia as his domicile while residing in Virginia. This is accomplished by filing a State of Legal Residence Certificate claiming Virginia as his domicile and authorizing Virginia income tax withholding. Other objective indicators of domicile include driver's license, motor vehicle and voter registration. Once established, Virginia domicile is not lost when the military member leaves the Commonwealth pursuant to military orders, provided that he retains Virginia as state of legal residence and does nothing inconsistent with the claim of Virginia domicile.

PART VI. NON-VIRGINIA RESIDENTS EMPLOYED IN VIRGINIA.

§ 6.1. Non-Virginia residents employed in Virginia.

Subsection F of § 23-7.4 of the Code of Virginia provides an exception to the general rule of domicile for individuals who physically live outside Virginia but who work full time in the Commonwealth, if the following conditions are met: individuals who live in other states may gain in-state tuition rates if they have been employed fulltime in Virginia for at least one year immediately prior to the term or semester for which reduced tuition is sought and if they have paid Virginia income taxes on all taxable income earned in the Commonwealth of Virginia for the tax year prior to the date of alleged entitlement. Also, a nondomiciliary student who lives outside of Virginia will be eligible under this exception if his parent lives outside Virginia and claims the student as a tax dependent and that parent has been employed full-time in Virginia for at least one year immediately prior to the date of alleged entitlement and paid Virginia income taxes on all taxable income earned in Virginia for the tax year prior to the date of the alleged entitlement. Such students shall continue to be eligible for in-state tuition charges so long as they or their qualifying parent are employed fulltime in Virginia, paying Virginia income taxes on all taxable income earned in this Commonwealth and the student is claimed as a dependent for Virginia and federal income tax purposes. It is incumbent upon the student to provide to the institution current information concerning his classification under this category. Each institution should notify the students thereof.

The exceptions described above, and set forth in subsection F of § 23-7.4, do not apply to individuals who reside in a state with which Virginia has income tax reciprocity. Such states currently are: Arizona, California, District of Columbia, Idaho, Maryland, New Mexico, Pennsylvania, and West Virginia. Students who reside in these states may not qualify under subsection F of § 23-7.4 for in-state tuition rates; however, keep in mind that such students may seek to claim in-state rates as Virginia domiciles for the requisite one-year period, or under the military spouse or dependent exceptions.

PART VII. SPECIAL ARRANGEMENT PROVISIONS.

§ 7.1. Special arrangement provisions.

Subsection G of § 23-7.4 of the Code of Virginia allows nondomiciliaries employed by a Virginia employer, including federal agencies located in Virginia, to enjoy reduced rate tuition benefits if the employer assumes the total liability of paying the tuition of these employees to the legal limit allowable and if the employer has entered into a "Special Arrangement Contract" with public institutions of higher education. Instruction may be provided in groups or on an individual basis on or off campus. (Group instruction is a collection of individuals enrolled for a given course.) These guidelines apply to all instruction which is reported to the State Council of Higher Education for F.T.E. purposes.

In applying the provisions of subsection G of § 23-7.4, the important factors to remember are the following:

1. The public institution that the nondomiciliary wishes to attend must have in force a valid "Special Arrangement Contract" with the employer in order to qualify for the reduced tuition charges.
2. The employer must be assuming the liability for the total tuition charges of its employee unless limited by federal law in which case the employee is responsible for the remaining portion.
3. The tuition charged to the employer shall be at least equal to in-state tuition fees, but the public institution of higher education may specify tuition charges in the "Special Arrangement Contract" that are greater than in-state tuition charges, but less than out-of-state charges.
4. The reduced tuition charges are available only to the employee and not to his dependents.
5. The public institution of higher education and the employer or federal authority have the responsibility of negotiating a "Special Arrangement Contract" which would specify the term of the contract (not to exceed two years) and the amount of tuition to be charged to the employer. The proposed "Special Arrangement Contract" must be forwarded to the

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Office of the Attorney General for approval as to legal sufficiency prior to signing. The signed contract should then be registered by the public institution with the State Council of Higher Education.

6. *Special Arrangement Contracts with federal authorities for on-campus instruction are subject to certain limitations.*

a. *Public institutions of higher education shall receive from the State Council of Higher Education a yearly full-time equivalent (F.T.E.) allocation from the state-wide pool (one-half of 1.0% of the projected annual F.T.E. for a given year).*

b. *Special Arrangement Contracts with federal authorities for on-campus instruction must specify the number of F.T.E. students to be enrolled at the contract rate.*

c. *It is incumbent upon each public institution of higher education to ensure that the number of contract rate F.T.E. students included in the institution's Special Arrangement Contract does not exceed its annual allocation from the State Council of Higher Education.*

d. *Requests for F.T.E. allocations or increases in appointed allocations must be submitted by the public institutions to the State Council of Higher Education.*

7. *Independent of a Special Arrangement Contract, the employee must have his domicile determined by the public institution of higher education. Employees covered by Special Arrangement Contracts must also be included in all enrollment reports according to domicile, as is any other student.*

PART VIII. APPEALS PROCESS.

Subsection H of § 23-7.4 of the Code of Virginia specifies that public institutions of higher education in Virginia are required to establish an appeals process for applicants denied in-state tuition. Each institution is required to have in place such an appeals process, which includes an intermediate review of the initial determination and a final administrative review. The final administrative decision must be in writing and a copy must be sent to the student. Either the intermediate review or the final administrative review shall be conducted by an appeals committee consisting of an odd number of members. No person who serves at one level of this appeals process shall be eligible to serve at any other level of this review. The appellate procedure of the institution must be in writing and must state time limitations in which decisions will be made, in order to provide for the orderly and timely resolution of all disputes.

An applicant who is denied in-state tuition privileges by a final administrative decision may have the decision reviewed by the circuit court for the jurisdiction where the public institution is located, if a petition for review of the final administrative decision is filed within 30 days of receipt of the final decision. To the extent practicable, each institution should attempt to record the date of actual receipt as in the case of hand deliveries.

Upon the filing of a petition for review with the court, and being noticed thereof, the institution shall promptly file with the court a copy of these guidelines, the written decision of the institution, including the application forms and all other documentary information considered by, or made available to, the institution. Necessarily, the institution's decision should be in writing, be clearly stated with explanation, and be reached in accordance with the statute and these implementing guidelines. Legal counsel for the institution should also be promptly advised whenever a petition for review is filed with the circuit court.

PART IX. ADMINISTRATION.

§ 9.1. Form.

The form included in this regulation is recommended to institution for inclusion in their application for admission. However, the instructions, format and questions one through four are optional and may be adjusted or deleted at the institution's discretion. Questions five through twelve are mandatory and must be incorporated verbatim. Institutions may ask additional questions which they deem appropriate to establishing in-state status.

In rare cases, domiciliaries who reside overseas and are employed by certain non-U.S. companies are exempt from the requirement of filing both federal and Virginia income tax returns. The general rule, however, is that Virginia domiciliaries residing temporarily outside the Commonwealth must file resident Virginia income tax returns if they wish to maintain their Virginia domicile. Persons claiming that they are exempt from this right have the burden of clearly identifying the exemption and demonstrating their entitlement to it.

¹ 8 U.S.C. 1101(a) 15; 8 C.F.R. 214 et seq. 22 C.F.R. 40-42.

² The front side of the card contains the photograph and fingerprints of the alien and an 8- digit number preceded by the letter "A". The reverse side of the card states that "the persons identified in this card is entitled to reside permanently and work in the United State."

³ NATO Statute of Forces Agreement, June 19, 1951, 4 U.S. T., 1793, T.I.A.S. 2846. Article III thereof provides that the NATO force "shall not be considered as acquiring any right to permanent resident or domicile in the territories of the receiving State." It has also been held that a member of the Royal Air Force of the United Kingdom stationed to a U.S. Naval aircraft base in Virginia Beach, pursuant to a NATO visa, cannot be a Virginia domicile for purposes of initiating a divorce suit in Virginia's state courts. See official opinion of the Attorney General to delegate Howard E. Copeland, dated May 16, 1983.

⁴ Also, such aliens are presently not required to petition Immigration for an extension of stay. 8 C.F.R. 214.1 and 214.2.

'Always keep in mind that military personnel and dependents may establish eligibility as domiciles of Virginia. If domicile is claimed, as with anyone else, all of the relevant factors and information provided must be considered. In the military context this may include residency information on the Leave and Earnings Statement and the State of Legal Residence Certificate. Payment of taxes to another state or claiming another state for tax purposes on military income excludes the military person as a Virginia domicile. A nonmilitary spouse may have a domicile separate from the military spouse. Clear and convincing evidence must be presented to support a claim of separate domicile. However, in determining the domiciliary intent of active duty military personnel residing in the Commonwealth, who voluntarily elect to establish Virginia as their permanent residence for domiciliary purposes, the requirement of one year shall be waived if all other conditions for establishing domicile are satisfied.

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V.A.R. Doc. No. R93-757; Filed August 12, 1993, 8:28 a.m.

APPLICATION FOR VIRGINIA IN-STATE TUITION RATES

This form should be completed if you are claiming enrollment in Virginia in-state tuition rates pursuant to sections 23.7-4, Code of Virginia. All questions must be answered. Section A must be completed by the applicant. Section B of this form must be completed by the parent or legal guardian if the applicant is under the age of 19 and is not married or if the applicant is a dependent. Supporting documents and additional information may be requested.

SECTION A - APPLICANT

1. Name of Applicant: _____ Phone # _____
 2. Social Security # _____ (Req) (eased)
 3. Date of Birth: _____
 4. Citizenship U.S. Non-U.S. Give Visa Type _____
 5. How long have you lived in Virginia? _____
 6. Where have you lived for the past two years? List current address first:
 From (mo/yr) _____ To (mo/yr) _____ Street Address _____ City _____ State _____ Zip _____

7. Do your parent or legal guardian provide over half of your financial support or claim you as a tax dependent? If yes, Section B must also be completed by parent or legal guardian. Yes No

8. Will you have filed a tax return or paid income taxes to any other than Virginia during the past year? Yes No

9. For at least one year prior to the term in which you will enroll, will you have:
 A. filed a tax return or paid income taxes to Virginia on all earned income? Yes No
 B. been a registered voter in Virginia? Yes No
 C. held a valid Virginia driver's license? Yes No

10. Do you own or operate a motor vehicle?
 If yes, has it been registered in any state other than Virginia during the past year?
 If yes, check: self spouse parent/legal guardian
 Will Virginia income taxes have been paid on all military income for one year prior to the term in which you will enroll? Yes No

11. Are you or any member of your immediate family presently in the military?
 IF NO, GO TO QUESTION 12.
 If yes, check: self spouse parent/legal guardian
 Will Virginia income taxes have been paid on all military income for one year prior to the term in which you will enroll? Yes No

12. Answer this question only if you live outside Virginia but work in Virginia. Will you have lived outside Virginia, worked in Virginia, earned at least \$4,500, and paid income taxes on all taxable income earned in the Commonwealth for at least one year prior to the term in which you will enroll? Yes No

I certify under penalty of disciplinary action that the information I have provided is true.

Signature of Applicant _____

Date _____

SECTION B - PARENT OR LEGAL GUARDIAN

1. Name of parent or legal guardian: _____
 2. Relationship to applicant: _____
 3. Citizenship U.S. Non-U.S. Give Visa Type _____
 4. How long have you lived in Virginia? _____
 5. Where have you lived for the past two years? List current address first:
 From (mo/yr) _____ To (mo/yr) _____ Street Address _____ City _____ State _____ Zip _____

6. Will you have filed a tax return or paid income taxes to any other than Virginia during the past year? Yes No

7. Will you have claimed the applicant as a dependent on your federal and Virginia income tax returns for the six year prior to the term in which the applicant will enroll?
 Will you have provided over half of the applicant's financial support for at least one year prior to the term in which the applicant will enroll? Yes No

8. For at least one year prior to the term in which the applicant will enroll, will you have:
 A. filed a tax return or paid income taxes to Virginia on all earned income? Yes No
 B. been a registered voter in Virginia? Yes No
 C. held a valid Virginia driver's license? Yes No

9. Do you own or operate a motor vehicle?
 If yes, has it been registered in any state other than Virginia during the past year?
 If yes, check: self spouse parent/legal guardian
 Will Virginia income taxes have been paid on all military income for one year prior to the term in which the applicant will enroll? Yes No

10. Are you or any member of your immediate family presently in the military?
 IF NO, GO TO QUESTION 12.
 If yes, check: self spouse parent/legal guardian
 Will Virginia income taxes have been paid on all military income for one year prior to the term in which the applicant will enroll? Yes No

11. Answer this question only if you live outside Virginia but work in Virginia. Will you or your spouse have lived outside Virginia, been employed in Virginia, earned at least \$4,500 and paid Virginia income taxes on all taxable income earned in the Commonwealth for at least one year prior to the term in which the applicant will enroll? Yes No

12. Answer this question only if you live outside Virginia but work in Virginia. Will you or your spouse have lived outside Virginia, been employed in Virginia, earned at least \$4,500 and paid Virginia income taxes on all taxable income earned in the Commonwealth for at least one year prior to the term in which the applicant will enroll? Yes No

I certify under penalty of disciplinary action that the information I have provided is true.

Signature of Applicant _____

Date _____

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following regulation is exempted from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) in accordance with § 9-6.14.4.1 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

Title of Regulations: VR 394-01-107. Procedures for Allocation of Low-Income Housing Tax Credits.

Statutory Authority: § 42 of the Internal Revenue Code; §§ 36-143, 36-146 and 36-147 of the Code of Virginia; and Governor's Executive Order No. Forty (91).

Effective Date: October 6, 1993.

Summary:

These procedures establish the administrative framework for the allocation of low-income housing tax credits by the Virginia Department of Housing and Community Development. The procedures have been changed to revise the distribution of scoring points and the provisions for monitoring compliance with federal law. Since their initial publication in proposed form in 9:14 V.A.R. 2121, 4/5/93 no changes have been made to the procedures.

VR 394-01-107. Procedures for Allocation of Low-Income Housing Tax Credits.

§ 1. Definitions.

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

"Applicant" means an applicant for federal credits or state credits, or both, under these procedures and, upon and subsequent to an allocation of such credits, also means the owner of the development to whom the federal credits or state credits or both are allocated.

"Estimated highest per bedroom credit amount for new construction units" means, in subdivision 6 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per bedroom (within the low-income housing units) to any development in the Commonwealth (or, if the director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per bedroom credit amount for rehabilitation units" means, in subdivision 6 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per bedroom (within the low-income housing units) to any development in the Commonwealth (or, if the director shall so

determine, in each pool or subpool) composed solely of rehabilitation units.

"Estimated highest per unit credit amount for new construction units" means, in subdivision 5 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per low-income unit to any development in the Commonwealth (or if the director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per unit credit amount for rehabilitation units" means, in subdivision 5 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per low-income unit to any development in the Commonwealth (or, if the director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

"Federal credits" means the low-income housing tax credits as described in § 42 of the IRC.

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Qualified low-income buildings" or "qualified low-income development" means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of federal credits thereunder.

"Single-room occupancy units (SRO)" means permanent facilities for the homeless, consisting of a single room housing unit with either private or shared bath facilities with the optional provision of kitchen facilities.

"State code" means Chapter 1.4 of Title 36 of the Code of Virginia.

"State credits" means the low-income housing tax credits as described in the state code.

"Transitional housing" means facilities for the homeless in which the housing units contain sleeping accommodations and kitchen and bathroom facilities and are located in a building which is used exclusively to facilitate the transition of homeless individuals (within the meaning of § 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302)) to independent living within 24 months, and in which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

"Virginia taxpayer" means any individual, estate, trust or corporation which, in the determination of the

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department, is subject to the payment of Virginia income taxes and will be able to claim in full against such taxes the amount of state credits reserved or allocated to such individual, estate, trust or corporation under these procedures.

§ 2. Purpose and applicability.

The following procedures will govern the allocation by the department of federal credits pursuant to § 42 of the IRC and state credits pursuant to the state code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the applicant for federal credits or state credits or both, the 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 IRC and the state code.

The procedures set forth herein are intended to provide a general description of the department's processing requirements and are not intended to include all actions involved or required in the processing and administration of the federal credits and state credits. These procedures are subject to change at any time by the department and may be supplemented by policies and procedures adopted by the department from time to time.

Any determination made by the department pursuant to these procedures as to the financial feasibility of any development or its viability as a qualified low-income development shall not be construed to be a representation or warranty by the department as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC and the state code must be complied with and satisfied.

§ 3. General description.

The IRC provides for federal credits to the owners of residential rental projects comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than federal credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual state housing credit ceiling for such year under the IRC. An amount equal to 10% of such ceiling is set-aside for developments in which certain qualified nonprofit organizations hold an ownership interest and materially participate in the development and operation thereof. Federal credit allocation amounts are counted against the Commonwealth's annual state housing credit ceiling for federal credits for the calendar year in which the federal credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling for federal credits to the housing credit agency of the Commonwealth. The department has been designated by

executive order of the Governor as the housing credit agency under the IRC and, in such capacity, shall allocate for each calendar year federal credits to qualified low-income buildings or developments in accordance herewith.

Federal credits may be allocated to each qualified low-income building in a development separately or to the development as a whole in accordance with the IRC.

Federal credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42(h)(1)(E) of the IRC, during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the department shall receive and review applications for reservations of federal credits as described hereinbelow and shall make such reservations of federal credits to eligible applications in accordance herewith and subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or development or (ii) the satisfaction of the requirements of § 42(h)(1)(E) of the IRC with respect to such buildings or the development, the federal credits shall be allocated to such buildings or the development as a whole in the calendar year for which such federal credits were reserved by the department.

Except as otherwise provided herein or as may otherwise be required by the IRC, these procedures shall not apply to federal credits with respect to any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder.

The department is authorized by the state code to establish the amount, if any, of state credits to be allocated to any buildings or development qualified for and claiming federal credits. The amount of state credits is calculated as a percentage of federal credits. Such percentage is established by the department as provided herein. The state code provides for a maximum allocation of \$3,500,000 state credits in any calendar year. The state credits will be available for buildings or developments for which federal credits shall be allocated in 1990 and subsequent years or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal tax credits hereunder, for which such bonds shall be issued in 1990 and subsequent years. In the event that legislation is adopted by the General Assembly to defer the date set forth in §§ 36-55.63 A, 58.1-336 A or 58.1-435 A of the state code, then the year 1990 in the preceding sentence shall likewise be deferred and the provisions of these procedures relating to state credits shall not become effective until the date set forth in such legislation.

The department shall charge to each applicant fees in such amount as the director shall determine to be necessary to cover the administrative costs to the department, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the director shall require.

§ 4. Adoption of allocation plan; solicitations of applications.

The IRC requires that the department adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the department which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The director may include all or any portion of these procedures in the qualified allocation plan.

The director may from time to time take such action as he may deem necessary or proper in order to solicit applications for federal credits and state 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 director may select as appropriate under the circumstances. The 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 a reservation of federal credits or state credits or both shall be commenced by filing with the department an application, on such form or forms as the director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the department in order to comply with the IRC, the state code and these procedures and to make the reservation and allocation of the federal credits and state credits in accordance with these procedures. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the department to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information must be included in the application: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's

fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other costs and fees.

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or contract between the applicant and the fee simple owner of such site, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. No application shall be considered for a reservation or allocation of federal credits or state credits unless such evidence is submitted with the application and the department determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence.

The application shall include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The director may also require the submission of a legal opinion or other assurances satisfactory to the director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the director, setting forth the calculation of the amount of federal credits requested by the application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of federal credits requested.

The director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions shall be indicated on the application form or instructions.

The director may prescribe such deadlines for submission of applications for reservation and allocation of federal credits and state credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the department to make such reservations and allocations.

After receipt of the applications, the department shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such individuals a reasonable

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opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the department. If any such development is to be financed by the department, the application for such financing shall be submitted to and received by the department in accordance with its applicable procedures.

The department may consider and approve, in accordance herewith, both the reservation and the allocation of federal credits and state credits to buildings or developments which the department may own or may intend to acquire, construct or rehabilitate.

§ 6. Review and selection of applications; reservation of federal credits.

The director may divide the amount of federal credits into separate pools and may further subdivide those pools into subpools. The division of such pools and subpools may be based upon one or more of the following factors: geographical areas of the Commonwealth; 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.

An amount, as determined by the director, not less than 10% of the Commonwealth's annual state housing credit ceiling for federal credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. With respect to all reservations and allocations of federal credits, a "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) is to materially participate (within the meaning of § 469(h) of the IRC) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. With respect to only those reservations of federal credits made by the director on or after December 18, 1990, and with respect to only those allocations made pursuant to such reservations, (i) the "qualified nonprofit organization" described in the preceding subdivision 1 is to own an interest in the development (directly or through a partnership) as required by the IRC; (ii) such qualified nonprofit organization is to, prior to the allocation of federal credits to the buildings or development, own a general partnership interest in the development which shall constitute not less than 51% of all of the general partnership interests of the ownership entity thereof (such that the qualified nonprofit organizations have at least a 51% interest in both the income and profit allocated to all of the general partners and in all items of *cash flow* distributed to the general partners) and which will result in such qualified nonprofit organization receiving not less than 51% of all fees, except builder's overhead and builder's profit, paid or

to be paid to all of the general partners (and any other entities determined by the department to be related to or affiliated with one or more of such general partners) in connection with the development; (iii) the director of the department shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; and (iv) the director of the department shall have determined that the qualified nonprofit organization was not or will not be formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools or subpools (as defined below) established by the director. In making the determination required by this subdivision 2(iv), the director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, and the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis. The director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization holds stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for federal credits be available for developments other than those satisfying the preceding requirements. The director may establish such pools or subpools ("nonprofit pools or subpools") of federal credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the director may rank the applications therein and reserve federal credits (and, if applicable, state credits) to such applications before ranking applications and reserving federal credits (and, if applicable, state credits) in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any reservations of federal credits (and, if

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applicable, state credits) or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough federal credits then available in such nonprofit pools or subpools to make such reservations) shall be assigned to such other pool or subpool as shall be appropriate hereunder; provided, however, that if federal credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of federal credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of federal credits made from such nonprofit pools or subpools or otherwise) for reservation and allocation by the department during the same calendar year as that in which applications in the nonprofit pools or subpools have been so assigned to other pools or subpools as described above, the director may, in such situations, designate all or any portion of such additional federal credits for the nonprofit pools or subpools (or for any other pools or subpools as he shall determine) and may, if additional federal credits have been so designated for the nonprofit pools or subpools, reassign such applications to such nonprofit pools or subpools, rank the applications therein and reserve federal credits to such applications in accordance with the IRC and these procedures. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of federal credits reserved within such nonprofit pools or subpools is less than the total amount of federal credits made available therein, the director may either (i) leave such unreserved federal credits in such nonprofit pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved federal credits to such other pools or subpools as the director shall designate and in which there are or remain applications for federal credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess applications") or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to clause (ii) above shall be made pro rata based on the amount originally distributed to each such pool or subpool with excess applications divided by the total amount originally distributed to all such pools or subpools with excess applications. Notwithstanding anything to the contrary herein, no allocation of credits shall be made from any nonprofit pools or subpools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or subpools may receive a reservation or allocation of credits from any nonprofit pools or subpools, or any combination of those pools with other pools, in an amount greater than \$500,000. For the purposes of implementing this limitation, the director may determine that more than one application for more than one development which he deems to be a single development shall be considered as a single application.

The director may elect to allocate no more than \$1,000,000 in annual tax credits to any new construction project until all other eligible projects within the applicable pool have received an allocation of credits.

The department shall review each application, and, based on the application and other information available to the department, shall assign points to each application as follows:

1. The extent to which the project addresses Public Purpose. This category carries a maximum of ~~350~~ 400 points. Of those:

A maximum of 50 points may be earned based upon the Type of Project, with 50 points for new construction; 50 points for substantial rehabilitation (greater than \$15,000/unit); 50 points for acquisition of a HUD expiring use project; and 15 points for moderate rehabilitation (greater than \$3,000/unit);

A maximum of 30 points may be earned for Documented Local Need;

A maximum of 30 points may be earned for Local Support, with 15 points for a letter of support from the local government's chief executive officer that states without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC § 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development," and up to 15 points for other evidence of support;

A maximum of 30 points may be earned for Project Quality, with up to 10 points for building materials; 10 points for amenities and unit size, and up to 10 points for energy efficiency;

A maximum of 100 points may be earned based upon the Project Location and Quality Characteristics. For new construction and rehabilitation projects located in a HUD defined qualified census tract or difficult to develop area, up to 50 points will be awarded for amenities and unit size, 25 points for energy efficiency, and 25 points for historic certification. For new construction and rehabilitation projects not located in a HUD defined qualified census tract or difficult to develop area, up to 30 points will be awarded for amenities and unit size, 15 points for energy efficiency, and 15 points for historic certification.

A maximum of 100 points may be earned for Documented Local Need and Local Support distributed as follows:

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A maximum of 40 points may be earned for Local Need documented by a letter from the locality's chief executive officer certifying that the project meets a priority need identified in the locality's Comprehensive Housing Affordability Strategy (CHAS). In those areas without a local CHAS, points will be awarded for a letter from the local CEO explaining how the project meets a need identified in a current housing study or comprehensive plan, and/or a private market study, and secondary data from other research on housing needs in the area. A maximum of 50 points may be earned for documented funding provided by the locality to be determined on a pro rata basis. If the local funding accounts for 20% or more of the total sources, the project will receive full points. A maximum of 10 points will be awarded for other evidence of support from local referral agencies and neighborhood and local interest groups.

A maximum of 20 points may be earned for Special Needs Preference. Using a weighted average of the number of units, up to 10 points may be earned for elderly housing, where "elderly" means 62 years of age or older, up to 10 points for housing for handicapped persons, and up to 10 points for housing for large families (3 bedrooms or more).

Five points may be earned for giving Leasing Preference to persons from either local housing authority waiting lists or § 8 waiting lists.

A maximum of 25 points may be earned for involvement by a qualified Nonprofit Organization with 25 points available for projects in which that qualified Nonprofit Organization has a 51% or greater interest, and up to 10 points available for projects in which that qualified Nonprofit Organization has less than a 51% interest, if such organization owns a 51% or greater interest in the general partner of the owning entity.

A maximum of 150 points may be earned for projects with rents below the maximums allowed, or which have low-income restrictions, allocating points as follows: which have low-income restrictions on a higher percentage of units than the minimum required, and which serve the following households or some combination thereof:

150 Maximum points for households at 40% of median income

125 Maximum points for households at 50% of median income

100 Maximum points for households at 60% of median income

A maximum of 10 points may be earned for Special Characteristics that add to the overall project quality or public purpose, such as, but not limited to,

rehabilitation of an historic structure, coordination with neighborhood revitalization efforts, or special tenant services:

2. The extent to which the project demonstrates Readiness to move forward quickly. This category carries a maximum of 150 points. Of those: This category carries a maximum of 100 points and each project eligible for credits must meet a threshold of 50 points. The department reserves the right to reduce the threshold level at its sole discretion. Of these points:

Twenty-five points may be earned for having documented appropriate zoning or written evidence satisfactory to the department that no zoning requirements are applicable.

Five points may be earned for having all required public utilities in place;

A maximum of 25 points may be earned for having appropriate zoning, with 25 for documented appropriate zoning or written evidence satisfactory to the department that no zoning requirements are applicable, 15 for undocumented appropriate zoning if no change in use is proposed, and 5 for evidence that application for appropriate zoning is in process;

Ten points may be earned for having an approved plan of development or written evidence that such a plan is not required;

A maximum of 20 40 points may be earned for the degree to which the project's plans and specifications (where the project is a new construction project or a rehabilitation project involving major reconfiguration), or work write-ups and specifications (where the project is a rehabilitation project not involving major reconfiguration) are complete. This will be calculated by multiplying 20 points by the percentage of completion, as determined typically by a letter from the project's architect or other appropriate third-party professional. This will be calculated by multiplying 40 points by the percentage of completion of final, sealed construction documents. The degree of completion will typically be determined by a letter from the project's architect or other appropriate third-party professional. In the absence of this documentation, the department will determine the degree of completion. Full points will be awarded for completion greater than or equal to 75%.

A maximum of 60 points may be earned for having financing in place (including documented equity sources), with a maximum of 10 for construction financing (10 for a firm financing commitment, 6 for a conditional commitment, 2 for a letter of intent), and a maximum of 50 points divided proportionally between permanent financing and equity sources (50 for a firm financing or equity commitment, 30 for a

conditional financial or equity commitment, and 10 for a letter of intent). For the purposes of this section, a firm financing commitment means a written commitment issued by a financial institution or a governmental authority to provide permanent financing for a term of 15 years or more for the proposed development without any conditions within the sole discretion or control of the lender. The director may treat a reservation of funds from the Virginia Housing Partnership Fund as a firm financing commitment. A conditional financing commitment means a written commitment issued by a financial institution or a governmental authority to provide permanent financing for a term of 15 years or more for the proposed development that includes conditions within the sole discretion or control of the lender. A letter of intent means a letter indicating that the lending institution has received and reviewed the project's application for financing, and that the institution has agreed to proceed further with processing. A firm equity commitment means a written commitment issued by a financially sound third party syndicator or third party investor without any conditions within the sole discretion or control of such syndicator or investor. A conditional equity commitment means a written commitment issued by a financially sound third party syndicator or third party investor that includes conditions within the sole discretion or control of such syndicator or investor. A letter of intent means a letter indicating that the third party syndicator or third party investor has received and reviewed the project's application for financing, and that the third party syndicator or third party investor has agreed to proceed further with processing. Such third party syndicator or investor shall neither be directly or indirectly related to nor controlled by the applicant. Notwithstanding the foregoing, in the case of a development comprised of 15 or fewer units only, all or a portion of the aforementioned aggregate amount of funds to be provided for the proposed development may be made available by the applicant or another party if the department receives satisfactory evidence of the availability of those funds;

Five points may be earned for having a Building Permit for the project;

Twenty-five points may be earned for a complete and reasonable time line for putting the project into service.

3. The extent to which the application demonstrates project Financial Workability. This category carries a maximum of 225 points. Of those: *This category carries a maximum of 250 points and each project eligible for credits must meet a threshold of 125 points. The department reserves the right to reduce the threshold level at its sole discretion. Of those points:*

A maximum of 100 110 points may be earned based

on the Completeness (up to 15 20 points) and Reasonableness (up to 85 95 points) of the Project Budget, with Reasonableness points being awarded based upon consideration of *factors including, but not limited to*, the cost per unit, debt per unit, estimated cap *capitalization* rate, projected tax credit proceeds, developer's fee, builder overhead and profit, and *project reserves provided for* .

A maximum of 125 140 points may be earned based on the Completeness (up to 20 points) and Reasonableness (up to 105 120 points) of the Operating Budget, with Reasonableness points being awarded based upon consideration of factors including , but not limited to , the rent as a percentage of HUD Fair Market Rents, utility allowance, management fee, maintenance expense per unit, replacement reserve per unit, total operating expenses per unit, and the debt coverage ratio.

4. The extent to which the application demonstrates the Administrative Capacity of the applicants. This category carries a maximum of 100 points. Of those: A maximum of 50 65 points may be earned for Project Sponsor/Development Team's demonstrated experience, qualifications, and ability and financial capacity to perform their respective functions ; . *Applications will not be accepted from sponsors who have filed, as an individual or corporation entity, for bankruptcy protection under Chapter 7 or Chapter 11 during the last five years.*

A maximum of 15 points may be earned for Development Team/General Partner Financial strength;

A maximum of 15 points may be earned for Contractor Experience and Financial Strength;

A maximum of 20 points may be earned for Property Management Experience and the Property Management Plan;

A maximum of 25 50 points may be deducted for failure to address Displacement;

A maximum of 15 50 points may be deducted for failure to complete the Application, with five 10 points deducted if the correct number of copies is not submitted, and 10 20 points deducted if all required documentation is not submitted , and up to 20 points deducted if answers to questions are not reasonably complete .

5. A maximum of 50 35 points will be available for scoring the per unit credit amount. For new construction and substantial rehabilitation projects, the number of points awarded shall be determined by multiplying 50 35 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per low-income housing

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unit (the "per unit credit amount") of the proposed development is less than the estimated highest per unit credit amount for new construction and substantial rehabilitation projects *adjusted for location*. For moderate rehabilitation projects, the number of points awarded shall be determined by multiplying ~~50~~ 35 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the estimated highest per unit credit amount for moderate rehabilitation projects *adjusted for location*. In the case of projects which combine new construction or substantial rehabilitation with moderate rehabilitation, this calculation will use a weighted average based on the number of each unit type in the proposed development.

6. A maximum of ~~25~~ 15 points will be available for scoring the per bedroom credit amount. For new construction and substantial rehabilitation projects, the number of points awarded shall be determined by multiplying ~~25~~ 15 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom (the "per bedroom credit amount") of the proposed development is less than the estimated highest per bedroom credit amount for new construction and substantial rehabilitation projects *adjusted for location*. For moderate rehabilitation projects, the number of points awarded shall be determined by multiplying ~~25~~ 15 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom (the "per bedroom credit amount") of the proposed development is less than the estimated highest per bedroom credit amount for moderate rehabilitation projects *adjusted for location*. In the case of projects which combine new construction or substantial rehabilitation with moderate rehabilitation, this calculation will use a weighted average based on the number of each unit type in the proposed development.

For the purpose of calculating the points to be assigned pursuant to such items 5 and 6 above, all credit amounts shall be those requested in the applicable application, and the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding the use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of federal credits as provided in the IRC. *Furthermore, the department reserves the right to exclude from these calculations any project which has such a high request that it unreasonably distorts the*

results of these measures.

7. Extent to which the application addresses Extended Compliance, Reasonable Intermediary Costs, a ~~Plan to Meet the 10% Carryover Requirement~~, and Special Needs Preferences. This category carries a maximum of 100 points. Of those:

A maximum of ~~15~~ 30 points may be earned for a commitment by the applicant to maintain the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the department is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building, ~~one~~ *two points* being awarded for each year of compliance beyond 15 years ; .

A maximum of 40 points may be earned for limiting Intermediary Costs, with the maximum number being awarded for the lowest Efficiency Measure score resulting from the application of the following formulas:

Step 1. Net Equity =

(Project Equity) - (Bridge Loan Interest + Syndication fees and Expenses)

Step 2. Efficiency Measure =

(Construction Cost)/(Net Equity - Front-end Developer's Fee)

where "Front-end Developer's Fee" means any fee withdrawn from the project prior to the first ~~three~~ *five* years following placement in service, less the amount of any loans made by the developer to the project that are not to be repaid within that ~~three-year~~ *five-year* period.

~~A maximum of 15 points may be earned for the applicant's Plan to meet the 10% carryover requirement imposed by § 42(h) (1) (E) of the IRC.~~

Using a weighted average of the total number of units, up to 30 points may be earned for providing either permanent housing (30 points), including single room occupancy facilities, or temporary housing (30 points), including transitional housing, for homeless persons.

In the event of a tie in the number of points assigned to two or more applications within the same pool or subpool,

or, if none, within the Commonwealth, and if the amount of federal credits available for reservation to such applications is determined by the director to be insufficient for the financial feasibility of both or, as applicable, all of the developments described therein, the department shall, in order to fully utilize the amount of credits available for reservation within such pool or subpool or, if none, within the Commonwealth select one or more of the applications, by lot, to receive a reservation of federal credits in the lesser of the full amount determined by the director to be permissible hereunder or the amount of federal credits then available in such pool or subpool.

The director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the director shall rank the applications based on the number of points so assigned. If any pools or subpools shall have been established, each application shall be assigned to a pool or subpool and shall be ranked within such pool or subpool. Those applications assigned more points shall be ranked higher than those applications assigned fewer points.

For each application which may receive a reservation of federal credits, the director shall determine the amount, as of the date of the deadline for submission of applications for reservation of federal credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the department to be generated with respect to the development, and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. (If the applicant requests any state credits, the amount of state credits to be reserved to the applicant shall be determined pursuant to § 7 prior to the foregoing determination, and any funds to be derived from such state credits shall be included in the above described sources and uses of funds.) The director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the federal credit dollar

amount used for development costs, other than the costs of intermediaries, as the director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan.

At such time or times during each calendar year as the director shall designate, the director shall reserve federal credits to applications in descending order of ranking within each pool or subpool, if applicable, until either substantially all federal credits therein are reserved or all applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the director, of federal credits remaining in a pool or subpool after reservations have been made, "substantially all" of the federal credits in such pool shall be deemed to have been reserved.) The director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve federal credits, based on such rankings, one or more times with respect to each pool or subpool. The director may also establish more than one round of review and ranking of applications and reservation of federal credits based on such rankings, and he shall designate the amount of federal credits to be made available for reservation within each pool or subpool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of federal credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of federal credits available in any pool is determined by the director to be insufficient for the financial feasibility of the proposed development to which such available federal credits are to be reserved, the director may (i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available federal credits or (ii), for projects which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional federal credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. Any modifications shall be subject to the approval of the director; provided, however, that in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to § 6 hereof. The reservation of federal credits from the Commonwealth's annual state housing credit ceiling for the following year shall be made only to proposed developments that rank high enough to receive some federal credits from the state housing credit

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ceiling for the current year. However, any such reservation shall be in the sole discretion of the director if he determines it to be in the best interest of the Plan. In the event a reservation or an allocation of federal credits from the current year or a prior year is reduced, terminated or cancelled, the director may substitute such federal credits for any federal credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of federal credits reserved within any pools or subpools is less than the total amount of federal credits made available therein during such round, the director may either (i) leave such unreserved federal credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved federal credits to such other pools or subpools as the director may designate and in which there remain excess applications or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to subparagraph (ii) above shall be made pro rata based on the amount originally distributed to each of such pools or subpools so designated by the director with excess applications divided by the total amount originally distributed to all such designated pools or subpools with excess applications. Such redistributions may continue to be made until either all of the federal credits are reserved or all applications have received reservations.

Within a reasonable time after federal credits are reserved to any applicants' applications, the director shall notify each applicant for such reservations of federal credits either of the amount of federal credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved federal credits subject to such terms and conditions as may be imposed by the director therein, by the IRC and by these procedures) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved federal credits in accordance herewith.

The director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC (and, in the case of state credits, the state code), these procedures and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to § 6 hereof). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit (or a pro rata portion thereof based upon the portion of federal credits and, if applicable, state credits so allocated) shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the director, the applicant is entitled to an allocation of the federal credits under the IRC, these procedures and the terms of any binding commitment that the department would have otherwise issued to such applicant, the director may at that time allocate the federal credits (and, if applicable, state credits) to such qualified low income buildings or development without first providing a reservation of such federal credits (and, if applicable, state credits). This provision in no way limits the authority of the director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of federal credits.

The director may require that applicants to whom federal credits (and, if applicable, state credits) have been reserved 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 proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the department. If on the basis of such written confirmation and documentation as the director shall have received in response to such a request, or on the basis of such other available information, or both, the director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC (and, in the case of state credits, the state code) or will not otherwise qualify for such federal credits (and, if applicable, state credits) under the IRC, these procedures or the binding commitment, then the director may terminate the reservation of such federal credits (and, if applicable, state credits) and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the director determines that any contractual agreements between the applicant and the department have been breached by the applicant, whether before or after allocation of the federal credits, he may seek to enforce any and all remedies to which the department may then be entitled under such contractual agreements.

The director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of federal credits (and, if applicable, state credits) as he shall deem necessary or desirable to allow the department sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such federal credits (and, if applicable, state credits) to other eligible applications and to allocate such federal credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the federal credits (and, if applicable, state credits) therefor shall be subject to the prior written approval of the director. As a condition to any such approval, the director may, as necessary to

comply with these procedures, the IRC, the binding commitment and any other contractual agreement between the department and the applicant, reduce the amount of federal credits (and, if applicable, state credits) applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the director, he may terminate or reduce the reservation of such federal credits (and, if applicable, state credits), impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the department may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of federal credits is terminated or reduced by the director under this section, he may reserve, allocate or carry over, as applicable, such federal credits in such manner as he shall determine consistent with the requirements of the IRC and these procedures.

§ 7. Reservation of state credits.

Each applicant may also request a reservation of state credits in his application for a reservation of federal credits. State credits may be reserved only to those applications (i) to which federal credits have been reserved or (ii) which represent that the applicant will be the owner of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder. In the case of (ii) above, the applicant for state credits shall submit an application for federal credits (as well as for state credits), and such application shall be submitted, reviewed, and ranked in accordance with these procedures; provided, however, that a reservation shall be made for the state credits only and not for any federal credits.

In order to be eligible for a reservation and allocation of state credits, the development must be owned by one of the following: (i) an individual who is a Virginia taxpayer, (ii) a corporation (other than an S corporation) which is a Virginia taxpayer, (iii) a partnership or an S corporation in which at least 75% of the state credits received by such partnership or S corporation will be allocated to partners or shareholders who are Virginia taxpayers, or (iv) any other legal entity which is a Virginia taxpayer or, in the case of an entity that is taxed on a pass-through basis with respect to tax credits, in which at least 75% of the state credits received by such entity will be allocated to Virginia taxpayers. If more than one of the foregoing shall be joint owners of the development, then the joint tenancy shall be treated as a partnership for purposes of applying the foregoing ownership test. In the case of tiered partnerships, S corporations, and other entities that are taxed on a pass-through basis with respect to tax credits, the ownership test will be applied by looking through such pass-through entities to the underlying owners. The application shall include such information as the director may require in order to determine the owner or owners

of the development and the status of such owner or owners or those owning interests therein as Virginia taxpayers. The prior written approval of the department shall be required for any change in the ownership of the development prior to the end of the calendar year in which all of the buildings in such development shall be placed in service, unless the transferee certifies that it is a Virginia taxpayer or, in the case of a pass-through entity, that 100% of its owners of such entity are Virginia taxpayers.

State credits may be reserved by the director to an application only if the maximum amount of federal credits (determined by the use of the full applicable percentage as defined in the IRC, regardless of the amount requested by the applicant) which could be claimed for any development is determined by the director not to be sufficient for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. The amount of state credits which may be reserved shall be equal to the lesser of (i) the amount requested by the applicant or (ii) the amount which is necessary for such financial feasibility and viability as so determined by the director. Such determination shall be made by the director in the same manner and based upon the same factors and assumptions as the determination described in § 6 with respect to reservation of federal credits. In addition, the director may establish assumptions as to the amount of additional net syndication proceeds to be generated by reason of the state credits (based upon such percentage of the state credit dollar amount used for development costs, other than costs of intermediaries, as the director shall determine to be reasonable for the proposed development). The amount of state credits which may be so reserved shall be based upon a percentage of the federal credits as the director shall determine to produce such amount of state credits.

The director may divide the amount of state credits into pools and may further divide those pools into subpools based upon the factors set forth in § 6 with respect to the federal credits; however, the state credits need not be so divided in the same manner or proportions as the federal credits. Applications for state credits shall be assigned points and ranked at the same time or times and in the same manner as described in § 6. The director shall reserve state credits to applications in descending order of ranking within each pool or subpool, if applicable, until either all state credits therein are reserved or all applications therein eligible for state credits hereunder have received reservations for state credits. Any amounts in any pools or subpools not reserved to applications shall be reallocated at the time or times and in the same manner as the federal credits, among the pools or subpools in which applications eligible for state credits hereunder shall have not received reservations of state credits in the full amount permissible under these procedures. Such allocation shall be made pro rata based on the amount originally allocated to each such pool or subpool with such excess applications divided by the total

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amount originally allocated to all such pools or subpools with such excess applications. Such reallocations shall continue to be made until either all of the state credits are reserved or all applications for state credits have received reservations.

Section 6 hereof contains certain provisions relating to requirements for good faith deposits and contractual agreements, allocation of state credits without any prior reservation thereof, deadlines for determining the ability of the applicant to qualify for state credits, and reduction and termination of state credits. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder. In the event that any reservation of state credits is reduced or terminated, the director may reserve or allocate, as applicable, such state credits to other eligible applicants in such manner as he shall determine consistent with the requirements of the state code.

§ 8. Allocation of federal credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of federal credits is (i) placed in service or satisfies the requirements of § 42(h)(1)(E) of the IRC and (ii) meets all of the preallocation requirements of these procedures, the binding commitment and any other applicable contractual agreements between the applicant and the department, the applicant shall so advise the department, shall request the allocation of all of the federal credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, these procedures, the binding commitment and the aforementioned contractual agreements, if any, and shall submit such application, certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the director shall require in order to determine that the applicant's buildings or development is entitled to such federal credits as described above. The applicant shall certify to the department the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of federal credits to any building or development and as of the date such building or such development is placed in service, the director shall determine the amount of federal credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the director shall consider the sources and uses of the funds (including, without limitation, any funds to be derived from the state credits), the available federal, state and local subsidies committed

to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the department to be generated with respect to the development and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to § 6) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined in § 6 hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The amount of federal credits allocated to the applicant shall in no event exceed such amount as so determined by the director by more than a de minimis amount of not more than \$100.

In the case of any buildings or development to be financed by certain tax-exempt bonds in such amount so as not to require under the IRC an allocation of federal credits hereunder, the director shall, upon timely request by the owner thereof, make the foregoing determination as of the date the buildings or the development is placed in service, and for the purpose of such determination, the owner of the buildings or development shall submit to the department such of the above described information and documents and such other information and documents as the director may require. The director shall also determine, in accordance with the IRC and upon timely request by the owner thereof, for such buildings or development (and, in addition, for any buildings or development to be financed by certain tax-exempt bonds of an issuer other than the department in such amount so as not to require under the IRC an allocation of federal credits hereunder) whether such buildings or development satisfies the requirements for allocation of federal credits hereunder.

Prior to allocating the federal credits to an applicant, the director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each

taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitted under the IRC. The amount of federal credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the department is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building. In addition, such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units. Such commitment shall also contain such other terms and conditions as the director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC (and, in the case of an allocation of state credits, the state code) and these procedures. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC. Such commitment shall also be required with respect to any development financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder and the form thereof shall be made available to owners of such developments upon their timely request therefor.

In accordance with the IRC, the director may, for any calendar year during the project period (as defined in the

IRC), allocate federal credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or prior to the end of the second calendar year after the calendar year in which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the director determines that the buildings or development is so entitled to the federal credits, he shall allocate the federal credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low income buildings or to the applicant's development in accordance with the requirements of the IRC. If the director shall determine that the applicant's buildings or development is not so entitled to the federal credits, he shall not allocate the federal credits and shall so notify the applicant within a reasonable time after such determination is made. In the event that any such applicant shall not request an allocation of all of its reserved federal credits or whose buildings or development shall be deemed by the director not to be entitled to any or all of its reserved federal credits, the director may reserve or allocate, as applicable, such unallocated federal credits to the buildings or developments of other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the IRC and these procedures.

The director may prescribe (i) such deadlines for submissions of requests for allocations of federal credits (and, if applicable, state credits) for any calendar year as he deems necessary or desirable to allow sufficient processing time for the department to make such allocations within such calendar year and (ii) such deadlines for satisfaction of all preallocation requirements of the IRC (and, in the case of state credits, the state code), the binding commitment, any contractual agreements between the department and the applicant and these procedures as he deems necessary or desirable to allow the department sufficient time to allocate to other eligible applicants any federal credits for which the applicants fail to satisfy such requirements.

The director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

The director may also (to the extent not already required under § 6 hereof) require that all applicants make such good faith deposits or execute such contractual agreements with the department as the director may require with respect to the federal credits (and, if applicable, state credits), (i) to ensure that the buildings or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned

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pursuant to § 6 hereof and (ii) only in the case of any buildings or development which are to receive an allocation of federal credits hereunder and which are to be placed in service in any future year, to assure that the buildings or the development will be placed in service as a qualified low-income housing project (as defined in the IRC) in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

In the event that the director determines that a development for which an allocation of federal credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation or any contractual agreements between the applicant and the department, the director may terminate the allocation and rescind the federal credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the department's rights and remedies under any contractual agreement. An allocation of federal credits to an applicant may also be cancelled with the mutual consent of such applicant and the director. Upon the termination or cancellation of any federal credits, the director may reserve, allocate or carry over, as applicable, such federal credits in such manner as he shall determine consistent with the requirements of the IRC and these procedures.

§ 9. Allocation of state credits.

Upon the allocation of federal credits to the buildings or development described in an application which received a reservation of state credits under § 7, the director shall allocate state credits to such buildings or development in an amount equal to the amount of federal credits so allocated times such percentage of federal credits as shall have been determined by the director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the application under § 7. If the amount of state credits so allocated to the buildings or development under this § 9 is less than the amount of state credits reserved to the application under § 7, then the director may reserve to other applications or allocate to other buildings or developments, as applicable, such unallocated state credits at such time or times and in such manner as he shall determine consistent with the requirements of the state code.

In the case of any buildings or development to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder, the director shall, prior to the last day of the calendar year in which such building or development is reserved state credits, allocate state credits to the buildings or development in an amount equal to the amount of federal credits to be claimed annually by the applicant times such percentage of federal credits as shall have been determined by the director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the application under § 7.

Prior to any allocation of state credits, the director may require the applicant to confirm the status of the owner or owners as Virginia taxpayers who are eligible for an allocation of state credits under § 7.

The director may make the allocation of state credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments, and information in the application and comply with the requirements of the IRC, the state code, and these procedures.

The state credits allocated may be claimed for the first five taxable years in which the federal credits shall be claimed. The amount of state credits claimed in each such year shall be such percentage of the federal credits so claimed as shall have been established by the director pursuant to § 7; provided, however, that the amount of state credits which may be claimed by the applicant in the initial taxable year shall be calculated for the entire development on the basis of a twelve-month period during such initial taxable year, notwithstanding that the federal credits may be calculated on the basis of some (but not all) of the buildings in such development or on the basis of a period of less than twelve months or both; provided, further, that in no event shall the amount of state credits claimed in any year exceed the amount allocated under this § 9.

In the event that any federal credits claimed by the applicant for any taxable year in which the applicant also claimed state credits shall be recaptured pursuant to the IRC, the state credits for such taxable year shall be recaptured in an amount equal to the amount of federal credits recaptured for such taxable year times such percentage as shall have been established by the director pursuant to § 7. The applicants receiving state credits shall provide the department with such information as the director may from time to time request regarding any recapture of the federal credits.

On or before such date each year as the director may require, each applicant shall apply to the department to determine the amount of state credits which such applicant may claim for the applicable taxable year. Each such applicant shall submit such documents, certifications and information as the director may require. The department shall certify to the Department of Taxation on forms prepared by the department that the applicant qualified for the state credits in the amount set forth therein and shall provide such certification to the applicant. Such certification is required to be attached to the applicant's state income tax return to be filed with the Department of Taxation.

Section 8 hereof contains certain provisions relating to (i) the establishment of deadlines for submission of requests for allocation of state credits and for satisfaction of requirements of the IRC and state code and (ii) requirements for good faith deposits and contractual

agreements. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder.

In the event that any allocation of federal credits shall be terminated and rescinded or cancelled pursuant to § 8 (or, in the case of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, in the event that the development shall not become a qualified low-income housing project as defined in the IRC within the time period required by the IRC or by the terms of the allocation of state credits), the director may also terminate and rescind or cancel the state credits and, if permitted by the state code, may reserve or allocate, as applicable, such state credits to other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the state code.

§ 10. Reservation and allocation of additional federal credits and state credits.

Prior to the initial determination of the "qualified basis" (as defined in the IRC) of the qualified low-income buildings of a development pursuant to the IRC, an applicant to whose buildings federal credits or state credits or both have been reserved may submit an application for a reservation of additional federal credits or state credits or both. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of federal credits or state credits or both by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any application for an additional allocation of federal credits or state credits or both shall include such information, opinions, certifications and documentation as the director shall require in order to determine that the applicant's buildings or development will be entitled to such additional federal credits or state credits or both under the IRC, the state code and these procedures. The application shall be submitted, reviewed, ranked and selected by the director in accordance with the provisions of §§ 6 and 7 hereof, and any allocation of federal credits or state credits or both shall be made in accordance with §§ 8 and 9 hereof. For the purposes of such review, ranking and selection and the determinations to be made by the director under the procedures as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of federal credits or state credits, or both, previously reserved to the application or allocated to the buildings or development (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, the amount of federal credit which may be claimed by the applicant) shall be included with the amount of such federal credits

or state credits or both so requested.

§ 11. Monitoring for IRS compliance.

All applicants who receive an allocation of federal credits are responsible for complying with § 42 of the IRC.

The federal law requires that the Commonwealth monitor projects receiving federal credits for noncompliance with the provisions of § 42 of the IRC and notify the Internal Revenue Service of such noncompliance with which it becomes aware.

All applicants who receive an allocation of federal credits shall take or cause to be taken all action required of the applicant by the department in order to satisfy the department's monitoring requirements. The department shall set forth such monitoring requirements in writing and shall make copies available to all applicants. The department may amend and revise such requirements from time to time in order to comply with § 42 of the IRC.

Applicants must pay to the department a fee in such amount and at such time as the department, in its sole discretion, shall reasonably require the applicant to pay in order to reimburse the department for the costs of such monitoring.

In the event that the director shall become aware of noncompliance by any applicant with any of the provisions of § 42 of the IRC, the director shall notify the Internal Revenue Service of such noncompliance within the timeframes established by the Internal Revenue Service. Such notification shall identify the applicant and the buildings and shall describe the noncompliance.

A. General.

Federal law requires the Commonwealth to monitor projects receiving federal credits for compliance with the requirements of § 42 of the IRC and notify the IRS of any noncompliance of which it becomes aware.

Compliance with the requirements of § 42 is the responsibility of the owner of the building for which the federal credit is allowable. The monitoring requirements set forth hereinbelow are to qualify the Commonwealth's allocation plan of federal credits. The Commonwealth's obligation to monitor for compliance with the requirements of § 42 does not make the Commonwealth liable for an owner's noncompliance, nor does the Commonwealth's failure to discover any noncompliance by an owner excuse such noncompliance.

B. Recordkeeping.

The owner of a low-income housing project must keep records for each qualified low-income building in the project that show for each year in the compliance period:

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1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);

2. The percentage of residential rental units in the building that are low-income units;

3. The rent charged on each residential rental unit in the building (including any utility allowances);

4. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under § 42(g)(2) (as in effect before the amendments made by the Revenue Reconciliation Act of 1989);

5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;

6. The annual income certification of each low-income tenant per unit;

7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937 ("Section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of subdivision B 7 is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under § 42(g);

8. The eligible basis and qualified basis of the building at the end of the first year of the credit period; and

9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

The owner of a low-income housing project must retain the records described in the foregoing paragraph for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

C. Certification.

The owner of a low-income housing project must certify annually to the Commonwealth, on the form prescribed by the Commonwealth, that, for the preceding 12-month period:

1. The project met the requirements of the 20-50 test under § 42(g)(1)(A) or the 40-60 test under § 42(g)(2)(B), whichever minimum set-aside test was applicable to the project;

2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change;

3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving Section 8 housing assistance payments, the statement from a public housing authority described in subdivision B 7 of this section;

4. Each low-income unit in the project was rent-restricted under § 42(g)(2);

5. All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under § 42(i)(3)(B)(ii));

6. Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;

7. There was no change in the eligible basis (as defined in § 42(d)) of any building in the project, or if there was a change, the nature of the change (e.g., a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge);

8. All tenant facilities included in the eligible basis under § 42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;

9. If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;

10. If the income of tenants of a low-income unit in the project increased above the limit allowed in § 42(g)(2)(D)(i), the next available unit of comparable or

smaller size in the project was or will be rented to tenants having a qualifying income; and

11. An extended low-income housing commitment as described in § 42(h)(6) was in effect (for buildings subject to § 7108(c)(1) of the Revenue Reconciliation Act of 1989).

Such certifications shall be made annually covering each year of the compliance period and must be made under the penalty of perjury.

In addition, each owner of a low-income housing project must provide to the Commonwealth, on a form prescribed by the Commonwealth, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the project's compliance period.

D. Review.

The Commonwealth will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the Commonwealth will inspect at least 20% of low-income housing projects each year and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for each low-income tenant in at least 20% of the low-income units in those projects. The Commonwealth will determine which low-income housing projects will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the Commonwealth, at its option, may request an owner of a low-income housing project not selected for the review procedure set forth above in a particular year to submit to the Commonwealth for compliance review copies of the annual income certifications, the documentation such owner has received to support those certifications and the rent record for each low-income tenant of the low-income units in their project.

All low-income housing projects may be subject to review at any time during the compliance period.

E. Inspections.

The Commonwealth has the right to perform, and each owner of a project receiving federal credits shall permit the performance of, an on-site inspection of any low-income housing project through the end of the compliance period of the building. The inspection provision of this subsection E is separate from the review of low-income certifications, supporting documents and rent records under subsection D of this section.

F. Notices.

The Commonwealth will provide written notice to the

owner of a low-income housing project if the Commonwealth does not receive the certification described in subsection C of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subsection D of this section or discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of § 42.

Such written notice will set forth a correction period which shall be that period specified by the Commonwealth during which an owner must supply any missing certifications and bring the project into compliance with the provisions of § 42. The Commonwealth will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The Commonwealth may extend the correction period for up to six months, but only if the Commonwealth determines there is good cause for granting the extension.

The Commonwealth will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as described above, including extensions permitted under that paragraph) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The Commonwealth must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under subdivisions C 2 and C 7 of this section, respectively, that results in a decrease in the qualified basis of the project under § 42(c)(1)(A) is noncompliance that must be reported to the IRS under this subsection F. If the Commonwealth reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Commonwealth need not file Form 8823 in subsequent years to report that building's noncompliance.

The Commonwealth will retain records of noncompliance or failure to certify for six years beyond the Commonwealth's filing of the respective Form 8823. In all other cases, the Commonwealth must retain the certifications and records described in subsection C of this section for three years from the end of the calendar year the Commonwealth receives the certifications and records.

G. Exception for certain buildings.

If the Commonwealth decides to enter into the agreements described below, the review requirements under subsection D of this section will not require owners to submit, and the Commonwealth is not required to review, the tenant income certifications, supporting documentation and rent records for buildings financed by the Farmers Home Administration (FmHA) under the § 515 program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the

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interest on which is exempt from tax under § 103 (tax-exempt bonds). In order for a monitoring procedure to except these buildings, the Commonwealth must enter into an agreement with the FmHA or tax-exempt bond issuer. Under the agreement, the FmHA or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the Commonwealth. The Commonwealth may assume the accuracy of the information provided by FmHA or the tax-exempt bond issuer without verification. The Commonwealth will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) are met. However, if the information provided by the FmHA or tax-exempt bond issuer is not sufficient for the Commonwealth to make this determination, the Commonwealth will request the necessary additional income or rent information from the owner of the buildings. For example, because FmHA determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under Section 8, the Commonwealth may have to calculate the tenant's income for § 42 purposes and may need to request additional income information from the owner.

H. Fees.

The owners of low-income housing projects must pay to the Commonwealth such fees in such amounts and at such times as the Commonwealth shall, in its sole discretion, reasonably require the owners to pay in order to reimburse the Commonwealth for the costs of monitoring compliance with § 42.

§ 12. Allocation pools.

Under the low-income housing tax credit program established by § 42 of the Internal Revenue Code, the Commonwealth of Virginia has a certain dollar amount allocated each calendar year to qualified low-income housing developments located therein. In order to promote a distribution of the federal credits which effectively addresses the low-income housing needs of the state, the department hereby divides its Annual Credit Authority for calendar year 1993 (the "1993 Credit Authority") into several pools of federal credits, each containing a portion of the 1993 Credit Authority, all as set forth below:

Allocation Pools	% of 1993
.....	Credit Authority

1. Nonprofit, Non-FmHA Pool 25.0%

Each development (i) which is eligible for inclusion in this pool under the Rules and Regulations and (ii) which is not eligible for the FmHA pool will initially compete in this pool regardless of where it is located within the state.

2. Farmers Home Administration Pool 10.0%

Each development for which a commitment of FmHA Section 515 financing has been issued will compete in this

pool, regardless of whether or not a nonprofit organization is involved in its development and operation and regardless of where it is located within the state.

3. Urban Pool 42.3%

Defined as developments located within: (i) an MSA county with a population of 50,000 or greater and a population density of 1,000 per square mile or greater; (ii) an independent city with a population of 50,000 or greater and a population density of 1,000 per square mile or greater; and (iii) a Community Development Block Grant entitlement city. Geographic pool size is based on the percentage of households at or below 60% of the area median income paying more than 30% of their income for housing.

Developments located within one of the jurisdictions listed below and which are not eligible for the FmHA pool, will compete in this pool.

Urban localities include the cities of: Alexandria, Bristol, Charlottesville, Chesapeake, Danville, Fairfax City, Falls Church, Hampton, Hopewell, Lynchburg, Newport News, Norfolk, Petersburg, Portsmouth, Richmond City, Roanoke City, Suffolk, and Virginia Beach, and the counties of Arlington County and Fairfax County.

4. Suburban and Rural Pool 22.7%

(Remaining Geographic Areas)

Developments located within one of the jurisdictions listed below and which are not eligible for the FmHA pool or the urban geographic pool described above will compete in this pool.

Suburban localities are defined as independent cities and counties which are part of an MSA, but which do not meet the definition of the urban pool. This includes the cities of: Bedford City, Colonial Heights, Fredericksburg City, Manassas City, Manassas Park City, Poquoson, Salem, and Williamsburg, and the counties of: Albemarle, Amherst, Bedford County, Botetourt, Campbell, Charles City County, Chesterfield, Clarke, Culpeper, Dinwiddie, Fauquier, Fluvanna, Gloucester, Goochland, Greene, Hanover, Henrico, Isle of Wight, James City County, King George, Loudoun, Mathews County, New Kent, Pittsylvania, Powhatan, Prince George, Prince William, Roanoke County, Scott, Spotsylvania, Stafford, Warren, Washington, and York.

Rural localities are defined as independent cities or counties which are not part of an MSA and do not meet the definition of urban or suburban localities described above. This includes the cities of Buena Vista, Clifton Forge, Covington, Emporia, Franklin City, Galax, Harrisonburg, Lexington, Martinsville, Norton, Radford, South Boston, Staunton, Waynesboro, and Winchester, and the counties of: Accomack, Alleghany, Amelia, Appomattox, Augusta, Bath, Bland County, Brunswick, Buchanan, Buckingham, Caroline, Carroll, Charlotte, Craig,

Cumberland, Dickenson, Essex, Floyd, Franklin County, Frederick, Giles, Grayson, Greensville, Halifax, Henry, Highland, King and Queen, King William, Lancaster, Lee, Louisa, Lunenburg, Madison, Mecklenburg, Middlesex, Montgomery, Nelson, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Prince Edward, Pulaski, Rappahannock, Richmond County, Rockbridge, Rockingham, Russell, Shenandoah, Smyth, Southampton, Surry, Sussex, Tazewell, Westmoreland, Wise, and Wythe.

..... 100%

No single MSA may receive more than 40% of the credits allocated through the geographic pools while unfunded projects from other areas of the state remain in the urban or suburban/rural pools.

The reservation and allocation of the federal credit to applications shall be governed by §§ 1 through 11 of the plan.

V.A.R. Doc. No. R93-756; Filed August 11, 1993, 1:37 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: The following regulation filed by the Department of Medical Assistance Services 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 Department of Medical Assistance 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 460-10-2500. Medicaid Financial Eligibility Requirements - Families and Children.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: October 19, 1993.

Summary:

The purpose of this action is to promulgate state regulations which describe the methods and procedures to be used in setting standards and determining eligibility for Aid to Families With Dependent Children-related medical assistance. Such regulations are mandated in federal regulations published on January 19, 1993.

These regulations revise the methodologies for determining income and resource eligibility under Medicaid, including financial responsibility of relatives, and for determining how the income and resources of members of families are to be considered in

determining eligibility for Medicaid. These regulations require the state to establish a Medicaid budgetary unit (called in these regulations, the Medicaid Assistance Unit) consisting of certain individuals living in the home. Individual members of the budgetary unit will then have their income and resource eligibility determined using separate standards. However, the standards used will be calculated based on proration of existing standards. For example, if a low-income (poverty level-related) standard for a budgetary unit of four would normally be used, that standard would be divided by four to arrive at individual standards for the various members of the unit. Parents' countable income and resources will be prorated equally among their dependents living in the home including non-SSI dependents who may not be members of the budgetary unit. The proration will take into account the needs of the parents as well.

Implementation of this new method of calculating income and resources requires that the regulations describe how certain types of income will be counted and how certain disregards will be calculated. The regulations also describe the method of allocating income of a caretaker to a dependent who is not part of the Medicaid budgetary unit. Such dependents are included in the proration of a financially responsible relative's income and resources. For example, if a parent had three dependents living in the home, but only two could be eligible, the parents' income would be divided by four rather than three.

VR 460-10-2500. Medicaid Financial Eligibility Requirements - Families and Children.

PART I. DEFINITIONS.

§ 1.1. Definitions.

"Deduction" means that part of a countable resource or source of income that is subtracted from the total value of the assets before calculations are made to determine eligibility.

"Disregard" means a noncountable resource or source of income, a source that is excluded from all eligibility determination calculations.

"Income standard or income limit" means the maximum amount of income allowed for the purposes of determining eligibility.

"Lump sum payment" means the receipt of a nonrecurring lump sum payment, such as the accumulation of benefits for a prior period, including Social Security and Workmen's Compensation benefits; inheritances or lottery winnings; personal injury awards; life insurance settlements when the policy is owned by someone other than a member of the Medicaid Assistance Unit; loans for current living expenses; child support

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identified as payments paid in excess of public assistance; or income from any other nonrecurring source.

"Resource limit or resource standard" means the maximum value of resources allowed for the purposes of determining eligibility.

PART II. THE MEDICAID ASSISTANCE UNIT.

§ 2.1. Establishing the Families and Children Medicaid Assistance Unit (MAU).

The Medicaid Assistance Unit (MAU) shall include the following individuals who are living in the home and who do not receive SSI. These individuals may or may not be eligible for Medicaid, but must be included in the Medicaid Assistance Unit for computation purposes.

1. Children under 18 years of age if they are living in the home, who are not married and living with their spouse, or children under the age of 19 if in a secondary school and expected to graduate before turning 19 if they are living in the home, who are not married and living with their spouse.

2. Children who receive AFDC, IV-E Foster Care or Adoption Assistance. Payments made from these sources shall be disregarded.

3. Children 19 to 21 if they receive Non-IV-E Foster Care or Adoption Assistance payments. Non-IV-E Foster care or Adoption Assistance payments shall be disregarded.

4. Parents of children described above and the spouses of the parents.

5. Pregnant women and unborn children they are expected to deliver.

6. Nonlegally responsible relatives of specified degree who request assistance or would be eligible as categorically needy nonmoney payment in a families-and-children category.

a. Relatives of specified degree are: brother, sister, uncle, aunt, nephew, niece, first cousin and first cousin once removed. It also includes step-mother, step-father, step-brother and step-sister and those relatives of preceding generations as denoted by prefixes of grand, great, great-great, or great-great-great. This includes both natural and adoptive relatives and the spouse of any relative listed, even if the marriage has been terminated by death or divorce.

b. Eligibility for nonlegally responsible relatives may exist only if there is a dependent child in the Medicaid Assistance Unit. These relatives have the option not to be included in the Medicaid

Assistance Unit.

c. If the nonlegally responsible relative does request assistance, his or her spouse, if in the home, must also be included in the Medicaid Assistance Unit.

7. Aged, blind and disabled individuals, except SSI recipients, shall remain a part of the Families and Children MAU for determination of financial eligibility for other MAU members but that member will have his eligibility determined for medical assistance as an aged, blind or disabled individual.

§ 2.2. Resource disregards and deductions.

A. When disregard of a resource is limited to only one disregard per family, and more than one member of the MAU owns that item, the family may decide who will claim the disregard.

B. When deductions are based on a specified dollar amount and apply to more than one member of the MAU, the dollar amount value of the deduction shall be divided by the appropriate number of individuals in the MAU.

§ 2.3. Determination of individual resource limits for members of the MAU.

To determine the resource limit for each member of the MAU, the appropriate resource limit defined for the MAU size shall be divided by the number of persons in the MAU. Each member's pro-rata share of the total is his individual resource limit.

§ 2.4. Determination of individual resources.

A. The countable resources of each parent or spouse shall be totaled to compute the individual resources of members of the MAU.

B. The total countable resources of the parent or spouse shall be prorated by the number of persons in the home including the parent and spouse and all individuals under the age of 18 (or 21 if receiving Non-IV-E Foster Care or Adoption Assistance) for whom he is legally responsible.

C. The MAU member's pro-rata share of the parent or spouse's resources shall be added to their own countable resources and the total shall be compared to their individual resource limit.

D. When determining eligibility of married couples, the individual resource limits shall be combined and the countable resources of each spouse shall be combined. If the couple's total resources are equal to or less than the combined resource limit, the couple shall be resource eligible.

E. Resources of MAU members applying in a Medically Indigent category shall be disregarded because no resource limit is imposed for those categories.

F. When a minor who is living in the home of her parents applies as a parent of a child rather than as a dependent child and her parent is not applying for assistance, the minor parent's pro-rata share of her parent's resources and any other resources she may have shall be used to determine her eligibility. If the parents of the minor caretaker wish to apply for her as an eligible child and she also wishes to apply for her child, none of her pro-rata share of her parent's resources shall be prorated to her child. Only resources owned solely by the minor caretaker shall be prorated to her child.

G. The resources of nonlegally responsible relatives who apply for assistance for a child are not counted in determining the child's eligibility for Medicaid.

1. If the nonlegally responsible relative wishes to apply for Medicaid for himself or herself as caretaker, his resources must be counted only toward his or her resource limit.

2. If the spouse of the nonlegally responsible relative is living in the home, the standards for the spouses shall be combined when computing the caretaker/relative's resources.

H. If the caretaker/relative has children of his own in the home, all children under the age limit, regardless of legal responsibility, shall be included in the MAU. The resources of the nonlegally responsible relative shall be deemed only to his own children.

§ 2.5. Income disregards and deductions.

A. Income disregards and deductions which are specific to an individual's income shall be applied to his income before proration of the income to dependents.

B. When deductions or disregards are limited to only one item per family and more than one member of the MAU owns that item, the family may decide to whose income the deduction or disregard will be applied.

C. When income deductions or disregards which are based on a specified dollar amount apply to more than one member of the MAU because more than one member owns that item, the dollar amount of the deduction or disregard shall be divided by the appropriate number of individuals in the MAU.

D. The income standard for married couples in the Medicaid Assistance Unit shall be the standard for two people in the appropriate locality grouping for the category.

E. For a pregnant woman, a pro-rata share of the income standard for her unborn child or children shall be added to her standard. If she has other living children, the standard for determining the eligibility of the other children shall be computed without an allowance for the unborn children.

F. When a minor caretaker's eligibility is being determined as a parent (not a child), the minor parent's pro-rata share of her parent's income shall be added to her own income to determine her eligibility. Her pro-rata share of her parent's income shall not be used to determine her child's eligibility.

§ 2.6. Determining individual countable income.

A. The countable income of each parent or spouse in the MAU shall be added together.

B. The parent's or spouse's countable income shall be prorated by the number of persons in the MAU living in the home for whom they are legally responsible, including the parent or spouse, and all other dependents under the age of 21 for whom the parents are legally responsible.

C. If the parent is paying support for a child who lives outside the home, the amount of support paid from the parent's countable income shall be deducted.

D. The income of nonlegally responsible relatives who apply for assistance for a child shall not be counted.

1. If the nonlegally responsible relative wishes to apply for Medicaid for himself as caretaker, his income must be counted only toward his income limit.

2. If the nonlegally responsible relative is married and the spouse is living in the home, the standards for the spouses shall be combined when computing the caretaker/relative's income.

E. If the caretaker/relative has children of his own in the home for whom assistance is requested, the children shall be included in the caretaker/relative's MAU.

F. Appropriate income deductions and disregards which are specific to each individual's income shall be applied.

G. Each child's prorated share of the parent's income shall be added to his own income.

H. Each parent's share of his spouse's income shall be added to his own income.

I. The income of each member of the MAU shall be compared to his prorated standards. In the case of married couples, their prorated standards shall be combined.

§ 2.7. Computing lump sum payment period.

A. Lump sum payments must be counted as income unless otherwise exempt.

B. A lump sum received prior to the month of application shall be evaluated as a resource.

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C. A lump sum received during the month of application, at any time during pending status of the application, or after eligibility has been established, shall be treated as income in the month received and, if appropriate, a period of ineligibility shall be established. The period of ineligibility shall begin with the month of receipt of the lump sum payment.

D. If the total income, including the lump sum, equals or exceeds the AFDC 100% standard of need in the locality for the number of persons in the MAU for whom the beneficiary is legally responsible, a period of ineligibility shall be established.

E. The total income (net countable income, plus the lump sum payment, minus appropriate directly related expenses) shall be divided by the appropriate AFDC 100% standard of need in the locality for the number of persons in the MAU for whom the beneficiary is legally responsible. This quotient shall be the number of months for which the 100% standard of need amount shall be counted as income to the beneficiary.

F. The recipient shall be advised of the duration of the period of ineligibility.

§ 2.8. \$30 plus 1/3 deduction.

A. Applicants for Medicaid who were AFDC recipients may be entitled to a \$30 plus 1/3 deduction or \$30 deduction of their gross earned income. If the applicant was entitled to either the \$30 plus 1/3 or \$30 deduction as an AFDC recipient and has any balance left on either deduction, the balance of the deduction shall be applied when computing his net countable income.

B. An AFDC recipient is entitled to a \$30 plus 1/3 of the remainder deduction of his gross earned income or profit from self-employment. The disregard shall be given for four consecutive months and is applied after the standard work deduction is applied. If there is an interruption in the four-month period, other than for a one-month suspension in the AFDC grant, the four-month period shall begin again until the deduction is applied for four consecutive months. Once the deduction is given for four consecutive months, it shall never be given again in the case unless the AFDC case is closed for 12 consecutive months.

C. At the end of the four-month period, the recipient shall be entitled to a \$30 deduction of monthly gross earned income or profit from self-employment. The \$30 deduction shall be given for eight months and begins the month following the fourth month of the initial \$30 plus 1/3 deduction. This eight-month period shall be fixed and ends with the eighth consecutive month regardless of whether the \$30 deduction is actually applied to earned income or self-employment. If an individual becomes ineligible for AFDC as a result of the loss of the \$30 plus 1/3 deduction or for any reason after the four months of the \$30 plus 1/3 deduction has been applied, the

eight-month period of entitlement to the \$30 deduction continues in the event of reapplication for AFDC.

D. When an individual applies for Medicaid, if there is a balance of either the \$30 plus 1/3 or \$30 deduction, it shall be applied to the individual's gross earned income or profit from self-employment, after appropriate disregards.

VA.R. Doc. No. R93-761; Filed August 13, 1993, 2:44 p.m.

BOARD OF PROFESSIONAL COUNSELORS

Title of Regulation: VR 560-01-02. Regulations Governing the Practice of Professional Counseling.

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

Effective Date: October 6, 1993.

Summary:

The final regulations establish requirements governing the practice of professional counseling in the Commonwealth. They include the educational and experiential requirements necessary for licensure, provide criteria for the written examinations, set the standards of practice, and establish procedures for the disciplining of licensed professional counselors.

The amendments (i) adjust fees as required by Virginia statute; (ii) eliminate oral examinations as required by legislation enacted by the 1992 Session of the General Assembly; (iii) require supervisors of prospective licensees to be trained in supervision; and (iv) require that treatment records be maintained for five years beyond the termination of treatment. The amendments to the regulation result from statutory mandates and from a biennial review of existing regulations conducted by the board.

After receiving and considering public comments, the board made only additional revisions to Part VI, § 6.1 B 22 of the proposed regulations. These changes were made to provide greater clarity to the Standards of Practice requirement.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9918. There may be a charge for copies.

VR 560-01-02. Regulations Governing the Practice of Professional Counseling.

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:

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a professional counselor.

"Appraisal activities" has the same meaning as defined in § 54.1-3500 of the Code of Virginia, "selecting, administering, scoring and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements and interests, and shall not include the use of projective techniques in the assessment of personality."

"Board" means the Virginia Board of Professional Counselors.

"Candidate for licensure" 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 its examinations.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Counseling" means assisting an individual, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting his interests, abilities, aptitudes and needs as they relate to educational progress, occupations and careers, and personal or social concerns.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

"Internship" means supervised, planned, practical, advanced experience obtained in the clinical setting, observing and applying the principles, methods and techniques learned in training or educational settings. The internship involves a longer period of time than the practicum.

"Practicum" means supervised, planned, practical experience occurring in a clinical setting, for an early introduction to subject matter. It is generally time-bound and for a shorter period of time than an internship, but it allows for demonstration and testing of information, knowledge, and skills acquired.

"Professional counselor" means a person trained in counseling and guidance services with an emphasis on individual and group guidance and counseling designed to

assist individuals in achieving more effective personal, social, educational and career development and adjustment.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the United States Secretary of Education responsible for accrediting senior postsecondary institutions.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and instruction with respect to the clinical skills and competencies of the person supervised.

§ 1.2. Fees required by the board.

A. The board has established the following fees applicable to licensure as a professional counselor:

Registration of supervision	\$ 75.
Change of supervisor	20.
Application processing	100.
Examination	150. 120.
Reexamination	
Written	75.
Oral	75.
License renewal	100. 85.
Duplicate license	15.
Endorsement to another jurisdiction	10.
Late renewal	10.
Replacement of or additional wall certificate	15.
Name change	10.
Returned check	15.

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board.

C. All fees are nonrefundable.

§ 1.3. Substance abuse counseling.

VR 560-01-03, Regulations Governing the Certification of Substance Abuse Counselors are incorporated by reference in these regulations.

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PART II. REQUIREMENTS FOR LICENSURE.

§ 2.1. Requirements, general.

No person shall practice as a professional counselor in the Commonwealth of Virginia except as provided in these regulations and when licensed by this board.

A. Licensure by the board shall be by *written* examination.

B. Every applicant for licensure examination by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 of these regulations;

2. Have the institution(s) where the applicant completed the required graduate work send directly to the executive director of the board, at least ~~60~~ 90 days prior to the date of the written examination, official transcripts documenting the applicant's completion of the education requirements prescribed in § 2.2 A; and

3. Submit to the executive director of the board, not less than ~~60~~ 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 B *on forms provided by the board* ;

c. Reference letters from three health or mental health care practitioners attesting to the applicant's character and professional integrity; and

d. The licensure application fee prescribed in § 1.2 of these regulations.

C. The board may license by endorsement an individual who is currently licensed in another state as a professional counselor and who has been licensed in another state through a similar process with equivalent requirements as described in ~~subsection~~ *subsections A and B of this section* .

§ 2.2. Education and experience requirements for licensure examinations.

Every applicant for examination for licensure shall meet the requirements of subsections A and B of this section.

A. Education.

The applicant shall have completed 60 semester hours or 90 quarter hours of graduate study ~~that are primarily~~

in counseling in nature, including , to include a graduate degree in counseling or a related discipline, from a college or university accredited by a regional accrediting agency.

1. The graduate course work shall have included study in the nine core areas of:

a. Professional identity, function and ethics;

b. Theories of counseling and psychotherapy;

c. Counseling and psychotherapy techniques;

d. Group dynamics, theories, and techniques;

e. Theories of human behavior, learning, and personality;

f. Career development;

g. Appraisal, evaluation and diagnostic procedures;

h. Abnormal behavior; and

i. Supervised practicum or internship.

2. One course may satisfy study in more than one of the nine study areas required in subdivision 1 of this subsection.

B. Supervised experience.

1. The applicant. The applicant for licensure shall have completed 4,000 hours of post-graduate degree experience in counseling practice under supervision satisfactory to the board. The post-graduate experience shall consist of supervised practice in the following areas:

1: [~~(1)~~] Counseling and psychotherapy techniques.

2: [~~(2)~~] Appraisal, evaluation and diagnostic procedures.

3: ~~Professional identity, function, and ethics.~~

[~~(3)~~] *Treatment planning and implementation.*

4: [~~(4)~~] Case management and record keeping.

[~~(5)~~] *Professional identity and function.*

[~~(6)~~] *Professional ethics and standards of practice.*

a. The experience shall include 200 hours of individual supervision during the 4,000 hours, with a minimum of one hour per week of face-to-face supervision between supervisor and applicant. The experience shall be continuous and integrated, that is, no credit will be given for satisfying the 4,000

hours of required experience in the absence of approved individual face-to-face supervision and conversely, no credit will be given for individual face-to-face supervision that does not occur as a part of the 4,000 hours of post-graduate experience. The experience shall include supervised practice with various populations, clinical problems and theoretical approaches.

b. Group supervision will be acceptable for not more than 100 hours of the required 200 hours of individual supervision on the basis of two hours of group supervision being equivalent to one hour of individual supervision, but in no instance shall group supervision substitute for the required on site individual face-to-face supervision.

c. *The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability which limits the supervisee's access to qualified supervision.*

d. *A post-graduate degree practicum or internship may count for up to 2,000 hours of the required 4,000 hours of experience and shall meet the requirements of § 2.2 .*

e. *For applicants enrolled in an integrated course of study in an accredited institution leading to a graduate degree beyond the Master's level, supervised experience may begin after the completion of 30 graduate semester hours or 45 graduate quarter hours, including a practicum and shall include graduate course work in the nine core areas as prescribed in § 2.2 A 1 .*

f. Applicants may not call themselves professional counselors, solicit clients, bill for services rendered, or in any way represent themselves as professional counselors. During the post-graduate supervisory experience, applicants shall use their names, and the initials of their degree. Clients shall be informed of the applicant's supervisee status, the supervisor's name, professional address, and phone number.

g. Applicants shall not engage in practice under supervision in any areas for which they have not had appropriate education.

2. The supervisor. A person who provides supervision for a prospective applicant for licensure as a professional counselor shall *have received professional training in supervision and shall be licensed as a professional counselor, psychologist, school psychologist, clinical psychologist, clinical social worker, or psychiatrist with at . At least one-half of the individual face-to-face supervision shall be rendered by a licensed professional counselor.*

a. Supervision by any individual whose relationship to the supervisee compromises the objectivity of the

supervisor is prohibited.

b. The supervisor of a prospective applicant shall assume full responsibility for the clinical activities of that prospective applicant specified within the supervisory contract for the duration of the supervised experience. In every instance there shall be an identifiable individual who is appropriately credentialed to provide supervision in the jurisdiction where the applicant provides counseling services.

c. Supervisors shall only be approved to provide supervision in areas for which they possess documented skills, training, and experience.

d. Supervisors shall provide the board with documentation regarding their areas of expertise on a form specified by the board.

e. At least one-half of the required individual face-to-face supervision shall occur on site where the counseling services are provided and be provided by the board-approved supervisor of record.

3. Registration of supervision.

a. Applicants who render counseling services in a nonexempt agency shall:

(1) With their supervisor, register with the board their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

(2) Have submitted directly to the board an official transcript of their relevant coursework in counseling *documenting a graduate degree in counseling or a counseling related area and as specified in § 2.2 A ;* and

(3) Pay the registration fee prescribed by the board in § 1.2 of these regulations.

b. Applicants who render counseling services in an exempt agency, as defined in § 54.1-3500 of the Code of Virginia, may register their supervision with the board, as outlined above. Board approval and successful completion of a planned supervision arrangement in an exempt setting will assure its acceptability at the time of application.

c. The board may accept as equivalent post-graduate supervised experience that occurs in another jurisdiction provided that the board's requirements are met.

4. Documentation of supervision.

a. Applicants shall document successful completion

Final Regulations

of their supervised experience on appropriate forms at the time of application. Supervised experience obtained prior to May 8, 1991, may be accepted towards licensure if this supervised experience met the board's requirements which were in effect at the time the supervision was rendered.

The supervisor shall conduct an annual evaluation of the applicant and report to the board the total number of hours of the experience and the number of hours of individual face-to-face on site hours of supervision.

b. The supervisor shall conduct an annual evaluation of the applicant and report to the board the number of hours of individual face-to-face hours of supervision and an evaluation of the supervisee's progress on appropriate forms provided by the board.

At the completion of required supervision hours, applicants shall document completion of their supervised experience on appropriate forms at the time of application. In addition, the supervisor will report the total hours of experience and supervision and will evaluate the applicant's competency in the six areas stated in § 2.2 B 1 using the form provided by the board. Applicants must receive a competency evaluation on each item on the evaluation sheet by at least one of their supervisors to meet requirements for satisfactory completion of their supervised experience.

§ 2.3. Character and professional integrity.

If the applicant has been under treatment for substance abuse within the last four years, the applicant shall provide a written statement from the certified or licensed individual responsible for the treatment. The written statement shall address the capability of the applicant to assume the responsibility of a licensed professional counselor.

PART III. EXAMINATIONS.

§ 3.1. General examination requirements.

A. Every applicant for initial licensure by the board as a professional counselor shall take pass a written examination and an oral examination as prescribed by the board.

B. The board may waive examination requirements if the applicant for licensure has been certified or licensed in another jurisdiction by standards and procedures equivalent to the board's.

C. Examination schedules.

A written and an oral examination will be given 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 approved candidates in writing of the time and place of the examinations for which they have been approved to sit examination .

2. The candidate shall submit the applicable fees and a case study examination fee as prescribed in § 3.3 C § 1.2 A .

3. If the candidate fails to appear for the examination without providing written notice at least one week before the examinations, the examination fee shall be forfeited.

4. The executive director will notify all candidates in writing of their success or failure on any examinations the examination .

D. Deferrals by candidate; time limit.

A candidate approved by the board to sit for an the examination shall take that the examination within two years from the date of such initial board approval. If the candidate has not taken the examination by the end of the two-year period here prescribed:

1. The initial board approval to sit for such the examination shall then become invalid; and

2. In order to be considered for such the examination later, the applicant shall file a complete new application with the board.

§ 3.2. Written examination.

A. The written examination will be a competency-based validated examination and will cover shall include, but not be limited to, the core areas of counseling. The written examination shall assess the minimal knowledge, skills and abilities necessary for the practice of professional counseling.

B. The board will establish a passing scores score on the written examination.

§ 3.3. Oral examination.

A. Successful completion of the written examination requirement shall be a prerequisite to taking the oral examination.

B. A candidate who passes the written examination will be notified by the board of the time and place of the oral examination and will be instructed to submit a case study.

C. The case study shall be a report of a case performed by the candidate as the primary provider of counseling services in the candidate's counseling practice during the last six months and shall be prepared as follows:

1. The case study shall be not less than six nor more than eight double-spaced typewritten pages in length. The names of persons in the study shall be disguised to protect clients' identities. The name and address of the candidate shall appear on a cover page.

2. The case study shall be a summary of the presenting problem, diagnosis, formulation and implementation of the treatment plan. This should include supporting biographical data, personal and social history and relevant medical history of the client. The case study should clearly state candidate's theoretical position. It should delineate tools and techniques used and the counselor's role in facilitating the change process consistent with the theoretical orientation.

D. The oral examination shall consist of an interview between the board and its designees who are selected, approved and trained by the board as oral examiners, and the candidate for the purpose of:

1. Evaluating the candidate's professional, emotional, and social maturity; the extent and nature of professional identity; and application of Standards of Practice as defined in § 6.1 of these regulations; and

2. Assessing the candidate's case study as described in § 3.3 C 2 and evaluating the candidate's knowledge and competency to engage in the independent practice of counseling.

E. Following the oral examination, the examination committee will make a recommendation to the board. A majority decision of the board will determine whether the candidate has passed the oral examination.

§ 3.4. § 3.3. Reexamination.

A. Reexamination will be required only on the examination failed.

B. A. After paying the written reexamination fee, a candidate may be reexamined for the written exam within an 18-month period without filing a new application. In the case of a reexamination for the oral examination, a new case study must be provided.

C. B. A candidate who fails any the examination two times shall reapply and submit documentation of additional education and experience as required by the board pay the required application fee as prescribed in § 1.2 A .

PART IV.

LICENSURE RENEWAL; REINSTATEMENT ; NAME CHANGE .

§ 4.1. Annual renewal of licensure.

All licensees shall renew licenses on or before June 30 of each year.

A. Every license holder who intends to continue to practice shall submit to the executive director on or before June 30 of each year:

1. A completed application for renewal of the license; and

2. The renewal fee prescribed in § 1.2.

B. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

§ 4.2. Late renewal; reinstatement.

A. A person whose license has expired may renew it within four years after its expiration date by paying the penalty fee prescribed in § 1.2 as well as the license fee prescribed for each year the license was not renewed.

B. A person who fails to renew a license for four years or more and wishes to resume practice shall *reapply and pay the application fee prescribed in § 1.2 and take the written examination* :

1. Pay the oral examination fee prescribed in § 1.2;

2. Take an oral examination; and

3. C. Upon approval for reinstatement, *the applicant shall* pay the penalty fee prescribed in § 1.2 and the license fee prescribed for each year the license was not renewed.

§ 4.3. Legal name change.

A licensee whose name is changed by marriage or court order may:

1. Notify the board of such change and provide a copy of the legal paper documenting the change.

2. Pay the "name change" fee prescribed in § 1.2.

3. Request and obtain from the board a new license bearing the individual's new legal name.

PART V.

ADVISORY COMMITTEES.

§ 5.1. Advisory committees.

A. The board may establish examining and advisory committees to assist it in evaluating candidates for licensure.

B. The board may establish an advisory committee to evaluate the mental and emotional competence of any licensee or candidate for licensure when such competence is in issue before the board.

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PART VI. STANDARDS OF PRACTICE - ; UNPROFESSIONAL CONDUCT; DISCIPLINARY ACTIONS; REINSTATEMENT.

§ 6.1. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons licensed 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. Practice only within the competency areas for which they are qualified by training or experience.
3. Be aware of the areas of competence of related professions and make full use of other professional, technical and administrative resources to secure for clients the most appropriate services.
4. Strive to stay abreast of new developments, concepts and practices which are important to providing appropriate professional services.
5. Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes and attempt to terminate a private service or consulting relationship when it becomes clear that the consumer is not benefiting from the relationship.
6. Not engage in offering services to a client who is receiving services from another mental health professional without attempting to inform such other professionals in order to avoid confusion and conflict for the consumer.
7. Provide counseling services for the purpose of diagnosis, treatment or personalized advice only in the context of a professional relationship, not by means of public lectures or demonstrations, newspapers or magazine articles, radio or television programs, mail or similar media.
8. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients.
9. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment.
10. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.

11. Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal information or allowing such information to be divulged.

12. Consider the validity, reliability and appropriateness of tests selected for use with clients and carefully interpret the performance of individuals from groups not represented in standardized norms.

13. Represent accurately their competence, education, training and experience.

14. Use only those educational and professional credentials that have been earned at a college or university accredited by a regional accrediting agency, or by a national certifying agency, and that are counseling in nature. Those credentials include the title "Doctor" as well as academic and professional certification designations following one's name, such as M.Ed., Ph.D., N.B.C.C.

15. Not engage in improper direct solicitation of clients and announce professional services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality.

16. Provide clients with accurate information of what to expect in the way of tests, reports, billing, therapeutic regime and schedules before rendering services.

17. Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destructions of records which are no longer useful. *Client records shall be kept for a minimum of five years from the date of termination of the counseling relationship.*

18. Obtain expressed client permission before taping or otherwise recording sessions with clients.

19. Disclose counseling records to others only with the expressed written consent of the client and ensure the accuracy and indicate the validity of any client information which is disclosed.

20. Keep confidential their counseling relationships with clients, with the following exceptions: (i) when the client is in danger to self or others; and (ii) when the professional counselor is under court order to disclose information ; (iii) in cases of suspected child abuse; or (iv) as otherwise required by law .

21. ~~Net~~ Never engage in public behavior which is in violation of accepted professional, moral and legal standards.

22. ~~Not~~ *Never* engage in dual relationships with clients, former clients, supervisees, and supervisors that ~~might~~ compromise the client's or supervisee's well being, impair the counselor's or supervisor's objectivity and professional judgment or increase the risk of client or supervisee exploitation. This [~~prohibition~~] includes, but is not limited to, such activities as counseling close friends, *former sexual partners*, employees or relatives, *and engaging in business relationships with clients*. Engaging in sexual intimacies with clients ; or former clients ; *is strictly prohibited*. In the case of supervisees or supervisors , *this includes, but is not limited to, [supervising relatives and] engaging in sexual intimacies with current supervisees .*

23. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

24. Report to the board known or suspected violations of the laws and regulations governing the practice of professional counselors.

§ 6.2. Grounds for revocation, suspension, probation, reprimand, censure, or denial of renewal of license.

A. In accordance with § § 54.1-2400 and 54.1-2401 of the Code of Virginia, the board may, after a hearing, revoke, suspend or decline to renew a board license or impose a fine for just cause.

B. Action by the board to revoke, suspend or decline to renew a license may be taken in accord with the following:

1. Conviction of a felony or misdemeanor involving moral turpitude.
2. Procuring of license by fraud or misrepresentation.
3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition.
4. Negligence in professional conduct or nonconformance with the Standards of Practice (§ 6.1 B of these regulations).
5. Performance of functions outside the demonstrable areas of competency.
6. Violation of or aid to another in violating any provision of Chapter 35 of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of these regulations.

C. Petition for rehearing.

Following the revocation or suspension of a license the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached in subsection B of this section.

D. Reinstatement procedure.

Reference powers of board to provide monetary penalties § 54.1-2401 of the Code of Virginia.

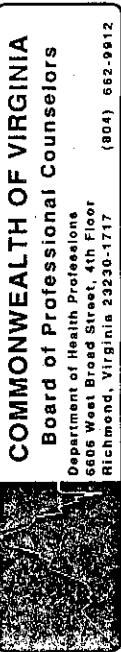
§ 6.3. Reinstatement following disciplinary action.

A. Any person whose license has been revoked or denied renewal by the board under the provisions of § 6.2 may, two years subsequent to such board action, submit a new application to the board for licensure.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.

VA.R. Doc. No. R93-763, Filed August 16, 1993, 10:52 a.m.



COMMONWEALTH OF VIRGINIA
Board of Professional Counselors
 Department of Health Professions
 6006 West Broad Street, 4th Floor
 Richmond, Virginia 23230-1717 (804) 662-9912

Fee \$100 - Application will not be processed without appropriate fee. Fee is not refundable. Make checks payable to Treasurer of Virginia.

Professional Counselor Licensure Application

INSTRUCTIONS		PLEASE TYPE OR PRINT		USE BLACK INK																																							
1. Applicants must complete all sections.																																											
2. Completed application should be mailed to the above address.																																											
3. Application and supporting documents must be received not less than 60 days prior to the date of the written examination.																																											
1. GENERAL INFORMATION																																											
Name (Last, First, M.I., Suffix, Maiden Name)		Social Security Number		Date of Birth																																							
Mailing Address (Street and/or Box Number, City, State Zip Code)		Home Phone Number		Business Phone Number																																							
<p>EDUCATION: State in chronological order the name and location of each graduate school where graduate course work has been completed. GRADUATE TRANSCRIPTS MUST BE SUBMITTED DIRECTLY TO THE BOARD OFFICE FROM THE GRADUATE INSTITUTION(S) PRIOR TO APPROVAL OF SUPERVISION.</p> <table border="1"> <thead> <tr> <th rowspan="2">Institution</th> <th colspan="2">Date of Attendance</th> <th rowspan="2">Major and/or Concentration</th> <th rowspan="2">Degree Received</th> <th rowspan="2">Date Degree Conferred</th> </tr> <tr> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>						Institution	Date of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred	From	To																														
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	From	To																																									
ANSWER THE FOLLOWING QUESTIONS:																																											
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: _____				YES	NO																																						
2. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary): _____				YES	NO																																						

3. Have you ever failed an examination for occupational license to practice or are any such actions pending? If yes, explain in detail: _____	YES	NO
4. Have you ever been convicted of a violation of or pled not guilty to any federal, state, or local statute, regulation or ordinance or entered into any violations, except for driving under the influence? If yes, explain in detail: _____	YES	NO
5. Within the past four years, 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. _____	YES	NO
6. Within the past four years have you ever received treatment or been hospitalized for a nervous, emotional, or mental disorder? If yes, please provide a letter from your treating professional summarizing diagnosis, treatment and prognosis. _____	YES	NO
7. Have you ever been censured, warned, or requested to withdraw from your employment, terminated from any health care facility, agency, or practice? If yes, provide an explanation on a separate sheet of paper. _____	YES	NO
8. List all the jurisdictions in which you now hold, or have ever held, an occupational license or certificate to practice. (Use back of this form)		
II. SUPERVISED COUNSELING EXPERIENCE		
Indicate below person(s) designated as your supervisor for professional counseling supervised experience to whom verification forms will be sent. Verification of Supervision forms must be returned to the applicant by the supervisor. The sealed signed envelopes are to be submitted to the Board within the application package by the applicant.		
Supervisor's Name		
Institution or business name and address		
Current Address (if different from above)		
Date Applicant Employed	Total Hours of face-to-face supervision	
From: _____	To: _____	
Description of Supervision	Total hours of group supervision	
Description of applicant's professional work during the supervision: _____		

IV. STANDARDS OF PRACTICE The standards of practice limit your practice to your demonstrated areas of competence. Please list below your specialized areas of practice that can be supported by documentation of training or education.

CLIENT POPULATION(S)	COUNSELING TECHNIQUES USED	ASSESSMENT INSTRUMENTS USED

V. LICENSE/CERTIFICATION List all the states in which you now hold or have ever held an occupational license or certificate to practice professional counseling in order of attainment.

STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE

VI. REFERENCES Please submit references from three individuals other than your supervisors who are acquainted with your professional work.

NAME AND ADDRESS	TITLE	YEARS KNOWN APPLICANT

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

The individual whose name is signed to this statement appeared before me, acknowledged the below-signed signature to be his or hers, and having been sworn by me, made oath that the statements in this document are true.

Applicant's Signature _____

State of _____ City/County of _____ on this, the _____ Day
of _____ 19____ Year My Commission expires _____

NOTARY SEAL _____ Notary Public

Supervisors Name _____

Institution or business name and address _____

Current address (if different from above) _____

Description of supervision	Total hours of face-to-face supervision

Dates applicant employed	Total hours of group supervision
From: _____ To: _____	

Description of applicants professional work during the supervision _____

Supervisors name _____

Institution or business name and address _____

Current address (if different from above) _____

Dates applicant employed	Total hours of face-to-face supervision
From: _____ To: _____	

Description of supervision	Total hours of group supervision

Description of applicants professional work during the supervision _____

III. POST-GRADUATE DEGREE INTERNSHIP

Have you had a post-graduate degree internship or practicum? Yes No

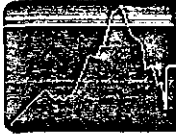
Institution or Business Name _____

Street address _____

City _____ State _____ Zip Code _____

How long work _____ Dates from _____ to _____

(Submit Verification of Supervision Form)



COMMONWEALTH OF VIRGINIA

Board of Professional Counselors

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717 (804) 662-9912

**Registration of Supervision
Post-Graduate Degree Supervised Experience**

Fee - \$75 Initial Registration Fee - \$20 Each Additional Registration
(Make all checks payable to the Treasurer of Virginia - Registration fees are not refundable)

THIS FORM IS TO BE COMPLETED BY THE TRAINEE AND THE SUPERVISOR

CHECK ONE: Initial Registration Add Supervisor Change Supervisor

TRAINEE INFORMATION (Please type or print in black ink)

Name (Last, First, M.I., Suffix, Maiden Name) _____ Social Security Number _____ Date of Birth _____

Mailing Address (Street and/or Box Number, City, State, ZIP Code) _____ Home Phone Number _____

Business Name and Address _____ Business Phone Number _____

EDUCATION: State in chronological order the name and location of each graduate school where graduate course work has been completed. GRADUATE TRANSCRIPTS MUST BE SUBMITTED DIRECTLY TO THE BOARD OFFICE FROM THE GRADUATE INSTITUTION(S) PRIOR TO APPROVAL OF SUPERVISION.

Institution	Date of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

SUPERVISOR INFORMATION

Name _____ Birth Date _____

Business Address _____

Phone Number () _____ Social Security Number _____

License _____ License Number _____

Initial Date of License _____ Expiration Date of License _____

State: _____ (If supervisor is not licensed in Virginia, a Verification of Licensure of Supervisor Form must be completed by the state where the supervisor is licensed and submitted to the Board.)

SUPERVISION CONTRACT

SUPERVISION TO BE PROVIDED TRAINEE-Supervision agreement should include one hour per week of face-to-face supervision. Two hours of group supervision may be substituted for one hour of individual face-to-face supervision for one half of the required 200 hours of supervision. Indicate whether supervision is on-site or off-site. Provide detailed information of supervision to be given.

SERVICES TO BE RENDERED BY THE TRAINEE WHILE IN SUPERVISION - Include population of clients to receive service, assessments to be used, and counseling techniques to be used.

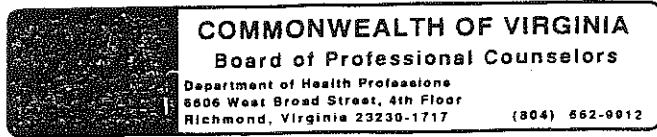
I, _____ Supervisor, declare under penalty of perjury under the laws of the Commonwealth of _____ that I not provide supervision to _____ in areas outside of the competencies in my license to in my license to practice as a _____ License of supervisor

As supervisor, I assume responsibility for the clinical activities of the individual registered under my supervision.

We hereby agree to this supervision contract which has been registered with the Board of Professional Counselors.

Signature of Supervisor _____ Signature of Trainee _____

Date _____ Date _____



VERIFICATION OF SUPERVISION FORM

PLEASE CHECK: ANNUAL EVALUATION FINAL EVALUATION

This form is to be filled out by the supervisor on an annual basis and when supervision is completed.

Supervisee's Name _____
 Supervisor's Name _____
 Supervisor's Business Address _____

If supervision has not been previously registered, please fill out the following section:

Licensure: _____ Licensure Number: _____
 (If supervisor is not licensed in Virginia, a verification of licensure of supervision form must be completed by the state where the supervisor is licensed and submitted to the Board.)

I, _____ declare that I have received professional training as a supervisor and that I have not provided supervision to _____ outside my professional competencies in my license to practice as a _____

Signature: _____

TO BE COMPLETED BY SUPERVISOR:

A. Date of supervised counseling services provided by supervisee _____ to _____
 Month/Year Month/Year

B. Setting where supervised counseling services were provided by supervisee: _____

C. Description of the counseling services rendered by supervisee: _____

D. Description of supervision given: _____

E. 1. Hours of supervisee's counseling experience per week to date: _____
 2. Total number of hours of supervised counseling experience to date: _____
 3. Number of hours per week to date of face-to-face supervision: _____

E. (Continued)

4. Total number of hours of face-to-face supervision to date: _____
 5. Number of hours per week of group supervision to date: _____
 6. Total number of hours of group supervision to date: _____

NOTE: THE BOARD WILL GIVE YOU CREDIT FOR HALF OF THE GROUP SUPERVISION HOURS THAT YOU DOCUMENT

The following requests your evaluation of supervisee competencies and the areas covered in supervision. These areas are outlined in § 2.2.B.

To complete supervision requirements, the supervisee must have satisfied all items listed below in one or more supervisory experiences during 4,000 hours of counseling. Please circle your evaluation of the supervisee's competencies for each item:

- YES means the supervisee has satisfactorily demonstrated competencies in that area.
- NO means additional work is required to achieve competency.
- DNI means your supervision did not include this area.
- PR means supervision in this area is in progress.

The supervisee _____ has demonstrated the following competencies during supervision with me.

A. Counseling and Psychotherapy theory and techniques

1. Conceptualizes and implements counseling practice from a working theoretical base and can articulate that theoretical foundation.	YES	NO	DNI	PR
2. Demonstrates how techniques used in counseling practice relate to the counselor's theoretical base	YES	NO	DNI	PR
3. Demonstrates a working knowledge and flexibility with different theories and techniques in working with a variety of:				
a. Clinical problems	YES	NO	DNI	PR
b. Populations	YES	NO	DNI	PR
c. Unique aspects of clients (including culture, gender, sexual orientation, disability, and developmental concerns).	YES	NO	DNI	PR

B. Appraisal, Evaluation, and Diagnostic Procedures

1. Demonstrates an ability to diagnose client's problems using appropriate methods (DSM-III-R and other methods) and can justify the diagnosis based on case information.	YES	NO	DNI	PR
2. Uses appropriate instruments and clinical data to appraise client behavior.	YES	NO	DNI	PR

C. Treatment Planning and Implementation

1. Demonstrates ability to develop and implement an appropriate treatment plan consistent with the diagnosis. YES NO **DN** PR

D. Case Managing and Record Keeping

1. Maintains appropriate clinical records and client data. YES NO **DN** PR
 2. Understands circumstances under which various records can be released. YES NO **DN** PR

E. Professional Identity and Ethics

1. Uses supervision and shows continuing development of counseling skills. YES NO **DN** PR
 2. Demonstrates knowledge of strengths and limitations of an LPC and the distinctive contributions of other mental health and health professionals. YES NO **DN** PR
 3. Makes appropriate referrals to other health providers and resources in the community. YES NO **DN** PR
 4. Handles appropriately, or knows how to handle, psychiatric emergencies. YES NO **DN** PR
 5. Understands and has discussed ethical issues concerning dual relationships. YES NO **DN** PR
 6. Knows the laws related to a counselor's duty in life-threatening situations, child abuse, physical abuse, etc. YES NO **DN** PR
 7. Understands and has discussed the ethics of confidentiality and other legal and ethical issues. YES NO **DN** PR

COMPLETE ONLY FOR ANNUAL EVALUATION

This evaluation has been discussed with the supervisee and a copy has been provided to the supervisee.

Comments by Supervisee: _____

Signature of Supervisor: _____ Date: _____

Signature of Supervisee: _____ Date: _____

COMPLETE ONLY FOR FINAL EVALUATION:

In your opinion, has the supervisee demonstrated competency in counseling practice sufficient for licensing and the independent practice of counseling? _____

Comments by Supervisor: _____

This evaluation has been discussed with the supervisee and a copy has been provided to the supervisee:

Signature of Supervisor: _____ Date: _____

Signature of Supervisee: _____ Date: _____

DEPARTMENT OF TRANSPORTATION
(COMMONWEALTH TRANSPORTATION BOARD)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 2 of the Code of Virginia which excludes from Article 2 regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-20. Rules and Regulations Governing the Use of a Centralized Fleet Vehicle for Commuting.

Statutory Authority: § 33.1-407 of the Code of Virginia.

Effective Date: October 6, 1993.

Summary:

Rules and Regulations Governing the Use of a Centralized Fleet Vehicle for Commuting establishes the rules, regulations, and procedures for using a state-owned or leased fleet vehicle by any employee for travel between home and work. These rules and regulations apply to all passenger-type vehicles which are a part of the Centralized Fleet, with the exception of those assigned to law-enforcement officers.

VR 385-01-20. Rules and Regulations Governing the Use of a Centralized Fleet Vehicle for Commuting.

§ 1. Definitions.

"Commissioner" means the Commonwealth Transportation Commissioner.

"Commuting" means use of a state-owned or leased vehicle by an employee for travel between home and office while not in "travel status" as defined in the "Pocket Guide of State Travel Regulations" issued by the Department of Accounts.

"Centralized Fleet" means those passenger-type vehicles owned by the Virginia Department of Transportation, Division of Fleet Management, and assigned either temporarily or permanently to the various state agencies.

"Employee" means any part-time, hourly or full-time employee of the Commonwealth of Virginia or any individual under contract to perform services for the Commonwealth of Virginia and authorized to operate state-owned vehicles.

"Fleet administrator" means the administrative head of the Division of Fleet Management (Central Garage).

"Law-enforcement officer" means as defined in § 9-169 of the Code of Virginia and/or in accordance with opinions issued by the Attorney General.

"Office" means the facility where the employee routinely reports for duty.

"Office-in-home" means the employee's home is the official location from which he begins and ends work duties; employee does not report on any routine frequency to an official state facility prior to beginning work or at the conclusion of work. The location of the employee's home must be within the geographic confines of the employee's assigned work area.

"Vehicle, leased" means a vehicle leased with public funds for a term in excess of 30 days for use by an employee of the Commonwealth.

"Vehicle, passenger-type" means any automobile, including sedans and station wagons, or vans used primarily for the transportation of the operator and no more than 15 passengers.

§ 2. Authority and responsibility.

Section 33.1-406 of the Code of Virginia states that no passenger-type vehicle purchased or leased with public funds shall be used to commute between an employee's home and official work station without the prior written approval of the agency head and, in the case of vehicles assigned to the centralized fleet, the commissioner. This same section requires that the commissioner shall issue regulations governing the use of vehicles in the Centralized Fleet for commuting and shall ensure that costs associated with such use shall be recovered from employees. The commissioner has delegated responsibility for enforcement of these rules and regulations to the Fleet Administrator of the Division of Fleet Management and monitors all decisions through receipt of monthly reports.

§ 3. Applicability of rules and regulations.

These rules and regulations apply to all passenger-type vehicles which are a part of the Centralized Fleet, with the exception of those assigned to law-enforcement officers.

In accordance with Chapter 12 of the Code of Virginia, the Governor may by executive order extend these rules and regulations to all motor vehicles of any type owned or leased by the Commonwealth, or such of them as the Governor may designate.

§ 4. Request for use of vehicle for commuting.

Permanently-assigned passenger-type vehicles may not be used for commuting, unless such use is required with respect to the duties of the employee and approved by the agency head and the fleet administrator. Requests for the use of a vehicle for commuting are to be submitted to

Final Regulations

the fleet administrator by the agency on the Form CP-3.

§ 5. Approval/disapproval of vehicle use and exemption of fee payment.

The fleet administrator will review the agency's submission, compute the commuter fee and advise the agency of approval/disapproval of the request for vehicle use and of the appropriate fee.

§ 6. Appeal of fleet administrator's decision.

The agency head, if dissatisfied with the decision of the fleet administrator, may submit a written appeal to the VDOT Commissioner. The commissioner will review the appeal submittal and advise the agency head and the fleet administrator of his decision.

§ 7. Reimbursement from commuters.

A. All employees who have approval to use a state-owned vehicle for commuting shall reimburse the state for mileage except sworn law-enforcement officers and those employees who do not report to an official work station and whose home is their office. Reimbursement shall be made by payroll deduction only. The fee for commuting is to be based on the Division of Fleet Management's user rate per mile times the round-trip mileage between the employee's home and official work station times the 220 days of commute per year or on the actual or anticipated commute days per year based on the previous years travel log. Anticipated commute days may be used in the absence of a vehicle log until such time as a log is initiated and 12 months historical usage is developed.

B. The payroll deduction amount will remain constant throughout the year unless:

1. The Centralized Fleet rental rate changes;
2. The employee changes the location of his residence or office, or
3. Unusual circumstances prevail (extended illnesses, etc.)

C. Procedures for deducting these monies from the employee's pay are established by the State Comptroller and contained in the Commonwealth Accounting Policies and Procedures Manual.

§ 8. Types of home-to-office travel excluded from these regulations.

The following home-to-office travel does not required a request for approval to commute:

1. Employees who only travel between home and office when in "Travel Status" as defined in the "Pocket Guide of State Travel Regulations" and

2. Employees who only travel between home and office the evening preceding a trip or the morning following a trip.

§ 9. Data collection, monitoring and enforcement.

The fleet administrator shall collect and maintain accurate information on the use of state-owned pool vehicles for commuting. A list of all state-owned pool vehicles used for commuting including name of the principal operator and his social security number, the annual commuter miles and the commuter fee, is to be submitted annually by each agency to the fleet administrator for submission to the VDOT Commissioner.

The fleet administrator will also verify on a quarterly basis, through information provided by DOA, that employees who use pool vehicles are reimbursing the state for the appropriate commuter charges. Any discrepancies between the initial fee determination and the actual reimbursement will be brought to the attention of the appropriate agency head for reconciliation.

§ 10. Vehicle travel logs.

A vehicle travel log will be required if the agency elects to use "actual days commute" in lieu of the standard 220 days/year as addressed in § 7 herein. The log will show the dates and mileage of all home-to-office and office-to-home travel while in commute status and list the vehicle pool number, the operator's name and social security number.

The log shall be summarized on a quarterly basis by the operator and submitted to the agency for review. For each vehicle used to commute, the agency shall then submit to the fleet administrator the one-way commute mileage, the total commute mileage, and the number of one-way commute trips and the total payroll deduction.

VA.R. Doc. No. R93-762; Filed August 13, 1993, 4:34 p.m.

CP-3 (Rev. 10/88)

**DIVISION OF FLEET MANAGEMENT
APPLICATION FOR ASSIGNMENT OF STATE POOL VEHICLE
OR UPDATE OF PREVIOUS APPLICATION**

AGENCY:		AGENCY CODE:
AGENCY ADDRESS: (st., city, zip)		
APPLICATION <input type="checkbox"/> New Assignment <input type="checkbox"/> Informational Update For Pool # _____	ASSIGNMENT <input type="checkbox"/> Permanent <input type="checkbox"/> Pool Use <input type="checkbox"/> Individual <input type="checkbox"/> Temporary How Long _____	VEHICLE TYPE <input type="checkbox"/> Sedan <input type="checkbox"/> Compact <input type="checkbox"/> Large <input type="checkbox"/> S/W <input type="checkbox"/> Compact <input type="checkbox"/> Large <input type="checkbox"/> Other
JUSTIFICATION FOR LARGE SEDAN, S/W or OTHER Vehicle Request:		
INDIVIDUAL ASSIGNMENT: (name, work address and location where vehicle stored)		
AGENCY POOL VEHICLE: (person responsible for vehicle, work address)		
DATE VEHICLE NEEDED:	PROJECTED ANNUAL BUSINESS MILES:	

**SECTION I
JUSTIFICATION FOR ASSIGNMENT
HISTORICAL AND CURRENT DATA ON USER(S) OF VEHICLE REQUESTED**

A. Mileage Fiscal Year to date in personal reimbursement (*) _____ Miles

B. Mileage previous Fiscal Year in personal reimbursement (*) _____ Miles

C. Division of Fleet Management trip pool vehicles travelled (*) _____ Miles
this Fiscal Year to date and _____ Miles last Fiscal Year.

D. Describe any recent changes in responsibilities that affect mileage accumulation:

(*) A, B, and C pertain to all potential users of the vehicle requested.

**SECTION II
REQUEST FOR EXEMPTION TO MANDATED MINIMUM MILEAGE CRITERIA**

A. Vehicle used by sworn law enforcement officer with duties consisting of the following:

B. Vehicle used by employees whose duties relate to public safety and life threatening situations consisting of the following:

The number of responses to emergencies this Fiscal Year to date is _____ and last Fiscal Year was _____

C. Special Need Vehicle necessary to perform the following critical functions of the agency:

Frequency of use (times/day, week, month or year) _____ / _____

D. Vehicle needed due to the nature and type of specialized equipment necessary to perform critical functions of the agency. The following is a listing of the type, size, and approximate weight of equipment:

AGENCY: _____ AGENCY CODE: _____

**SECTION III
INDIVIDUAL ASSIGNMENT ONLY
COMMUTING INFORMATION**

A. Will this employee be authorized to use vehicle for commuting?

No-Vehicle will be parked at office (address) _____

No-Home is office (address) _____

Yes-Reason for commuting: _____

Work location: _____
Home address: _____
One-way mileage (home to office) _____ miles

B. Does agency request exemption to commuting fee for employee (subject to Fleet Administrator's approval).

No-Employee authorizes semi-monthly payroll deduction for fee.

Yes-Basis for exemption is the following: _____

**SECTION IV
CERTIFICATIONS
OPERATOR-AGENCY TRANSPORTATION OFFICER-AGENCY HEAD**

THE UNDERSIGNED CERTIFY THAT THE ABOVE INFORMATION IS TRUE TO THE BEST OF OUR KNOWLEDGE. WE UNDERSTAND THAT IF ANY INFORMATION CHANGES THAT A NEW FORM MUST BE SUBMITTED. WE UNDERSTAND THAT COMPLIANCE WITH THE APPROPRIATIONS ACT AND THE CAR POOL REGULATIONS IS MANDATORY. AS AGENCY TRANSPORTATION OFFICER, I CERTIFY THAT ALL OPERATORS WHO WILL BE AUTHORIZED TO DRIVE THIS VEHICLE WILL BE MADE AWARE OF THEIR RESPONSIBILITIES CONCERNING THE USE OF A STATE VEHICLE AND ASSURANCES ARE IN PLACE TO DETERMINE THE VALIDITY OF THEIR OPERATORS LICENSE.

(Principal Operator) (date) SSN _____

(Agency Head) (date) (Agency Transportation Officer) (date)

DIVISION OF FLEET MANAGEMENT USE ONLY

REQUEST FOR VEHICLE APPROVED: YES NO

REQUEST FOR EXEMPTION TO MINIMUM MILEAGE CRITERIA APPROVED: NA YES NO

REQUEST FOR EXEMPTION TO COMMUTER FEE: NA YES NO

COMMUTER FEE CALCULATION (SEMI-MONTHLY) = _____

THE FOLLOWING VEHICLE IS BEING ISSUED AS A RESULT OF THIS APPLICATION:

POOL # _____ LICENSE # _____ VEHICLE TYPE _____

(Fleet Administrator) (date)

(IF YOU WISH TO APPEAL ANY OF THE ABOVE DECISIONS SUCH APPEAL MUST BE SUBMITTED IN WRITING BY THE AGENCY HEAD TO THE FLEET ADMINISTRATOR.)

A COPY OF THIS FORM, SIGNED BY THE FLEET ADMINISTRATOR, IS YOUR AUTHORITY TO PICK UP THE ABOVE NOTED VEHICLE AND MUST BE PRESENTED AT THE TIME OF PICKUP

THE DIVISION OF FLEET MANAGEMENT IS LOCATED AT 2400 W. LEIGH STREET, RICHMOND, VIRGINIA. VEHICLES MAY BE PICKED UP DURING

EMERGENCY REGULATIONS

DEPARTMENT FOR THE AGING

Title of Regulation: VR 110-01-01:1. Public Participation Guidelines.

Statutory Authority: §§ 2.1-373 and 9-6.14:7.1 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Request:

The Department for the Aging requests approval to issue new Public Participation Guidelines as an emergency regulation. The regulation must be adopted in a short amount of time and there is insufficient time to go through the Administrative Process Act process before the regulation should become effective on July 1, 1993.

The Administrative Process Act, as amended by the 1993 General Assembly, requires substantive changes to the Department's current Public Participation Guidelines. The Department has determined that it is in the best interest of the public that the Department's current Guidelines (VR 110-01-01) be repealed and new Guidelines issued as VR 110-01-01:1.

The Department will initiate action to repeal the Guidelines currently in effect and to make this emergency regulation permanent, pursuant to the applicable provisions of the Administrative Process Act, as amended. Permanent guidelines will be issued prior to June 30, 1994.

Recommendation:

The Department recommends that the Governor approve the emergency regulation, so that the Department may comply with the amended Administrative Process Act.

/s/ Thelma E. Bland
Commissioner
Date: June 22, 1993

I concur with the request.

/s/ Howard M. Cullum
Secretary of Health and Human Resources

Approval

/s/ Lawrence Doulgas Wilder
Governor
Date: June 25, 1993

Filed with the Registrar of Regulations on June 30, 1993.

Preamble:

The Department for the Aging is issuing an emergency regulation regarding the solicitation of input from interested parties in the formation and development of its regulations. Section 9-6.14:7.1 of the Code of Virginia requires the Department to develop, adopt, and utilize public participation guidelines for soliciting such input. The adoption of these guidelines as an emergency regulation will enable the Department to carry out its statutory responsibilities and to ensure public participation to the maximum extent possible.

This emergency regulation will replace the Public Participation Guidelines which the Department issued in 1984 as VR 110-01-01. The Department has determined that it would be simpler and clearer to issue a new regulation than to amend the 1984 regulation. The emergency regulation includes provisions required by the 1993 amendments to the Administrative Process Act.

The Department will initiate action to make this emergency regulation permanent pursuant to the applicable provisions of the Administrative Process Act, as amended. Permanent guidelines will be issued prior to June 30, 1994.

VR 110-01-01:1. Public Participation Guidelines.

PART I Statement of Purpose.

This regulation is being promulgated pursuant to the applicable provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The regulation provides guidelines for the involvement of the public in the development and promulgation of regulations. The guidelines are not applicable to regulations exempted or excluded from the provisions of the Act.

PART II Mailing List.

§ 2.1. Composition of the mailing list.

A. The Department for the Aging shall maintain a list of persons and organizations who have requested notification of the development and promulgation of regulations.

B. Any person or organization in Virginia may request in writing that he be placed on the mailing list.

C. The Department may add to the list a person or organization which it believes will serve the purpose of increasing participation in the regulatory process.

D. The Department may supplement the mailing list with persons and organizations who have expressed an interest in specific regulatory issues, proposals, or actions.

E. When mail to a person or organization is returned to the Department as undeliverable, the Department shall

delete such person or organization from the mailing list.

§ 2.2. Documents to be sent to persons and organizations on the mailing list.

The Department shall mail to persons and organizations on the mailing list the following documents related to the development and promulgation of regulations:

1. Notice of Intended Regulatory Action.
2. Notice of Comment Period.
3. A copy of any final regulation issued by the Department.
4. Notice that the comment period on a final regulation has been extended beyond the period specified in the Notice of Comment Period.

PART III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. Any person or organization may petition the Department to develop a new regulation or to amend an existing regulation.

B. The petition shall include, but is not limited to, the following:

1. The name, mailing address, and telephone number of the petitioner.
2. The number and title of the regulation to be addressed.
3. A description of the issue to be addressed.
4. A recommendation to develop a new regulation, delete a current regulation, or amend a current regulation.

C. The Department shall respond to the petition within 180 days of receipt of the petition.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice of Intended Regulatory Action shall describe the subject matter and intent of the proposed regulation.

B. The Notice shall indicate whether the Department will hold a public hearing on the proposed regulation after it is published. The Department shall state the reason in the Notice if it does not intend to hold a public hearing.

C. If the Department states in the Notice that it does not plan to hold a public hearing, then no public hearing is required unless, during the 30-day comment period

following publication of the Notice in the Virginia Register, the Governor directs the Department to hold a public hearing or the Department receives requests for a public hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice of Comment Period shall indicate that any person or organization may request a copy of the proposed regulation by writing to the contact person specified in the Notice.

B. The Notice shall indicate that any person or organization may request in writing a copy of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation.

C. The Notice shall make provision for either oral or written comments on the proposed regulation.

D. The Notice shall specify the last date for receiving comments. The comment period shall be open for a minimum of 60 days from publication of the proposed regulation in the Virginia Register.

E. The Notice shall include the date, time, and location of the public hearing, if a public hearing is scheduled.

§ 3.4. Public hearings on regulations.

A. If the Department holds a public hearing, it shall be held during the 60-day comment period following publication of the proposed regulation or the amendment to a current regulation. The Department shall state the reason in the Notice of Intended Regulatory Action if it does not intend to hold a public hearing.

B. The public hearing will be held in a building accessible to persons with disabilities. If requested, a sign language interpreter will be made available for persons with a hearing impairment.

§ 3.5. Review of regulations.

The Department shall review all regulations periodically to determine whether new regulations should be adopted and current regulations should be amended or repealed.

PART IV. Advisory Committees.

§ 4.1. Governor's Advisory Board on Aging.

A. The Department shall solicit comments from the Governor's Advisory Board on Aging on any new regulations or changes to current regulations.

B. Whenever the Board intends to discuss at a regular or special meeting any regulatory action by the Department, the Notice of Meeting published in the Virginia Register shall include such intent in the

Emergency Regulations

description of the nature of the meeting and the business to be conducted.

C. Whenever the Board intends to discuss at a regular or special meeting any regulatory action by the Department, a copy of the regulation under consideration shall be made available upon request to interested persons at least two days prior the meeting. A copy of the regulation under consideration shall be made available to persons attending the meeting.

D. The Board shall hold its meetings in a location accessible to the persons with disabilities. If requested, a sign language interpreter will be made available for persons with a hearing impairment.

§ 4.2. Ad hoc committees.

A. The Department may appoint an ad hoc advisory committee to assist it in the development of regulations.

B. The Department may appoint an ad hoc advisory committee to provide technical expertise and assistance when the Department determines that such expertise is necessary to address a specific regulatory issue or when a group of individuals expresses an interest, during the 30-day period following publication of the Notice of Intended Regulatory Action, in working with the Department around a specific regulatory issue.

C. An ad hoc committee shall remain in existence no longer than 12 months from its initial appointment, unless the Department determines that the specific regulatory need continues to exist beyond that time.

VA.R. Doc No. R93-660; Filed June 30, 1993, 10:11 a.m.

STATE AIR POLLUTION CONTROL BOARD

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

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1308 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

Background: Appendix E to VR 120-01 establishes the Public Participation Procedures for soliciting the input of interested persons in the formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for processing rulemakings under the Administrative Process Act (Act).

One of the new requirements of the amended Act

mandates that the State Air Pollution Control Board (Board) include as part of their public participation procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board. Such policy shall address the circumstances in which the Board considers such groups or consultation appropriate and intends to make use of such groups or consultation.

The legislation further requires the Board to set out in their public participation procedures any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Board intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require public participation procedures to contain such provisions. Because public participation procedures must be in compliance with the Act before the Board can initiate any regulatory actions, it is important that public participation procedures that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993.

In addition, because the provisions of the public participation procedures are a declaration of the means by which the public is involved in the Board's regulation development process, the Board has, on a limited basis, amended the language of the public participation procedures to accommodate impending requirements of the Act. For example, the public participation procedures have been amended to allow the Board to, at its discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

Nature of the Emergency: The Board proposes to adopt emergency public participation procedures in order to ensure the Board's ability to process necessary regulatory actions after July 1, 1993. The Board is responsible for the administration of several air quality programs, both state and federal, whose purpose is to protect human health and welfare. Among these are programs (i) requiring existing industrial and commercial businesses to reduce air pollution to levels reflecting the use of reasonably available control technology and to obtain permits to ensure compliance with the requirements, (ii) requiring preconstruction permits for new and expanding industry and commercial facilities, and (iii) requiring owners to maintain motor vehicle emissions within prescribed limits. Without public participation procedures which satisfy the new requirements of the Act, the Board will be unable to process any regulatory actions until such time as permanent public participation procedures can be adopted. Under the Act, it could take as long as a year to adopt permanent public participation procedures, which would result in necessary regulatory actions taking as much as two years to complete.

Necessity for Action: The adoption of emergency public participation procedures is critical to continued operation

Emergency Regulations

of many of the programs of the Board. For example, legislation passed by the 1993 Session of the General Assembly mandates the development of new regulations regarding the incineration of regulated medical waste. Without emergency public participation procedures, the Board would be unable to incorporate and implement the legislative provisions for approximately two years. It is the clear intent of the legislation that medical waste incineration regulations be in effect before the legislatively-mandated moratorium on permitting new medical waste incinerators expires. Additionally, not having the regulation in place by the deadline will create uncertainty and confusion in the regulated community and the public.

Failure to adopt emergency public participation procedures would also jeopardize the Board's ability to complete new rulemaking processes for the adoption of regulations to meet its obligations under the new Clean Air Act and associated federal regulations. States are required to develop plans to ensure that areas will come into compliance with the federal health standards. Failure to develop adequate plans, with regulatory programs, that meet the requirements: (i) will result in continuing air quality conditions which are a detriment to the public health and welfare, (ii) may result in assumption of programs by EPA at which time the Commonwealth would lose authority over matters affecting its citizens, and (iii) may result in the implementation of sanctions by EPA, such as prohibition of new major industrial facilities and loss of federal funds for sewage treatment plant development and highway construction. Although the EPA has been reluctant to impose these sanctions in the past, the new Act now includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

Summary:

This regulation will establish public participation procedures which will allow the Board to initiate, after July 1, 1993, regulatory action processes to adopt, amend or repeal necessary regulations, in conformance with the amended Act. Specifically, the amendments are as follows:

1. Add provisions that specify the circumstances for the use of standing advisory committees, ad hoc advisory groups, or consultation with groups and individuals registering interest in working with the Board to assist in the formation of the proposed regulation.

2. Remove provisions that would not allow the Board to, at its discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

3. Add a provision requiring that the Notice of Intended Regulatory Action include a statement of the Board's intent as to whether it will hold at least one public hearing on the proposed regulation after it is

promulgated for public comment by publication in the Virginia Register of Regulations.

4. Add a provision requiring that the notice of public comment identify any locality particularly affected by the proposal.

5. Revise the information requirements with regard to purpose and cost that must be in the analysis document to be consistent with the amended Code.

6. Add a provision requiring the department to send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final action on the regulation.

Terms of the Order:

This emergency regulation (attached and identified by title above) shall be enforced under applicable statutes and shall remain in full force and effect for one full year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Administrative Process Act.

The State Air Pollution Control Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered

BY:

/s/ Richard N. Burton
Director, Department of Environmental Quality
Date: June 25, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

FILED WITH:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: June 29, 1993

VR 120-01. Regulations for the Control and Abatement of Air Pollution (Rev. NN-E) - Appendix E: Public Participation Procedures.

APPENDIX E.

Emergency Regulations

PUBLIC PARTICIPATION PROCEDURES.

§ 1. General.

A. The procedures in § 2 of this appendix 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 appendix does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

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

C. B. 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 .

D. C. Any person may petition the board for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The board shall provide a written response to such petition within 180 days from the date the petition was received.

§ 2. Public participation procedures.

A. The department shall establish and maintain a list 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 department may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The ~~department~~ director shall form an ad hoc advisory group , or utilize a standing advisory committee , or consult with groups and individuals registering interest in working with the department to assist in the drafting and formation of the proposal unless the board specifically authorizes the department to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:

1. a. The director, in the director's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; or

b. The department receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action requesting the director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and

2. The subject matter of the notice of intended regulatory action has not previously been the subject matter of a notice of intended regulatory action published in the Virginia Register of Regulations by the department.

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

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.

e. A statement of the department's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.

f. A statement inviting comment on whether the department should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting

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and formation of the proposal, unless the director has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subsection C 1 of this section.

2. The department shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the board specifically authorizes the department to proceed without holding a public meeting or the director specifically determines the department can proceed without holding a public meeting in those cases where the subject matter of the notice of intended regulatory action has previously been the subject matter of a notice of intended regulatory action published in the Virginia Register of Regulations by the department. 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 of Regulations, 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~~ complete the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a standing advisory committee utilized, or groups and individuals consulted, the draft proposed regulation shall be developed in consultation with such group the selected advisor. 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, standing advisory committee or groups and individuals 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 shall publish a 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. The identity of any locality particularly affected by the proposed regulation. For purposes of this appendix, the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

4. 5. 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~~ the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.

b. A statement of estimated impact:

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

(2) Projected cost, expressed as a dollar figure or range, 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.

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

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

5. 6. The date, time and place of at least one ~~public hearing~~ *informational proceeding* 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)~~ *informational proceeding(s)* may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The ~~hearing(s)~~ *informational proceeding(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 of Regulations.

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 the department's response to the comments received. *The department shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation.* The department shall submit the summary and the department response and, if requested, submit the full comments to the board. The summary, the department response, and the comments shall become a part of the department file and after final action on the regulation by the board, made available, upon request, to interested persons.

L. If the department determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the board, the department shall present to the board for its consideration a recommendation and rationale for the withdrawal of the proposed regulation.

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

§ 3. Transition.

A. ~~All regulatory actions for which a notice of intended regulatory action has been published in the Virginia Register prior to January 1, 1993, shall be processed in accordance with the public participation guidelines in effect prior to January 1, 1993.~~

B. ~~All regulatory actions for which a notice of intended regulatory action has not been published in the Virginia Register prior to January 1, 1993, shall be processed in accordance with this appendix.~~

The amending provisions contained in this appendix issued as an emergency regulation shall apply only to regulatory actions for which a notice of intended regulatory action is filed with the Registrar of Regulations at or after the time these procedures take effect.

VA.R. Doc. No. R93-627; Filed June 29, 1993, 10:31 a.m.

ALCOHOLIC BEVERAGE CONTROL BOARD

Title of Regulation: VR 125-01-1 § 5.1. Public Participation Guidelines in Regulation Development; Applicability; Initiation of Rulemaking; Rulemaking Procedures.

Statutory Authority: §§ 4-11 (a), 9-6.14:7.1 and 9-6.14:9 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

ORDER ADOPTING EMERGENCY REGULATION NO. A-258.

Effective July 1, 1993, § 9-6.14:7.1 of the Code of Virginia requires agency public participation guidelines to "...set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers such panels or consultation appropriate and intends to make use of such panels or consultation." Regulations submitted during the 1993 rulemaking process will not become effective until January 12, 1994. An emergency regulation is needed to comply with these statutory changes by July 1, 1993.

Emergency Regulations

IT IS ORDERED that, pursuant to the provisions of §§ 4-11 A and 9-6.14:9 of the Code of Virginia, the following regulation be, and the same is hereby adopted, effective June 30, 1993.

§ 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

A. Applicability.

These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the Department of Alcoholic Beverage Control, except as provided in subsection G of this section.

B. Initiation of rulemaking (Step 1).

The board shall publish notice of the commencement or initiation of any rulemaking process. Rulemaking procedures may be initiated at any time by the board but shall be initiated at least once each calendar year. At the commencement of any rulemaking process, the board may invite proposals for regulations or regulation changes from any interested person or may limit the process to selected proposals. All initial proposals to be considered shall be in the form of a written petition for the adoption, amendment or repeal of any regulation. Petitions shall be filed with the board within any time limitation as may be specified by the board. A petition may be submitted at any time, by any person, but it shall be at the board's discretion to initiate rulemaking procedures as a result of such petition or petitions. ~~Any petition not considered may be deferred until the next rulemaking process. All petitions shall be considered and responded to within 180 days.~~ Each petition shall contain the following information, if available:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. General description of proposal, with recommendations for adoption, amendment or repeal of specific regulation(s);
4. Why is change needed? What problem is it meant to address?;
5. What is the anticipated effect of not making the change?;
6. Estimated costs or savings, or both, to regulated entities, the public, or others incurred by this change as compared to current regulations;
7. Who is affected by recommended change? How affected?;
8. Draft language; and

9. Supporting documents.

C. Notices - in general.

1. Mailing list. The secretary to the board in conjunction with the deputy director for regulation shall prepare a general mailing list of those persons and organizations who have demonstrated an interest in specific regulations in the past through the filing of petitions, written comments or attendance at public hearings. The mailing list will be updated at least every two years, and a current copy will be on file in the office of the secretary to the board. Periodically, but not less than every two years, the board shall publish in the Virginia Register, in a newspaper published and of general circulation in the City of Richmond, and in such other newspapers in Virginia as the board may determine, a request that any individual or organization interested in participating in the development of specific rules and regulations so notify the board. Any persons or organizations identified in this process will be placed on the general mailing list.

2. Notice to listed persons. Each person on the general mailing list shall be sent, by U.S. mail, a copy of all notices pertaining to rulemaking for the board as are published in the Virginia Register. In lieu of such copy, the board may notify those on the mailing list of the publication of the notice and, if lengthy, offer to forward a copy upon payment of reasonable costs for copying and mailing.

D. Initial requirement for public comment; participation in regulation development; ad hoc panels; public meetings (Step 2).

1. Notice of Intended Regulation Regulatory Action. The board shall solicit comments, data, views and argument from the public as to each regulation proposal and shall encourage participation of interested persons in the development of regulations and draft language. As to each petition or proposal, the board shall publish a Notice of Intended Regulatory Action. The notice shall specify the date, time and place of any public meeting to consider the proposals, either with or without an ad hoc advisory panel, *or with or without consultation with groups and individuals who have expressed an interest in participating in the development of specific rules and regulations* and shall contain the following information:

- a. Subject of the proposed action;
- b. Identification of the entities that will be affected;
- c. Discussion of the purpose of the proposed action and the issues involved;
- d. Listing of applicable laws or regulations;

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e. Name of individual, group or entity proposing regulation;

f. Request for comments, data, views or argument from interested parties, either orally or in writing, to the board or its specially designated subordinate;

g. Notification of date, time and place of any scheduled public meeting on the proposal; and

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

2. The board shall disseminate the Notice of Intended Regulation Action to the public via:

a. Publication in the Virginia Register of Regulations;

b. Distribution by mail to persons on the general mailing list pursuant to subsection C; and

c. Press release to media throughout the Commonwealth if a public meeting is scheduled.

3. The board may form an ad hoc advisory panel or consult with groups and individuals who have expressed an interest in participating in the development of specific rules and regulations to consider regulation proposals, make recommendations, assist in development of draft language, and provide such advice as the board may request. The board may direct request the panel or interested groups and individuals to participate in a public meeting to develop or consider regulation proposals.

The board's use of ad hoc advisory panels or consultation with interested groups and individuals shall be based on, but not limited to, the following criteria: The proposed regulation's

a. Complexity;

b. Controversy;

c. Degree of substantive change;

d. Impact on the board, its licensees, and the public; or

e. Enactment required by state or federal mandate.

4. The board may conduct a regulation development public meeting to receive views and comments and answer questions of the public.

E. Notice of public hearing and publication of proposals pursuant to § 9-6.14:7.1 C of the Virginia Administrative Process Act (Step 3).

1. The board shall consider the comments,

recommendations, reports and other input from the public, industry and other interested persons received during the initial steps of public participation in the regulation development process, including comments, views, data and argument received during any public meeting, before publishing a final proposed draft regulation and initiating the proceedings required by the Administrative Process Act.

2. The board shall comply with the notice, publication and other requirements of § 9-6.14:7.1, and final proposed drafts to adopt, amend or repeal regulations, together with any other required statements, shall be published in the Virginia Register, in a newspaper published and of general circulation in the City of Richmond, and in such other newspapers in Virginia as the board may determine. In addition, the board shall comply with the provisions of subdivision C 2 above. Such notice shall solicit comments, views, data and argument from the public and shall specify the date, time and place of any scheduled public hearing to consider adoption of such regulation proposals.

F. Public hearing (Step 4).

The board shall conduct a public hearing to consider adoption of all proposed regulations. At such hearing, the board may receive and consider such additional written and verbal comment as it deems appropriate prior to any final vote.

G. Notwithstanding the foregoing provisions, the board may elect to dispense with any required public participation or other required procedure to the extent authorized by the Virginia Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

(1984, A-243; 1989, A-252; 1991, A-254)

(Ref.: §§ 4-7 (1), 4-11 (a), 4-103 (b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.)

In accordance with Virginia Code § 9-6.14:4.1 C 5, this emergency regulation shall be limited in duration and shall remain in effect through June 29, 1994, unless modified or repealed by regulation or legislation.

IT IS FURTHER ORDERED that this order be filed in the manner prescribed by the Code of Virginia and that appropriate notice be given to interested parties of the Commonwealth.

The Board will receive, consider and respond to petitions by any interested persons at any time for reconsideration or revisions of this regulation.

ENTER:

/s/ George M. Hampton, Sr.
Chairman

Emergency Regulations

Virginia Alcoholic Beverage Control Board

ATTEST:

/s/ Robert N. Swinson
Secretary
Virginia Alcoholic Beverage Control Board
Date: June 29, 1993

APPROVED:

/s/ O. Randolph Rollins
Secretary of Public Safety
Date: June 24, 1993

APPROVED:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

FILED:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

V.A.R. Doc. No. R93-648; Filed June 29, 1993, 4:33 p.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Regulation: VR 155-01-3. Public Participation Guidelines.

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On June 9, 1993, the Virginia Board of Audiology and Speech-Language Pathology adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is

necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 9, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 155-01-3. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Audiology and Speech Pathology. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

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C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

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B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

VA.R. Doc. No. R93-602; Filed June 28, 1993, 3:37 p.m.

BOARD FOR BARBERS

Title of Regulation: VR 170-01-00:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

The Board for Barbers intends to promulgate emergency regulations as provided for in § 9-6.14:4.1 C 5 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of barbers in Virginia.

Pursuant to the Administrative Process Act, the Board for Barbers is required to promulgate public participation guidelines before any further regulatory action can commence. The Board shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

The emergency regulations governing the public participation process will be effective until June 1994, the anticipated effective date of the final regulation.

Approved:

/s/ Bonnie S. Salzman
Director, Department of Commerce
Date: June 29, 1993

/s/ Cathleen A. Magennis
Secretary of Economic Development
Date: June 10, 1993

/s/ Lawrence Douglas Wilder
Governor, Commonwealth of Virginia
Date: June 14, 1993

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 170-01-00:1. Public Participation Guidelines.

§ 1. Mailing list.

The Board for Barbers (the agency) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of Intended Regulatory Action" to promulgate or repeal regulations.
2. "Notice of Comment Period" and public hearings, the subject of which is proposed or existing regulations.
3. Notice that the final regulations have been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

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§ 2. Placement on the list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the agency. In addition, the agency at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in § 1. Individuals and organizations may be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

§ 3. Petition for rulemaking.

Any person may petition the agency to adopt or amend any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and respond to the petition within 180 days. The agency shall have sole authority to dispose of the petition.

§ 4. Notice of intent.

At least 30 days prior to the publication of the "Notice of Comment Period" and the filing of proposed regulations as required by § 9-6.14:7.1 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action." This notice will provide for at least a 30-day comment period and shall state whether or not they intend to hold a public hearing. The agency is required to hold a hearing on proposed regulation upon request by the Governor or from 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register.

§ 5. Informational proceedings or public hearings for existing rules.

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding which may take the form of a public hearing to receive public comment on existing regulation. Notice of such proceedings shall be transmitted to the Registrar for inclusion in the Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.

§ 6. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of regulation will occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

If there are one or more changes with substantial impact on a regulation, any person may petition the agency within thirty days from the publication of the final

regulation to request an opportunity for oral or written submittals on the changes to the regulations. If the agency received requests from at least 25 persons for an opportunity to make oral or written comment, the agency shall suspend the regulatory process for thirty days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to proposed regulation, he may suspend the regulatory process for thirty days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

§ 7. Advisory committees.

The Board intends to appoint advisory committees as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of proposed regulation. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision making actions on a regulation.

When identifying potential advisory committee members the agency may use the following:

- a. directories of organizations related to the profession,
- b. industry, professional and trade associations' mailing lists,
- c. and lists of persons who have previously participated in public proceedings concerning this or a related issue.

§ 8. Applicability.

Sections 1 through 3 and Sections 5 and 7 shall apply to all regulations promulgated and adopted in accordance with § 9-6.14:9 of the Code of Virginia except those regulations promulgated in accordance with § 9-6.14:4.1 of the Administrative Process Act.

V.A.R. Doc. No. R93-617; Filed June 29, 1993, 11:40 a.m.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

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

Emergency Regulations

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2103 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

VR 173-01-00:1 establishes amended Public Participation Guidelines (PPGs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the 1993 General Assembly which takes effect on July 1, 1993, imposes new requirements on agencies of state government for processing rule-makings under the Administrative Process Act (APA).

One of the new requirements of the amended APA mandates that the Chesapeake Bay Local Assistance Board (Board) include as a part of its PPGs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board. The Board's PPGs must now address the circumstances in which the Board considers such groups of consultation appropriate and intends to make use of such panels or consultation.

The legislation further requires the Board to set out in its PPGs any methods for the identifying and notifying interested persons, and any specific means of seeking input from interested persons or groups which the Board intends to use in addition to the Notice of Intended Regulatory Action (NOIRA).

Beginning on July 1, 1993, the new legislation will require PPGs to contain such provisions. Because PPGs must be in compliance with the APA before the Board can initiate any regulatory actions, it is important that PPGs that will satisfy the new requirements of the APA be in place and ready for use before July 1, 1993. In addition, because the provisions of the PPGs are a declaration of the means by which the public is involved in Board regulation making, the Board has, on a limited basis, amended language of the PPGs to reflect current Board practices and to accommodate soon-to-take-effect requirements of the APA. For example, the PPGs have been amended to allow the Board to, at its discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

Nature of Emergency:

The Board is responsible for the administration of a program, including regulations, to protect and enhance the quality of the Chesapeake Bay water resources. As part of this program, the Board periodically reviews its regulations to determine if amendments are necessary to improve implementation and results. Such

an amendment process is tentatively scheduled to begin in the fall of 1993. Without emergency PPGs which satisfy the new requirements of the APA, the Board will be unable to process any regulatory actions until such time as permanent PPGs can be adopted. Under the APA and related processes, it could take as long as a year to adopt permanent PPGs, which would result delaying adoption of amendments to the Board's program regulations for two (2) years or longer. Since these amendments are expected to benefit entities regulated by this program and improve Bay water quality, failure to proceed as soon as possible would impose unnecessary hardship on the regulated community and further delay the Bay's recovery.

Necessity for Action:

The board proposes to adopt emergency PPGs in order to ensure the board's ability to process necessary regulatory actions expediently after July 1, 1993.

Summary:

This regulation will establish PPGs which allow the Board to initiate after July 1, 1993, regulatory action processes to adopt, amend or repeal necessary regulations, in conformance with the amended APA. This emergency regulation will be enforced under applicable statutes and 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 APA and this emergency regulation. The Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

BY:

/s/ R. Keith Bull
Executive Director
Chesapeake Bay Local Assistance Department
Date: June 30, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

FILED WITH:

/s/ Ann M. Brown
Deputy Registrar of Regulations

Emergency Regulations

Date: June 30, 1993

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, Chapter 21 (§ 10.1-2100 et seq.) of Title 10.1 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 executive 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 (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

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

~~C. B. 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 .~~

~~D. C. Any person may petition the board for the adoption, amendment or repeal of a regulation. The~~

petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The board shall provide a written response to such a petition within 180 days from the date the petition was received.

§ 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 director shall form an ad hoc advisory group , or utilize a standing advisory committee , or consult with groups and individuals registering interest in working with the agency to assist in the drafting and formation of the proposal unless the board specifically authorizes the agency to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:

1 A. The director, in the director's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; or

1 B. The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and

2. The subject matter of the NOIRA has not previously been the subject matter of a NOIRA published in the Virginia Register of Regulations by the agency.

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the

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regulated community and the general public.

D. The agency shall issue a ~~notice of intended regulatory action (NOIRA)~~ 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.
- e. *A statement of the agency's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.*
- f. *A statement inviting comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the director has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 3.C.*

2. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the board specifically authorizes the agency to proceed without holding a public meeting or the director specifically determines the agency can proceed without holding a public meeting in those cases where the subject matter of the NOIRA has previously been the subject matter of a NOIRA published in the Virginia Register of Regulations by the agency.

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 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 complete~~ the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a *standing advisory committee utilized, or groups and individuals consulted*, the draft regulation shall be developed in consultation with ~~such group~~ *the selected advisors*. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group, *standing advisory committee, or groups and individuals* 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 board.

G. Upon approval of the draft proposed regulation by the board, the agency shall publish a Notice of Public Comment (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 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. *The identity of any locality particularly affected by the proposed regulation. For purposes of these guidelines, the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

5. 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~~ *the rationale or justification for the new provisions of the regulations from the standpoint of the public's health, safety or welfare.*

b. A statement of estimated impact:

(1) ~~Number~~ *Projected number* and types of

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regulated entities or persons affected.

(2) Projected cost, expressed as a dollar figure or range, 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 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 as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

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

5- 6. The date, time and place of at least one public hearing *informational proceeding* 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 shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The hearing(s) *informational proceeding(s)* may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The hearing(s) *informational proceeding(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 the agency's response to the comments received. *The agency shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation.* The agency shall submit the summary and agency response and, if requested, submit the full comments to the board. The summary, the agency response, and the comments shall become a part of the agency file and, after final action on the regulation by the board, made available, upon request, to interested persons.

L. If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the board, the agency shall present to the board for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.

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

§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with the ~~VR 173-01-00 Public Participation Procedures.~~

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with this regulation (~~VR 173-01-00:1~~).

VA.R. Doc. No. R93-641; Filed June 30, 1993, 8:50 a.m.

BOARD OF COMMERCE

Title of Regulation: VR 190-00-04. Board of Commerce Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-310 of the Code of Virginia.

Emergency Regulations

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

The Board of Commerce intends to promulgate emergency regulations provided for in § 9-6.14.5 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the Department of Commerce.

Pursuant to the Administrative Process Act, the Board of Commerce is required to promulgate public participation guidelines before any further regulatory action can commence. The Board shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

The emergency regulations governing the public participation process will be effective until June 1994, the anticipated effective date of final regulations.

Approved:

/s/ Bonnie S. Salzman
Director, Department of Commerce
Date: June 29, 1993

/s/ Cathleen A. Magennis
Secretary of Economic Development
Date: June 14, 1993

/s/ Lawrence Douglas Wilder
Governor, Commonwealth of Virginia
Date: June 19, 1993

/s/ Joan W. Smith
Registrar of Regulations
Date: June 30, 1993

VR 190-00-04. Board of Commerce Public Participation Guidelines.

§ 1. Mailing list.

The Board of Commerce (the agency) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of Intended Regulatory Action" to promulgate or repeal regulations.
2. "Notice of Comment Period" and public hearings, the subject of which is proposed or existing regulations.
3. Notice that the final regulations have been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of

any regulations otherwise properly adopted under the Administrative Process Act.

§ 2. Placement on the list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the agency. In addition, the agency at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in § 1. Individuals and organizations may be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

§ 3. Petition for rulemaking.

Any person may petition the agency to adopt or amend any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and respond to the petition within 180 days. The agency shall have sole authority to dispose of the petition.

§ 4. Notice of intent.

At least 30 days prior to the publication of the "Notice of Comment Period" and the filing of proposed regulations as required by § 9-6.14.7.1 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action." This notice will provide for at least a 30 day comment period and shall state whether or not they intend to hold a public hearing. The agency is required to hold a hearing on proposed regulation upon a request by the Governor or from 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register.

§ 5. Informational proceedings or public hearings for existing rules.

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding which may take the form of a public hearing to receive public comment on existing regulations. Notice of such proceedings shall be transmitted to the Registrar for inclusion in the Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.

§ 6. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of regulation will occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

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If there are one or more changes with substantial impact on a regulation, any person may petition the agency within thirty days from the publication of the final regulation to request an opportunity for oral or written submittals on the changes to the regulations. If the agency received requests from at least 25 persons for an opportunity to make oral or written comment, the agency shall suspend the regulatory process for thirty days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may suspend the regulatory process for thirty days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of public comment shall be sent by the agency to all who submitted public comment on the proposed regulation at least five days before final adoption of the regulation.

§ 7. Advisory committees.

The Board intends to appoint advisory committees as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of proposed regulation. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision making actions on a regulation.

When identifying potential advisory committee members the agency may use the following:

- a. directories of organizations related to the profession,
- b. industry, professional and trade associations' mailing lists,
- c. and lists of persons who have previously participated in public proceedings concerning this or a related issue.

§ 8. Applicability.

Sections 1 through 3 and Section 5 and 7 shall apply to all regulations promulgated and adopted in accordance with § 9-6.14:9 of the Code of Virginia except those regulations promulgated in accordance with § 9-6.14:4.1 of the Administrative Process Act.

VA.R. Doc. No R93-676; Filed June 30, 1993, 11:50 a.m.

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.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

VR 215-00-00 establishes amended Regulatory Public Participation Procedures (RPPPs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for processing rulemaking under the Administrative Process Act (Act).

One of the new requirements of the amended Act mandates that the Board of Conservation and Recreation (Board) include as a part of their RPPPs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board. Such policy shall address the circumstances in which the Board considers such groups or consultation appropriate and intends to make use of such panels or consultation.

The legislation further requires the Board to set out in their RPPPs any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Board intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require RPPPs to contain such provisions. Because RPPPs must be in compliance with the Act before the Board can initiate any regulatory actions, it is important that RPPPs that will satisfy the new requirements of the Act be in place ready for use before July 1, 1993. In addition, because the provisions of the RPPPs are a declaration of the means by which the public is involved in Board regulation making, the Board has, on a limited basis, amended language of the RPPPs as to reflect current Board practices and to accommodate soon-to-take-effect requirements of the Act. For example, the RPPPs have been amended to allow the Board, at its discretion, to begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

Nature of Emergency:

The Board proposes to adopt emergency RPPPs in order to ensure the Board's ability to process necessary regulatory actions after July 1, 1993. The

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Board is responsible for the administration of the Commonwealth's Stormwater Management program whose purpose is to protect and enhance the quality of the Commonwealth's natural resources. Without RPPPs which satisfy the new requirements of the Act, the Board will be unable to process any regulatory actions until such time as permanent RPPPs can be adopted. Under the Act, it could take as long as a year to adopt permanent RPPPs which would result in necessary regulatory actions taking as much as 2 years to complete.

Necessity for Action:

The adoption of emergency RPPPs is critical to continued operation of the Stormwater Management program of the Board. Without emergency RPPPs, the Board would be unable to incorporate and implement any amended provisions to Stormwater Management for approximately 2 years. Failure to proceed as soon as possible could impose unnecessary hardship on the regulated community and leave Virginia's soil and water resources under-protected.

Summary:

This regulation will establish RPPPs which will allow the Board to initiate regulatory action processes after July 1, 1993 to adopt, amend or repeal necessary regulations.

This emergency regulation will be enforced under applicable statutes and 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 Act and this emergency regulation.

The Board will receive, consider, and respond to petitions by any interested persons any any time for the reconsideration or revision of this regulation.

It is so ordered.

/s/ W. Bruce Wingo
Chairman, Board of Conservation and Recreation
Date: June 23, 1993

Approved By:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

Filed With:

/s/ Joan W. Smith

Registrar of Regulations
Date: June 25, 1993

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 (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

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

C. B. The failure of any person to receive any notice or copies of any documents provided under these guidelines

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shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

D. C. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.

§ 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 initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The ~~agency~~ Director shall form an ad hoc advisory group, ~~or~~ utilize a standing advisory committee, ~~or consult with groups and individuals registering interest in working with the agency~~ to assist in the drafting and formation of the proposal ~~unless the approving authority specifically authorizes the director to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:~~

1. a. *The Director, in the Director's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency; or*

b. *The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the Director to form an ad hoc advisory group, utilize a standing advisory group, or consult with groups and individuals registering interest in*

working with the agency; and

2. *The subject matter of the NOIRA has not been previously the subject of a NOIRA published in the Register of Regulations by the agency.*

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

D. The agency shall issue a ~~notice of intended regulatory action (NOIRA)~~ 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.

e. *A statement of the Director's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.*

f. *A statement inviting comment on whether the Director should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the Director has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 3.C.*

2. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the approving authority specifically authorizes the director to proceed without holding a public meeting *or the Director specifically determines the agency can proceed without holding a public meeting in those cases where the subject matter of the NOIRA has been previously the subject matter of a NOIRA published in the Register of Regulation by the agency.*

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).

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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 complete~~ the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a *standing advisory committee utilized, or groups and individuals consulted* the draft regulation shall be developed in consultation with ~~such group the selected advisor~~. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group, *standing advisory committee or groups and individuals* 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 shall publish a Notice of Public Comment (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. *The identity of any locality particularly affected by the proposed regulation. For purposes of these procedures the term "locality particularly affected" shall mean any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*
4. 5. 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: the rationale and justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.~~

b. A statement of estimated impact:

(1) ~~Number~~ *Projected number* and types of regulated entities or persons affected.

(2) *Projected cost, expressed as a dollar figure or range, 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 as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

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

~~5. 6.~~ The date, time and place of at least one ~~public hearing informational proceeding~~ 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 shall indicate that the evidential hearing will be held in accordance with § 9-6.14.8 of the Code of Virginia.) The ~~hearing(s) informational proceeding(s)~~ may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The ~~hearing(s) informational proceeding(s)~~ may be held in such location(s) as the

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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 the agency's response to the comments received. *The agency shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation.* The agency shall submit the summary and agency response and, if requested, submit the full comments to the approving authority. The summary, the agency response, and the comments shall become a part of the agency file and after final action on the regulation by the approving authority, made available, upon request, to interested persons.

L. If the director determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the director shall present to the approving authority for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.

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

§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with the VR 215-01-00: Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with this regulation (VR 215-00-00: Regulatory Public Participation Procedures).

The amending provisions contained in this emergency

regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these regulations take effect.

VA.R. Doc No. R93-595; Filed June 25, 1993, 3:25 p.m.

DEPARTMENT OF CONSERVATION AND RECREATION

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.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

VR 217-00-00 establishes amended Regulatory Public Participation Procedures (RPPPs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for processing rulemakings under the Administrative Process Act (Act).

One of the new requirements of the amended Act mandates that the Director of the Department of Conservation and Recreation (Director) include as a part of his RPPPs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Department. Such policy shall address the circumstances in which the Director considers such groups or consultation appropriate and intends to make use of such panels or consultation.

The legislation further requires the Director to set out in his RPPPs any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Director intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require RPPPs to contain such provisions. Because RPPPs must be in compliance with the Act before the Director can initiate any regulatory actions, it is important that RPPPs that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993. In addition, because the provisions of the RPPPs are in declaration of the means by which the public is involved in Departmental regulation making, the Director has, on a limited basis, amended language of the RPPPs as to reflect current practices and to accommodate soon-to-take-effect requirements of the Act. For example, the RPPPs have been amended to allow the

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Director, at his discretion, to begin drafting the proposed regulation prior to or during any opportunities he provides to the public to submit input.

Nature of Emergency:

The Director proposes to adopt emergency RPPPs in order to ensure the Director's ability to process necessary regulatory actions after July 1, 1993. The Director is responsible for the administration of several State programs, whose purpose is to protect and enhance the Commonwealth's resources. Among these are the Virginia Land Use Assessment Law, open space option for taxation; and, the management and protection of Virginia's State Park system and Natural Area Preserves system. Without RPPPs which satisfy the new requirements of the Act, the Director will be unable to process any regulatory actions until such time as permanent RPPPs can be adopted. Under the Act, it could take as long as a year to adopt permanent RPPPs which would result in necessary regulatory actions taking as much as 2 years to complete.

Necessity for Action:

The adoption of emergency RPPPs is critical to continued operation of the programs of the Department. For example, legislation passed by the 1992 session of the General Assembly amended provided mandates for operation of our State Park system year around; the Virginia Park and Recreation Facilities Bond Act allows considerable expansion to both the State Park and Natural Area Preserve systems. Without emergency RPPPs the Director would be unable to incorporate and implement the new provisions for approximately 2 years.

Summary:

This regulation will establish RPPPs which will allow the Director to initiate regulatory action processes after July 1, 1993 to adopt, amend or repeal necessary regulations.

This emergency regulation will be enforced under applicable statutes and 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 Act and this emergency regulation.

The Director will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

By:

/s/ J. Robert Hicks, Jr.

Director, Department of Conservation and Recreation
Date: June 24, 1993

Approved by:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

Filed with the Registrar of Regulations on June 25, 1993.

VR 217-00-00. 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 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

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Process Act § 9-6.14:1 A and B or excluded from the operation of Article 2 of the Administrative Process Act § 9-6.14:4.1 C.

B. At the discretion of the approving authority, the procedures in § 3 may be supplemented 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.

D. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.

§ 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 Director shall form an ad hoc advisory group, or utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency to assist in the drafting and formation of the proposal unless the director as the approving authority specifically authorizes the agency to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:

1. a. The Director, in the Director's sole discretion,

determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency; or

- b. The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the Director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency; and

2. The subject matter of the NOIRA has not been previously the subject of a NOIRA published in the Register of Regulations by the agency.

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

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.

- e. A statement of the Director's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.

- f. A statement inviting comment on whether the Director should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the Director has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 3.C.

2. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the director as the approving authority specifically authorizes the agency to proceed without holding a public meeting or the

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Director specifically determines the agency can proceed without holding a public meeting in those cases where the subject matter of the NOIRA has been previously the subject matter of a NOIRA published in the Register of Regulation by the agency

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 complete~~ the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a *standing advisory committee utilized, or groups and individuals consulted* the draft regulation shall be developed in consultation with ~~such group~~ the selected advisor. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group, *standing advisory committee or groups and individuals* 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 shall publish a Notice of Public Comment (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. The identity of any locality particularly affected by the proposed regulation. For purposes of these procedures the term "locality particularly affected" shall mean any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

4. 5. 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;~~ the rationale and justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.

b. A statement of estimated impact:

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

(2) Projected cost, expressed as a dollar figure or range, 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 as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

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

5. 6. The date, time and place of at least one public

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hearing informational proceeding 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 shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8.) The hearing(s) informational proceeding(s) may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The hearing(s) informational proceeding(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 the agency's response to the comments received. *The agency shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation.* The agency shall submit the summary and agency response and, if requested, submit the full comments to the approving authority. The summary, the agency response, and the comments shall become a part of the agency file and after final action on the regulation by the director as the approving authority, made available, upon request, to interested persons.

L. If the director as the approving authority determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation, the director shall state in writing a rationale for the withdrawal of the proposed regulation.

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

§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to December 30,

1992, shall be processed in accordance with the VR 215-01-00. Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with this regulation (VR 217-00-00. Regulatory Public Participation Procedures).

The amending provisions contained in this emergency regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these regulations take effect.

V.A.R. Doc No. R93-594; Filed June 25, 1993, 3:25 p.m.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-01-001. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 53.1-5 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Preamble:

The Board of Corrections is promulgating emergency regulations under § 53.1-5 which amend the Board's Public Participation Guidelines. Emergency status is requested as a result of the amendments to the Administrative Process Act approved by the 1993 General Assembly in House Bill 1652. These amendments alter requirements for agencies in ensuring public participation in the formation and development of regulations. Because the Code of Virginia will reflect these changes on July 1, 1993, the Board's amended Public Participation Guidelines must also become effective by that date.

The Board will proceed to promulgate this regulation during the next year in accordance with the provisions of the Administrative Process Act to ensure public participation in reviewing these guidelines.

VR 230-01-001. Public Participation Guidelines.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Agency" means any authority, instrumentality, officers of the Virginia Department of Corrections, and members of the Virginia Board of Corrections, or other unit of the state government empowered by the basic laws to make

regulations or decide cases.

"Agency regulatory coordinator" means the individual appointed by the director to provide technical assistance to the operating units and to coordinate regulations.

"Basic law" or "Basic laws" means provisions of the Constitution and statutes of the Commonwealth of Virginia authorizing an agency to make regulations or decide cases or containing procedural requirements thereof.

"Board" means the Virginia Board of Corrections.

"Department" means the Virginia Department of Corrections.

"Director" means the Director of the Virginia Department of Corrections.

"Operating unit" means the offices of the director, deputy directors, administrators or other offices within the department that will develop or draft a regulation. Only the board may promulgate a regulation.

"Rule or regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws. Exemptions to this requirement are those listed in § 9-6.14:4.1 of the Code of Virginia or as determined by the Attorney General's office.

§ 1.2. Authority.

Chapter 1.1:1 of Title 9 of the Code of Virginia, deals with the promulgation of rules and regulations. Specifically, § 9-6.14:7.1 directs agencies of the Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Section 53.1-5 of the Code of Virginia empowers the Board of Corrections to make, adopt and promulgate rules and regulations.

§ 1.3. Purpose.

These guidelines are designed to provide consistent, written procedures that will ensure input from interested parties during the development, review and final stages of the regulatory process.

§ 1.4. Administration.

A. The board has the responsibility for promulgating regulations pertaining to public input in the regulatory process.

B. The director is the chief executive officer of the Department of Corrections and is responsible for implementing the standards and goals of the board.

§ 1.5. Application of regulations.

These regulations have general application throughout the Commonwealth.

§ 1.6. Effective Date: January 1, 1986, as amended October 1, 1989; July 1, 1993.

§ 1.7. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings and appeals. All hearings on such regulations shall be conducted in accordance with § 9-6.14:7.1.

PART II. PUBLIC PARTICIPATION.

§ 2.1. Identification of interested parties.

Each operating unit within the department which is responsible for rule making shall develop and maintain a current list of those persons, organizations, and agencies that have demonstrated an interest in specific program regulations in the past through written comments or attendance at public hearings.

§ 2.2. Notification of interested parties.

A. Individual mailings.

When an operating unit of the department determines that specific regulations need to be developed or substantially modified, the operating unit shall so notify by mail the individuals, organizations, and agencies identified as interested parties in § 2.1 of these regulations. This notice shall invite those interested in providing input to notify the agency of their interest. The notice shall include the title of the regulation to be developed or modified; the operating unit contact person, mailing address, telephone number; and the date by which a notice of a desire to comment must be received. In addition, known parties having interest and expertise will be advised through a special mailing of the agency's desire to develop a regulation and will be invited to assist the operating unit in developing the regulation or in providing input.

B. Notice of ~~intent~~ Intended Regulatory Action .

1. When an operating unit of the department determines that specific regulations that are covered by the Administrative Process Act need to be developed or substantially modified, the operating unit shall ~~publish~~ provide a notice of ~~intent~~ Notice of Intended Regulatory Action in The Virginia Register of Regulations to the Registrar of Regulations .

2. This notice will invite those interested in providing input to notify the operating unit of their interest. The notice will include the title of the regulation to be

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developed or modified; *the subject matter and intent of the planned regulation; whether or not the agency plans to hold a public hearing on the regulation after it is published;* the operating unit contact person, mailing address, telephone number; and the date by which a notice of a desire to comment must be received. All notices shall be coordinated through the agency regulatory coordinator who will forward them for publication.

3. *At least 30 days shall be provided for public comment after publication of the Notice of Intended Regulatory Action. The agency shall not file proposed regulations with the Registrar until the public comment period on the Notice of Intended Regulatory Action has closed.*

4. *Any person may petition the agency to request the agency to develop a new regulation or amend an existing regulation. The agency shall receive, consider, and respond to the petition in writing within 180 days.*

5. *If the agency states in the Notice of Intended Regulatory Action that it does not plan to hold a hearing on the proposed regulation, then no public hearing is required unless, prior to completion of the comment period specified in the Notice of Intended Regulatory Action, the Governor directs that the agency hold a public hearing, or the agency receives requests for a public hearing from at least 25 people.*

§ 2.3. Solicitation of input from interested parties.

A. Advisory panels.

Whenever an operating unit proposes to develop or substantially modify a regulation, it may create an advisory panel to assist in this development or modification. Advisory panels shall be established on an ad hoc basis.

1. Members of advisory panels shall consist of a balanced representation of individuals and representatives of organization and agencies identified in § 2.1 of these regulations as interested and who have expressed a desire to comment on new or modified regulations in the developmental process. Each panel shall consist of no less than three members.

2. Individual panels shall establish their own operating procedure, but in no case will a panel meet less than twice. All comments on proposed regulations shall be documented by the operating unit and a response developed for each comment.

B. Other comments.

All persons, organizations, and agencies that respond to the individual mailings and the notice of intent shall be provided an opportunity to examine regulations in their

developmental stage and to provide written comments on these regulations to the operating unit. The operating unit shall document the receipt of these comments and respond to each commentor. The operating unit shall consider all input received as a result of responses to notifications mailed to interested parties as listed in § 2.2 of these regulations in formulating and drafting proposed regulations.

§ 2.4. Administrative Process Act procedures.

After regulations have been developed according to these guidelines, they shall be submitted for public comment under § 9-6.14:7.1.

/s/ O. Randolph Rollins
Secretary
Office of Public Safety
Date: June 24, 1993

/s/ Lawrence Douglas Wilder
Governor
Commonwealth of Virginia
Date: June 24, 1993

/s/ Penelope S. Anderson
Chair
Board of Corrections
Date: June 30, 1993

/s/ Joan W. Smith
Registrar of Regulations
Virginia Code Commission
Date: June 30, 1993

V.A.R. Doc. No. R93-702; Filed June 30, 1993, 4:17 p.m.

BOARD OF DENTISTRY

Title of Regulation: VR 255-01-2. Public Participation Guidelines.

Statutory Authority: §§ 54.1-2700 - 54.1-2728 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

On June 11, 1993, the Virginia Board of Dentistry adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

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In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 15, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 24, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 255-01-2. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Dentistry. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

- 1. A Notice of Intended Regulatory Action.*
- 2. A Notice of Comment Period.*
- 3. A copy of any final regulation adopted by the Board.*
- 4. A notice soliciting comment on a final regulation when the regulatory process has been extended.*

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

- 1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.*
- 2. The number and title of the regulation to be addressed.*
- 3. A description of the regulatory problem or need to be addressed.*
- 4. A recommended addition, deletion, or amendment to the regulation.*

C. The Board shall receive, consider and respond to a petition within 180 days.

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D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

VA.R. Doc. No. R93-636; Filed June 29, 1993, 2:29 p.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Emergency Regulations

Title of Regulation: VR 320-01-01. Public Participation Guidelines.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On June 8, 1993, the Virginia Board of Funeral Directors and Embalmers adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 9, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 320-01-01. Public Participation Guidelines.

Part I.
Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Funeral Directors and Embalmers. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II.
Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III.
Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia,

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any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or

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2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

VAR. Doc. No. R93-603; Filed June 28, 1993, 3:34 p.m.

GOVERNOR'S EMPLOYMENT AND TRAINING DEPARTMENT

Title of Regulation: VR 350-01-1. Public Participation Guidelines.

Statutory Authority: §§ 2.1-708 (3) and 9-6.14:7.1 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Request:

The Governor's Employment and Training Department is requesting approval of the emergency regulations to amend the agency Public Participation Guidelines. These amendments conform the agency's Guidelines to the revisions in the Administrative Process Act. It is necessary to issue emergency regulations in order for the changes to be effective by July 1, 1993.

/s/ James E. Price
Executive Director
Governor's Employment and Training Department

Authorization:

I approve the emergency regulation, Public Participation Guidelines, submitted by the Governor's Employment and Training Department.

/s/ Lawrence Douglas Wilder
Governor

Filed with the Registrar of Regulations June 30, 1993.

Preamble:

The Governor's Employment and Training Department is issuing emergency regulations to amend the agency Public Participation Guidelines. The amendments are

necessitated by the actions of the General Assembly which revised the Administrative Process Act. The amendments are being issued as emergency regulations in order for the changes to be effective by July 1, 1993.

VR 350-01-1. Public Participation Guidelines.

§ 1. Definitions.

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

"DOL" means the United States Department of Labor.

"GETD" means the Governor's Employment and Training Department.

"JTPA" means the Job Training Partnership Act, Public Law 97-300, as amended.

"SDA" means the administrative entity in a geographic area which has been designated by the Governor as a service delivery area for the purpose of providing employment and training services authorized under Title II of JTPA. The term shall also include the substate grantee which administers the programs authorized under Title III of JTPA.

§ 2. Generally.

A. In developing any regulation which it proposes, the Governor's Employment and Training Division ("GETD") GETD is committed to soliciting input and comment from interested persons and groups. Such input and participation shall be actively solicited by the GETD.

B. Any person who is interested in participating in the regulation development process should immediately notify the GETD in writing. Such notification of interest should be sent to the Technical Assistance Unit, Governor's Employment and Training Division, P. O. Box 12083, Richmond, VA 23241. Research, Policy & Evaluation Unit of the Governor's Employment and Training Department at 4615 West Broad Street, Richmond, Virginia, 23230.

C. Any person may submit a petition to the GETD at the address in subsection B to request that a new regulation be developed or that an existing regulation be amended. The GETD shall evaluate and respond to each request within 180 days of receipt. Petitions shall be in writing and shall, at a minimum, include the following:

1. the area to be developed or amended;
2. a brief description of the circumstances or conditions upon which the request is based; and
3. the name, address and telephone number of the individual making the request.

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§ 2. § 3. Identification of interested parties.

A. Prior to the development of any regulation, the GETD shall identify persons whom it feels would be interested in or affected by the proposal. *The GETD shall inform the SDAs and state agencies with responsibilities for implementing JTPA programs of the intent to develop regulations.*

B. The methods for identifying *additional* interested parties shall include, but not be limited to, the following:

1. Obtain annually from the Secretary of the Commonwealth a list of all persons, associations and others who have registered as lobbyists for the annual General Assembly session. This list will be used to identify persons and groups which may be interested in the subject matter of proposed regulations.

2. Utilize the statewide listing of business, professional, civic and charitable associations and societies in Virginia published by the State Chamber of Commerce to identify additional groups which might be interested in the regulation.

3. 1. Utilize GETD subject matter files to identify persons who have previously raised questions or expressed an interest in the subject matter under consideration.

4. 2. Utilize a standing list, compiled by the GETD, of persons who have previously participated in public proceedings relative to similar subject matters or who have expressed an interest in regulations of the GETD.

§ 3. § 4. Notification of interested parties.

1. ~~Generally:~~ A. The GETD shall prepare a Notice of Intent to Develop Regulation ("notice") prior to the development of any regulation. The notice shall identify the subject matter and purpose for the development of the new regulation(s) and shall specify a time deadline for receipt of responses from persons interested in participating in the development process. *The notice shall specify that interested parties should submit written comments and suggestions to the GETD.*

2. ~~Dissemination of notice:~~ B. The methods for disseminating the notice to the public shall include, but not be limited to, the following:

a. 1. Send notice to all persons identified (pursuant to subsection B above *section 2 of these regulations*) as having potential interest in the regulation;

b. Publish notice in Virginia Register; and

e. 2. Request that groups to whom the notice is sent publish such notice in newsletters or journals or use any other means available to them to disseminate the

notice to the membership as appropriate.

§ 4. § 5. Public participation.

A. Regulation development.

1. Initial comment. After interested parties have responded to the notice, the GETD will analyze the level of interest. If sufficient interest exists, the GETD may schedule informal meetings prior to the development of any regulation to determine the specific areas of interest ~~and/or~~ or concern and to gather information relative to the subject matter of the regulation. Alternatively, the GETD may elect to request that persons who have responded to the notice make written submittals of comments, concerns and suggestions relative to the proposed regulation.

2. Preparation of working draft. Subsequent to the initial public input on the development of any regulation, the GETD shall develop a working draft of the proposed regulation:

a. *The GETD shall utilize DOL regulations for and guidance on JTPA and all responses received during the initial comment period to develop a working draft.*

b. In certain instances where the technical nature of the subject matter merits, the GETD may, at its discretion, request that interested persons or groups develop participate in a task force to assist in the development of a working draft. A copy of this draft will be furnished to all persons who responded to the notice indicating an interest in the regulation participated on the task force and to SDAs and state agencies with responsibilities under JTPA and to those persons participating in the initial comment phase of the development process. Persons to whom a copy of the working draft is furnished will be invited to submit written comments on the draft. If the response warrants, additional informal meetings may be held to discuss the working draft.

B. Submission of regulation.

To conform to the administrative process act, upon conclusion of the development process, the GETD shall prepare the proposed regulation for submission pursuant to the requirements of the Administrative Process Act ("APA"). The GETD shall furnish to all persons identified as having a potential interest in the subject matter, a copy of the proposed regulation as filed with the Registrar of Regulations pursuant to the requirements of the APA together with a copy of the General Public Notice of Informational Proceeding. A cover letter accompanying these documents shall explain the deadlines for submitting formal public comments under the APA. If a nonsubstantive regulation is being promulgated and comment will be restricted to written submittals, the date and place to which submittals must be made shall be

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clearly specified. Where a public proceeding is to be held, the time, date, and place shall be clearly specified. Additionally, the date by which persons intending to participate in the public proceeding should notify the GETD of their interest shall be noted. Persons who will participate will be encouraged to submit written copies of their comments in advance or at the public proceeding in order to insure that all comments are accurately reflected in the record of the proceeding.

1. Upon completion of the comment period, the GETD shall analyze all comments and suggestions received and shall finalize the regulations. The GETD shall prepare the final regulations and accompanying materials for submission to the Secretary of Health and Human Resources for review and to the Virginia Register for publication.

2. If one or more changes with substantial impact are made to the draft regulation from the time it is disseminated to the time it is published, any person may petition the GETD within 30 days from the publication of the final regulation to request an opportunity for oral and written submittals on the changes to the regulation. Petitions shall be in writing and shall, at a minimum, include the following:

- a. the section of the regulation questioned;
- b. a brief description of the impact of the changes; and
- c. the name, address and telephone number of the individual making the request.

3. The GETD shall analyze all requests to determine if there is sufficient reason to solicit additional public comment. If the GETD determines to solicit additional comment or if the GETD receives 25 or more requests, the GETD shall suspend the regulatory process for thirty days in order to fully explore the issues. In all instances, the GETD shall provide each individual submitting a request with a written decision on the issues raised in the request.

C. Adoption period.

Upon issuing an order adopting a regulation, the GETD shall provide SDAs and state agencies with responsibilities under JTPA a copy of the regulation as adopted and, at its discretion, may send a copy of the regulation as adopted, together with its response to comments made during the public proceeding or written submittal period, to other interested persons and groups.

V.A.R. Doc. No. R93-661; Filed June 30, 1993, 10:10 a.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-01-100. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 32.1-12 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Summary:

Nature of Emergency:

On July 1, 1993 amendments to the Administrative Process Act significantly revise the procedures to be used by agencies in the promulgation of regulations. While the State Board of Health recently amended its Public Participation Guidelines, these regulations do not comply with the revised APA. Approval of the attached Guidelines will allow the Board to comply with the new requirements. The proposed emergency regulations guidelines have been reviewed by the Department's Assistant Attorney General.

Purpose:

Public Participation Guidelines outline the methods the Virginia Department of Health will use to solicit the input of interested parties in the formation and development of regulations promulgated by the State Board of Health.

VR 355-01-100. Public Participation Guidelines.

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.

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

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Department" means the Virginia Department of Health.

"Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an authorized board or agency.

PART II. GENERAL INFORMATION.

§ 2.1. General information.

A. The procedures in Part III of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal

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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 (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

B. At the discretion of the board or the commissioner, the procedures in Part III may be supplemented 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.

D. Any person may petition the board for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

~~If the board determines not to act upon a petition it shall provide a written response to such petition. The Board shall receive, consider and respond to such petition within 180 days.~~

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Interested parties lists.

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

B. Programs within the department which are responsible for rule making as assigned by the commissioner will maintain a list of those persons and organizations who have demonstrated an interest in the adoption, amendment or repeal of specific program regulations.

C. Periodically, but not less than every two years, the commissioner shall publish a notice in The Virginia Register, in a newspaper published at Richmond, and in other newspapers in Virginia localities to request that any individual or organization interested in participating in the development of specific rules and regulations so notify the office of the commissioner. Any persons or organizations identified in this process will be incorporated in the lists developed under this section. The commissioner may at any time remove from the lists persons or organizations that request to be removed or who fail to respond to any inquiry regarding continued interest.

§ 3.2. Notice of intent.

A. The department shall issue a Notice of Intended Regulatory Action (NOIRA) at the direction of the board whenever it considers the adoption, amendment or repeal of any regulation. The NOIRA shall include at least the following:

1. The title of the regulation to be developed or modified;
2. A summary of the subject matter including a brief statement as to the need for regulatory action;
3. 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 NOIRA;
4. *An indication of the Board's intent to hold a public hearing on the proposed regulation after it is published, and the reason if a public hearing is not planned;*
4. 5. The program contact person, mailing address and telephone number; and
5. 6. The date by which comments must be received.

B. 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.

C. The department shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register; and
2. Distribution by written notice to persons on the list(s) established under § 3.1 of this part.

D. If the Department published a statement in the NOIRA indicating no intention to hold a public hearing on the proposed regulation after publication, no public hearing is required unless, prior to completion of the specified NOIRA comment period:

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1. the Governor directs that the agency shall hold a public hearing; or

2. the agency receives requests for a public hearing from twenty-five persons or more.

§ 3.3. Ad Hoc Advisory Committees.

A. The board or the Commissioner may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The ad hoc committee shall provide professional specification or technical assistance when the Board or Commissioner determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

C. The advisory committee may be dissolved when the process for promulgating the specific regulation is completed.

§ 3.4. Proposed regulations.

A. After consideration of public input, the department may prepare the draft proposed regulation 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 board.

B. Upon approval of the draft proposed regulation by the board, the department shall publish a Notice of Public Comment (NOPC) and the proposal for public comment together with the proposed regulation for public comment, a summary of the regulation, and a statement containing the basis, purpose, substance, issues and estimated impact as described in § 3.2(D).

C. The NOPC 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 a name, address and telephone number of the individual to contact for further information about the proposed regulation.

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

D. A statement of basis, purpose, substance, issues, and estimated impact shall be published and include at least the following:

1. Basis: the statutory authority for promulgating the regulation.

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

3. Substance: the identification and explanation of the key provisions of the regulations.

4. Issues: the primary advantages and disadvantages for the public affected by the proposed regulations.

5. A statement that An analysis of the estimated impact has been conducted by the agency and is available to the public upon request. The statement of estimated impact should include the following:

a. Number and types of regulated entities or persons affected.

b. 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.

c. Projected cost to the department for implementation and enforcement.

d. The beneficial impact the regulation is designed to produce.

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

f. 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.

g. A statement assessing in what manner the department believes the proposed regulation is the least burdensome alternative to the regulated community that fully meets the state purpose of the proposed regulation.

h. A schedule setting forth when and how the department will evaluate the regulation for effectiveness and continued need.

6. The date, time and place of at least one public hearing, if needed, if indicated in the NOIRA or required as specified in § 3.2(D), held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive

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comments on the proposed regulation. The public hearing(s) may be held at any time during the public comment period. The hearing(s) and may be held in such location(s) as the department determines will best facilitate input from interested persons.

6. 7. The public comment period shall close no fewer than 60 days after publication of the NOPC in the Virginia Register.

7. 8. The department shall disseminate the NOPC to the public via the following:

a. Distribution to the Registrar of Regulations for publication in the Virginia Register and for publication in a newspaper of general circulation published at the state capital and as the department may determine, it may similarly request publication in newspapers in localities particularly affected.

b. Distribution by mail to persons on the list(s) established under § 3.1 of this part.

8. 9. The department shall prepare a summary of comments received in response to the NOPC 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's file.

§ 3.4. § 3.5. Completing adoption process.

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

§ 3.6. Exempt Regulations.

Any regulations exempt under § 9-6.14:4.1 of the Administrative Process Act and being considered to the Board for adoption shall be provided to any member of the public requesting a copy at least two days prior to the meeting of the Board at which the regulation is to be considered.

PART IV. TRANSITION.

§ 4.1. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to July 1, 1993, shall be processed in accordance with the VR 355-01-01 Public Participation Guidelines in the Formation and Development of Regulations.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to July 1, 1993, shall be processed in accordance with this regulation (VR 355-01-100).

Pursuant to the authority vested in me by the Virginia

Code Section 32.1-20, I find that the foregoing regulations, VR 355-01-100.1E, Public Participation Guidelines, are necessitated by an emergency situation as set out in the preamble (summary). Pursuant to § 9-6.14:7.1 and subsection C 5 of § 9-6.14:4.1, I hereby adopt the foregoing regulations.

/s/ Robert B. Stroube, MD, MPH
State Health Commissioner
Date: June 29, 1993

CONCURRENCE

/s/ Howard M. Cullum
State Health and Human Resources
Date: June 25, 1993

AUTHORIZATION

/s/ Lawrence Douglas Wilder
Governor
Date: June 25, 1993

FILED

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VA.R. Doc. No. R93-657; Filed June 29, 1993, 3:54 p.m.

BOARD OF HEALTH PROFESSIONS

Title of Regulation: VR 365-01-01:1. Public Participation Guidelines.

Statutory Authority: § 54-955.K of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

On May 24, 1993, the Board of Health Professions adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated. The Board of Health Professions is required by statute to develop and propose regulations pursuant to the Practitioner Self-Referral Act which also becomes effective on July 1, 1993.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly,

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the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: May 28, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 23, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 29, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 365-01-01:1. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Health Professions. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on

the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from

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receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

VA.R. Doc. No. R93-646; Filed June 29, 1993, 4:59 p.m.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-000:1. Public Participation Guidelines.

Emergency Regulations

Statutory Authority: §§ 9-6.14:7 and 9-164 (2) of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Background:

The VHSCRC recently adopted final changes to its Public Participation Guidelines which were effective in April, 1993. However, the enactment of Chapter 898 by the Virginia General Assembly requires that changes to these public participation guidelines be made so that they will reflect the recent statutory changes, effective July 1, 1993.

These changes to the public participation guidelines were adopted by the VHSCRC on an emergency basis at its June 22, 1993 meeting.

Clarity and Simplicity:

The proposed changes have been written so that clarity and simplicity are assured. A draft of these emergency regulations have been reviewed by staff of the VHSCRC and suggestions sought to assure that clarity and simplicity have been attained.

Consideration of Alternative Approaches:

Recent changes to Public Participation Guidelines were adopted to assure that the VHSCRC utilized an approach that was most reasonable to reach interested parties. In response to the additional changes required by the new legislation enacted by the General Assembly and signed by Governor Wilder, these emergency regulations will provide the most reasonable approach to attaining the necessary public participation in the promulgation of regulations for the VHSCRC.

Fiscal Impact:

There is no fiscal impact on any of the health care institutions who are required to report to the VHSCRC. No state general funds will be required to implement these emergency regulations. Changes will be necessary in the operations of the VHSCRC in order to completely implement these new guidelines.

Assurance from the Office of the Attorney General:

The written assurance from the Office of the Attorney General for this regulation is attached. Any suggested changes have been inserted or discussed.

Evaluation of Regulations:

These emergency regulations will be evaluated as the promulgation process progresses during the next 12 months. They will be amended if positive suggestions are received from interested parties.

/s/ John A. Rupp

Executive Director
Virginia Health Services Cost Review Council
Date: June 9, 1993

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 23, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

Filed with the Registrar of Regulations on June 29, 1993.

VR 370-01-000:1. Public Participation Guidelines.

§ 1. Definitions.

A. For the purpose of these public participation guidelines for development of regulations, the words or terms shall have the meanings given them in subsection C of this section.

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

C. Terms defined.

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

"Approving authority" "Council" means the Virginia Health Services Cost Review Council established by Chapter 26 of Title 9 of the Code of Virginia which has the legal authority to adopt regulations.

"Director" means the executive director and staff of the Virginia Health Services Cost Review Council which positions are established pursuant to the Code of Virginia to implement programs and provides administrative support to the approving authority.

"Governor's Executive Order" means any policy or procedure issued by the Governor under § 2.1-41.1 or § 9-6.14:9.1 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested parties in the formation and development or repeal of regulations and any revision thereto in accordance with the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:7.1 *et seq.*) of Title 9 of the Code of Virginia. ~~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.~~

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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 gain additional public participation in the regulation adoption process, provided such means allow for balanced participation by the interested parties.

C. The failure of any person or organization to receive any notice or copies of any documents shall not affect the validity of any regulation otherwise adopted in accordance with the Administrative Process Act and Governor's Executive Order.

D. Any person may petition the Council for the adoption, amendment, or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Petitioner's interest in the proposed action.
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations.
5. Statement of need and justification for the proposed action.
6. Statement of impact on the petitioner and other affected persons.
7. Supporting documents, as applicable.

The Council shall receive, consider, and respond to such petition within 180 days.

§ 3. Public Participation Procedures. Mailing List.

A. The Director shall establish and maintain a mailing list consisting of parties groups and individuals expressing an interest in working with the Council for the formation, adoption, amendment, or repeal of regulations. This list shall consist of groups and individuals who have indicated an interest in being placed on such a list. In addition, the Director shall contact hospital organizations, nursing home organizations, business groups, insurance organizations, consumer groups, and individuals who have indicated an interest in the work of the approving agency regarding whether they wish to be added to the list.

B. The Council may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

C. The Council shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

D. Persons or entities on the mailing list described in paragraph A shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Council.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

§ 4. Ad Hoc Advisory Committees.

A. The Council or the Director may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Council.

B. The ad hoc committee shall provide professional specialization or technical assistance when the Council or Director determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

C. The advisory committee may be dissolved when the process for promulgating the specific regulation is completed.

§ 5. Public Participation Guidelines.

B. A. Whenever the approving authority so directs, or upon his own initiative, the Director may commence the regulation adoption process according to these procedures and proceed to draft a proposal.

C. B. The Director shall issue a notice of intended regulatory action (NOIRA) for all regulatory proposals in accordance with the Administrative Process Act.

1. The NOIRA shall include, in addition to the requirements of the Registrar of Regulations:
 - a. A statement as to the need for regulatory action.
 - b. A description, if possible, of alternatives available to meet the need.
 - c. A request for comments on the intended regulatory action, to include any ideas to assist the Director 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.
 - e. A statement indicating whether a public hearing

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will be held on the proposed regulation after it is published.

2. The public comment period for NOIRAs under subsection C. 1 of this section shall be no less than ~~15~~ 30 days after publication in The Virginia Register.

~~D.~~ C. The Director shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in The Virginia Register.
2. Distribution by mail to parties on the list established under subsection A of this section.

D. The Director shall also disseminate the NOIRA to any individuals, groups or organizations not on the lists established under § 3 but who may, in his determination, be directly affected by the possible regulatory action. The Director shall solicit the input of these individuals, groups, or organizations in all situations where the proposed regulatory action will affect them.

E. After consideration of public input, the Director may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review by the Administrative Process Act and Governor's Executive Order. A summary of comments received in response to the NOIRA shall be distributed to the approving authority for its review. The NOPC shall include, in addition to the requirements of the Registrar of Regulations, a notice of the opportunity to comment on the proposed regulation and a request for comments on the costs and benefits of the proposal. The NOPC shall also state that an analysis of the following has been conducted by the agency and is available to the public upon request:

1. Statement of Purpose - why the regulation is proposed and the desired end result or objective of the regulation.
2. Estimated Impact:
 - a. Number and types of regulated entities or persons affected.
 - b. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance.
 - c. Projected cost to agency for implementation and enforcement.
3. Explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.
4. An estimate of the impact of the proposed regulation upon small businesses or organizations in

Virginia.

5. A discussion of alternative approaches that were considered to meet the need which the proposed regulation addresses, and agency assurance that the proposed regulation is the least burdensome available alternative.

6. A schedule setting forth when, within two years after a regulation is promulgated, the Director will evaluate it for effectiveness and continued need.

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

~~G.~~ F. The NOPC may also include the time, date, and location of a public hearing to receive comments on the proposed regulation. The hearing may be held at any time during the public comment period. The hearing may be held in such location as the agency determines will best facilitate input from the affected parties.

~~H.~~ G. The Director shall prepare a summary of comments received in response to the NOIRA and submit them to the approving authority as part of the agency record.

~~I.~~ H. Upon approval of the draft proposed regulation by the approving authority, the agency ~~may~~ shall publish the proposal for public comment.

~~J.~~ I. The Director ~~may~~ shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:
 - a. Publication in the Virginia Register.
 - b. Publication in a newspaper of general circulation published at the state capital and such other newspapers as the agency may deem appropriate.
2. Distribution by mail to parties on the list established under subsection A of this section.
3. *Distribution by mail to parties identified pursuant to subsection D of this section.*

~~K.~~ J. Concurrently with distribution of the NOPC to the Registrar of Regulations, the Director shall submit the proposed regulation and supporting documentation required for review in accordance with the Administrative Process Act and Governor's Executive Order.

~~L.~~ K. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act and Governor's Executive Order.

V.A.R. Doc. No. R93-665; Filed June 29, 1993, 12:50 p.m.

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DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-01-68. Public Participation Guidelines.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia, and Chapter 898 of the 1993 Acts of Assembly.

Effective Dates: June 30, 1993, through June 29, 1994.

Summary:

The 1984 amendments to the Administrative Process Act required that each regulatory agency develop, adopt and use Public Participation Guidelines for seeking comments from interested parties when developing, revising or repealing regulations. These procedures were required before initial action on any regulation, and during the entire promulgation process. All regulations adopted after October 1, 1984 were subject to this requirement.

Legislation enacted by the General Assembly amended the Administrative Process Act (Acts of Assembly 1993, Ch. 898) by adding additional provisions to be included in agency public participation guidelines.

This regulation will supersede (but only for the period that it is in effect) the regulation by the same title adopted by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Commission, and the Virginia Apprenticeship Council on September 19, 1984. (Effective Date: October 26, 1984)

During the twelve month term of this emergency regulation, the Commissioner of the Department of Labor and Industry, the Safety and Health Codes Board, and the Virginia Apprenticeship Council will promulgate a new permanent regulation following the Administrative Process Act and these emergency Public Participation Guidelines.

Preamble:

Legislation enacted by the 1993 General Assembly expands the requirements of the Administrative Process Act for state agencies. This legislative action requires the agency to include many of these requirements in their Public Participation Guidelines. Because these Public Participation Guidelines must be in order before other regulations can be promulgated, it is important that public participation guidelines which include the new provisions be ready for use by July 1, 1993.

The Department's current Public Participation Guidelines have been amended to reflect current agency practice and to accommodate the new requirements in the Administrative Process Act. This emergency action will allow the Commissioner of the Department of Labor and Industry, the Safety and

Health Codes Board, and the Virginia Apprenticeship Council to continue the promulgation of regulations after July 1, 1993.

VR 425-01-68. Public Participation Guidelines.

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:

"Ad Hoc Advisory Group" means a task force to develop a new regulation, or review current regulations, or revise current regulations, or advise the Commissioner/Board/Council on particular issues under consideration for regulation.

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

"Board" means the Virginia Safety and Health Codes Board.

"Commissioner" means the Commissioner of Labor and Industry.

"Council" means the Virginia Apprenticeship Council.

"Department" means the Virginia Department of Labor and Industry.

"Public Hearing" means an informational proceeding conducted pursuant to § 9-6.14:7.1 of the Code of Virginia, 1950.

"Open Meeting" means an informational meeting to present information, answer questions, receive views and comments on a particular issue under consideration by the Department or Board or Council. It is a meeting to facilitate the informal exchange of information.

"Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by the Commissioner/Board/Council with the authority conferred upon it by applicable basic law.

PART II. GENERAL INFORMATION.

§ 2.1. Introduction.

The 1984 amendments to the Administrative Process Act require required that each regulatory agency develop, adopt and use Public Participation Procedures Guidelines for seeking comments from interested parties when developing, revising or ~~repealing~~ repealing regulations.

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These procedures must be used were required before initial action on any regulation, and during the entire promulgation process. All regulations adopted after October 1, 1984 are were subject to this requirement. The procedures shall set out specific methods for the following:

1. Identification and notification of persons or groups interested in the regulation.

2. Solicitation of comment from such persons or groups. Legislation enacted by the General Assembly amended the Administrative Process Act (Acts of Assembly 1993, Ch. 898) by adding additional provisions to be included in agency public participation guidelines. This emergency regulation includes the new requirements regarding public hearings, provision for a "general policy" for the use of advisors, and the revised requirements for supplemental materials to be submitted to the Registrar of Regulations when promulgating a regulation.

§ 2. 2.2. Applicability.

These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Commission Board, and the Virginia Apprenticeship Council, hereafter referred to as commissioner/ commission board /council. They shall not apply to regulations adopted on an emergency basis. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

§ 3. 2.3. Purpose.

The purpose of these guidelines is to ensure that the public and all parties interested in the regulations have a full and fair opportunity to participate at every stage.

§ 4. 2.4. Identification of interested groups.

The major groups interested in the regulatory process of the commissioner/ commission board /council are: (i) business and labor associations and organizations such as the Virginia Manufacturers Association and the Virginia State AFL-CIO, (ii) persons or groups, businesses, industries, and employees affected by the specific regulation who have previously expressed an interest by writing or participating in public hearings, and (iii) persons or groups who have asked to be placed on a mailing list.

§ 5. 2.5. Public involvement with formulation of regulations.

A. The commissioner/ commission board /council shall accept petitions to develop a new regulation or amend an existing regulation from any member of the public. They

shall consider the petitions petition and proceed at their discretion: provide a response within 180 days.

B. The petition, at a minimum, shall contain the following information - name, mailing address and telephone number of petitioner; petitioner's interest in the proposed action; recommended regulation or addition, deletion or amendment to a specific regulation; and statement of impact on the petitioner and other affected persons.

§ 6. Procedures for soliciting and using public comment.

PART III. PUBLIC PARTICIPATION PROCEDURES.

The steps for soliciting and using public comment in the process of regulation development and adoption shall be as follows:

§ 3.1. Advisory groups and consultation.

The commissioner/board/council may form a standing or ad hoc advisory groups to make recommendations on a proposed regulation. Ad hoc advisory groups or consultation with groups or individuals will be used when the regulation proposed is unique to Virginia or more stringent than existing Federal regulations.

Ad hoc advisory groups or consultation with groups or individuals may be used when the regulation proposed is:

1. of wide general impact, or
2. of wide general interest to the public, or
3. the subject of the regulation has not been regulated previously by the department, or
4. the department determines this is the most effective method to develop the regulation, or
5. when the department determines additional technical expertise and knowledge would be beneficial in developing the regulation.

§ 3.2. Notice of Intended Regulatory Action (NOIRA).

1. A. Identify parties as referred to § 4 in subsection 2.4 interested in the development of the regulation and assemble the appropriate mailing list.

2. B. Prepare a notice of proposed regulatory action; Notice of Intended Regulatory Action which will include:

- a. 1. Subject of the proposed regulation.
- b. 2. Identification of the persons or groups affected.
- e. 3. Summary of the purpose of the proposed regulation and the issues involved.

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d. 4. Listing of applicable laws or regulations, and locations where these documents can be reviewed or obtained.

e. 5. Explanation of federal requirements for adoption and specific obligations of the body adopting the regulation, if applicable.

f. ~~Timetable for reaching a decision.~~

g. 6. Request for comments from interested parties and deadline for receipt of the written comments.

h. 7. Notification of time and place of ~~public open~~ meeting - (s), if the commissioner/board/council intends to hold open meetings.

i. 8. Name, address and telephone number of staff person to be contacted for further information.

9. *Statement that the commissioner/council/board intends to hold a public hearing on the proposed regulation after it is published.*

3. C. Obtain commissioner/ ~~commission board~~ /council's approval of the notice.

D. *Appoint advisory or consultation groups in accordance with § 3.1 of this regulation, if appropriate.*

4. E. Disseminate notice to the public via:

a. 1. Distribution by mail to persons on appropriate mailing list, including publications of interested groups.

b. ~~Publication in the department's newsletter, if schedule permits.~~

e. 2. Publication in the Virginia Register of Regulations.

d. 3. Publication in newspaper of state-wide circulation and in specific affected areas of the state, if applicable.

5. ~~The commissioner/commission/council may form an ad hoc advisory group to make recommendations on the proposed regulation.~~

6. § 3.3. Open meetings.

The commissioner/ ~~commission board~~ /council may schedule a ~~public an open~~ meeting or meetings to provide information and to receive views and comments and answer questions of from the public. The meeting (s) will normally be held in ~~Richmond~~ at locations throughout the Commonwealth, but if the proposed regulation will apply only to a particular area of the state, it will be held in the affected area. *These meetings may be held prior to the beginning of the formal regulatory process or during the Notice of Intended Regulatory Action (NOIRA) period*

or during the 60 day Comment Period on Proposed Regulations and will be in addition to any public hearing.

§ 3.4. Proposed regulations.

7. A. After consideration of public comment, prepare a final proposed draft regulation and prepare the necessary documentation for forwarding to the Governor's office, Department of Planning and Budget, and the Office of the Secretary of Commerce and Trade.

8. B. Present the proposed draft to the commissioner/ ~~commission board~~ /council and request authority for initiating the Administrative Process Act public comment process.

9. C. Submit the proposed regulation to a 60 day final public hearing/comment period by forwarding the following documents to the Registrar of Regulations two weeks prior to the desired date of publication of in the Virginia Register and beginning of the 60 day comment period:

a. 1. Notice of public hearing/comment period (the hearing notice), which will contain the following:

(1) a. The date, time and place of the hearing.

(2) b. The legal authority of the agency to act.

(3) ~~The subject, substance, issues, basis and purpose of the regulation.~~

(4) c. The name, address and telephone number of an individual to contact for further information and where to submit written comments.

b. 2. Full text of the regulation.

e. 3. Summary of the regulation.

d. ~~Statement of basis, purpose and impact.~~

4. *Statement of the basis of the regulation, defined as the statutory authority for promulgating the regulation, including an identification of the section number and a brief statement relating the content of the statutory authority to the specific regulation proposed.*

5. *Statement of the purpose of the regulation, defined as the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.*

6. *Statement of the substance of the regulation, defined as the identification and explanation of the key provisions of the regulations that make changes to the current status of the law.*

7. *Statement of the issues of the regulations, defined as the primary advantages and disadvantages for the*

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public, and as applicable for the agency or the state, of implementing the new regulatory provisions.

8. Statement of the estimated impact, defined as the projected number of persons affected, and the projected costs, expressed as a dollar figure or range, for the implementation and compliance thereof. The estimated impact shall represent the agency's best estimate for the purposes of public review and comment, but the accuracy of the estimate shall in no way affect the validity of the regulation.

10. D. Concurrently with the preceding step, submit required documentation to the Governor's office, the Department of Planning and Budget, and the Office of the Secretary of Commerce and Trade.

11. E. Upon receipt of the proposed regulation and documentation, the Virginia Registrar will publish the hearing notice in the Virginia Register and in the Richmond area newspapers. If requested, the Registrar will publish the notice in other selected areas of the state. The commissioner/ ~~commission~~ board /council shall also mail a copy of the notice to persons on its mailing list.

12. F. During the final public comment period, the regulation will be reviewed concurrently by the following:

- a. 1. The public
- b. 2. The Governor
- c. 3. The General Assembly
- d. 4. The Secretary of Commerce and Resources Trade
- e. 5. The Attorney General

13. § 3.5. Completion of the adoption process.

Upon expiration At the end of the 60-day public comment period, the remaining steps in the adoption process shall be carried out in accordance with the provisions of the Administrative Process Act.

§ 7. Procedure to address occupational safety and health regulations (OSHA).

PART IV.
OCCUPATIONAL SAFETY AND HEALTH STANDARDS
PROMULGATED BY THE U.S. OCCUPATIONAL
SAFETY AND HEALTH ADMINISTRATION.

The Virginia state plan for the enforcement of occupational safety and health laws commits the state to adopt regulations identical to or as effective as those that shall be at least as stringent as the standards promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, participation in the formulation of such regulations shall be made during the adoption of the regulations at the federal level. To encourage such participation the following actions will be taken:

1. § 4.1. Prepare a notice of the proposed Federal regulatory action, which will include:

- a. A. Subject of the proposed regulation.
- b. B. Summary of the issue involved and purpose of the proposed regulation.
- c. C. Timetable for submitting written comments or notification of desire to be heard at hearing or both.
- d. D. Time and place of public hearing.
- e. E. Encouraging the submission of comments to OSHA with copy of to the Virginia Department of Labor and Industry.
- f. F. Name and address of contact at OSHA.
- g. G. Copy of proposed regulation.

2. § 4.2. Disseminate notice to the appropriate persons or groups identified from the mailing list assembled in accordance with § 4 subsection 2.4 of these guidelines.

IT IS SO ORDERED BY:

/s/ Carol Amato
Commissioner
Department of Labor and Industry
Date: June 24, 1993

APPROVED BY:

/s/ Cathleen A. Magennis
Secretary of Commerce and Trade
Date: June 10, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 14, 1993

FILED BY:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

V.A.R. Doc. No. R93-608; Filed June 28, 1993, 3:40 p.m.

MANUFACTURED HOUSING BOARD

Title of Regulation: VR 449-01-01. Public Participation

Emergency Regulations

Guidelines.

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

Effective Dates: June 23, 1993, through June 22, 1994.

Preamble:

Section 9-6.14:7.1 of the Code of Virginia requires an agency or a Board to develop, adopt and utilize public participation guidelines to solicit the input of interested parties in the formation and development of its regulations. The public participation guidelines currently used by this Department are required to be revised in accordance with legislative action. The adoption of these guidelines as emergency regulations will enable the Board to carry out its statutory responsibilities while ensuring public participation to the maximum extent possible. The Department and Board will initiate actions to develop final guidelines as required by the Administrative Process Act in § 9-6.14:4.1 of the Code of Virginia.

Pursuant to the authorization of the Governor for adoption of emergency regulations and the authority of § 9-6.14:7.1 of the Code of Virginia, the following regulations become effective on an emergency basis.

Duration of Emergency Regulation - This regulation shall remain in effect until June 22, 1994, or until permanent regulations are adopted under the Administrative Process Act, whichever first occurs.

Submitted by:

/s/ Neal J. Barber
Director
Department of Housing and Community Development
Date: June 21, 1993

Approved by:

/s/ Cathleen A. Magennis
Secretary of Economic Development
Date: June 14, 1993

Approved by:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth of Virginia
Date: June 18, 1993

Filed:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 23, 1993

VR 449-01-01. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.

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:

"Board" means Manufactured Housing Board.

"Department" means Department of Housing and Community Development.

"Guidelines" means the regulations adopted by the Manufactured Housing Board for public participation in the formulation, promulgation and adoption of regulations.

"Staff" means employees of the Department of Housing and Community Development or Manufactured Housing Board.

§ 1.2. Application.

These guidelines apply to all regulations adopted by the board. They will be used whenever regulations are hereafter adopted, amended or deleted.

§ 1.3. Periodic review.

It is the intent of the board to conduct a periodic review of all regulations that have been adopted under state law. Such reviews will be undertaken at appropriate intervals as needed to keep the regulations up-to-date. These guidelines will be used in the review process.

PART II. PUBLIC PARTICIPATION.

§ 2.1. Mailing lists.

The department will maintain lists of individuals, businesses, associations, agencies, and public interest groups which have expressed an interest, or which could reasonably be expected to have an interest, in the board's regulations. The lists will be updated and expanded as new interested parties are identified. Deletions will be made when lack of interest is determined.

§ 2.2. Notification.

The lists will be used to notify and solicit input to the regulatory revision process from interested parties. Selected mailings will be made independently of notices in The Virginia Register of Regulations and of notices in newspapers. Advertising in department newsletters, in trade and professional publications, and in public interest group publications will be used when appropriate.

§ 2.3. Solicitation of input.

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The staff of the department will continually receive, retain and compile all suggestions for changes and improvements to the regulations. Any person may petition the board to request the board to develop a new regulation or amend an existing regulation. The board shall receive, consider, and respond to the petition within 180 days. In addition, a notice of intent to adopt or amend regulations intended regulatory action will be published in The Virginia Register of Regulations to solicit public input before drafting the proposals.

§ 2.4. Regulatory review workshops.

Before adoption or revision of the regulations, the board may conduct one or more meetings for the general public to explain the review process and to solicit proposals for needed changes. At least thirty day's days notice of such meetings will be published in The Virginia Register of Regulations and in a newspaper of general circulation published in the region in which the meeting is to be held, and in a newspaper of general circulation published in Richmond, Virginia. Press releases and other media will be used as needed. Selected interested persons and groups will be notified by mail.

§ 2.5. Preparation of preliminary draft.

The board will prepare a preliminary draft of proposed amendments to the regulations based on public input received and on the results of its own study of the regulations.

§ 2.6. Ad hoc committee review.

The board may intends to establish an standing or ad hoc advisory committee committees consisting of invited representatives of all groups believed to be affected by the regulations and the proposed amendments or individuals registering interest in working with the board. The board believes the use of standing or ad hoc committees to be appropriate when the subject matter is of an unusual technical nature or when the regulation has significant impact on a regulated community. The board will give consideration to recommendations received from the committee committee(s), and will make appropriate revisions to the draft.

§ 2.7. Public hearings.

Prior to completion of a final draft, the board will convene at least one public hearing in accordance with the procedures required by the Administrative Process Act and the Virginia Register Act, except for those regulations which may be adopted without public comment pursuant to § 9-6.14:4.1 of the Code of Virginia.

PART III. ACTION ON COMMENTS OF GOVERNOR AND LEGISLATURE.

§ 3.1. When Governor suspends process.

If the Governor suspends the regulatory process to require solicitation of additional public comment, the board will do so in the manner prescribed by the Governor. If no specific method is required, the board will employ one or more of the following procedures, as deemed necessary:

1. Consult with affected persons and groups.
2. Reconvene the ad hoc review committee for further consultation.
3. Advertise and conduct an additional public hearing under the procedures prescribed by the Administrative Process Act and the Virginia Register Act.

§ 3.2. Other legislative and executive comments.

If the Governor does not require solicitation of additional public comment, but does provide suggestions, or if further suggestions are received from the required legislative review during the thirty day final adoption period, the board will determine whether solicitation of additional public comments should be undertaken. If needed, one or more of the procedures described above may be used.

VA.R. Doc. No. R93-591; Filed on June 23, 1993, 3:40 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-04-8.9. Public Participation Guidelines.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Summary:

1. REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Public Participation Guidelines. This emergency regulation will amend the agency's Public Participation Guidelines to be consistent with provisions of the Code of Virginia Administrative Process Act which has been amended effective July 1, 1993.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Public Participation Guidelines. 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 15, 1993

3. CONCURRENCES:

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/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 21, 1993

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

DISCUSSION

6. **BACKGROUND:** The regulations affected by this regulatory action are the agency's Public Participation Guidelines (VR 460-04-8.9).

Effective October, 1984, the Department of Medical Assistance Services (DMAS) became subject to the Administrative Process Act. Because the State Plan is a "regulation" as defined in § 9-6.14:4 (F) of the Code, amendments to it must be promulgated in accordance with the Administrative Process Act.

The Administrative Process Act (Code § 9-6.14:1 et seq.) requires the development and use of Public Participation Guidelines by executive agencies. DMAS' Public Participation Guidelines became effective November 1, 1985, and were most recently revised effective April 1991.

The 1993 General Assembly-approved House Bill 1652 made numerous changes in the Administrative Process Act (APA) which were intended to improve and increase the public's opportunities to participate in the Commonwealth's executive agencies' rule making processes. These changes in the APA are necessitating a modification to the DMAS' Public Participation Guidelines. Specifically, § 4 A. is being modified regarding methods for soliciting the input of interested parties in the development of regulations.

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 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, 1993, effective date established by the General Assembly.

8. **FISCAL/BUDGETARY IMPACT:** This regulatory action will have minimal fiscal impact. Any increases will result from additional mailing costs.

9. **RECOMMENDATION:** Recommend approval of this request to adopt this emergency regulation to become effective July 1, 1993. 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 revise its Public Participation Guidelines, and therefore be able to quickly adopt any other regulations.

10. Approval Sought for VR 460-04-8.9.

Approval of the Governor is sought for an emergency modification of the Public Participation Guidelines in accordance with the Code of Virginia § 9-6.14:4.1 (C) (5) to adopt the following regulation:

VR 460-04-8.9. Public Participation Guidelines in the Formation and Development of Regulations.

§ 1. Definitions.

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

"Board" means the Board of Medical Assistance Services.

"Director" means the Director of the Department of Medical Assistance Services.

"Department" or "DMAS" means the Department of Medical Assistance Services.

"Formation and development process" means those activities with respect to a specific regulation which occur between the publication of a notice of intent to develop or modify regulations, and the release of the proposed regulation for public comment.

"Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic law.

§ 2. General information.

A. Authority.

Chapter 1.1:1 of Title 9 of the Code of Virginia, deals with the promulgation of rules and regulations. Specifically, § 9.6.14:7.1 directs agencies of the

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Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Section 32.1-325 of the Code of Virginia empowers the Board of Medical Assistance Services to make, adopt, and promulgate regulations.

B. Purpose.

These regulations are designed to provide consistent, written guidelines in order to ensure input from interested parties at all stages of the regulatory process.

C. Administration.

The Board of Medical Assistance Services shall have the responsibility for promulgating regulations pertaining to public input in the regulatory process. Pursuant to § 32.1-324 C, the director shall have this responsibility and authority when the board is not in session, subject to such rules and regulations as may be prescribed by the board.

D. Application of regulations.

These regulations shall have general application throughout the Commonwealth.

E. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations. All hearings deemed necessary by the director on such regulations, shall be conducted in accordance with § 9-6.14:7.1.

§ 3. Identification of interested parties.

A. Existing data.

The department will maintain a list of those persons and organizations who have demonstrated an interest in certain program regulations in the past through participation in regulatory hearings, correspondence, or other activities with the department.

B. Development of new lists.

Periodically, the department shall publish a notice in The Virginia Register of Regulations, in a newspaper published at Richmond, and in other major newspapers in Virginia localities, a request that any individual or organization interested in participating in the development of specific rules and regulations to notify the office of the director. Any persons or organizations identified in this process will be incorporated in the lists developed under § 3 A. The director may periodically remove from the lists persons or organizations that request to be removed or who fail to respond to an inquiry regarding continued interest.

§ 4. Notification of interested parties.

A. Individual mailings.

When the Director of DMAS determines that specific regulations need to be developed or modified, the program may shall notify by mail the individuals and organizations identified in § 3 of these regulations. The notice shall include the title of the regulation to be developed or modified; a summary of the subject matter; the program contact person, mailing address, and telephone number; and the date by which a notice of a desire to participate in the formation and development process must be received. This rule shall not be mandatory where the department is formulating and developing regulations pursuant to court order, or federally required action or General Assembly action, but whenever time permits every effort will be made to provide such notice.

B. Notice of intent.

When the department determines that specific regulations need to be developed or modified, the department will publish a Notice of Intent in The Virginia Register of Regulations. This notice will include the title of the regulation to be developed or modified; a summary of the subject matter; the program contact person, mailing address and telephone number; and the date by which a notice of a desire to participate must be received.

C. An announcement shall be sent to members of the Governor's Advisory Committee on the Medicare and Medicaid and the board of the department.

§ 5. Solicitation of input from interested parties.

A. Advisory panels.

The department's rule-making is so frequent that the Governor's Advisory Committee on Medicare and Medicaid will function as the department's on-going advisory panel. Based on the scope and nature of the regulatory issue, the director may, at his discretion, establish a sole function advisory panel to assist in this development or modification.

B. Membership of panels.

Members of these sole-function advisory panels will be individuals and organization representatives identified under § 3 of these regulations and who have expressed the desire to participate in the department's regulatory process. Panel membership will consist of individuals oriented to the department, program issues and constraints of the intended regulations and representatives of entities governed by the proposed regulations. Advisory panels will consist of no less than three nor more than seven members.

C. Operation of panels.

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Individual panels will establish their own operating procedure, but in every case a panel will meet once and then will decide on subsequent meetings. All panel and other comments on proposed regulations will be developed for each comment. A written report on the public and panel comments will be prepared and the subsequent decision or action recommended shall be prepared by departmental staff and submitted to the Board of the Department of Medical Assistance Services for review and approval.

D. Exceptions.

The use of an advisory panel may be waived at the director's discretion when:

1. There is no response to the notice of intent,
2. The office of the Attorney General determines that regulations are promulgated to comply with state or federal law or federal regulation and that no agency discretion is involved, or
3. When the program is formulating and developing regulations pursuant to a court order.

E. Other comments.

All persons and organizations who notify the Department of Medical Assistance Services under § 4 of their desire to comment shall be provided an opportunity to examine regulations in their developmental stage and to provide written comments on these regulations to the department. The department shall document the receipt of these comments and will respond to all comments. This rule shall not be mandatory when the department is formulating and developing regulations pursuant to a court order but every effort will be made to comply.

§ 6. Administrative Process Act procedures.

After regulations have been developed according to these guidelines they shall be submitted for public comment in accordance with the Administrative Process Act.

V.A.R. Doc. No. R93-651; Filed June 29, 1993, 4:13 p.m.

BOARD OF MEDICINE

Title of Regulation: VR 465-01-1:1. Public Participation Guidelines.

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On June 3, 1993, the Virginia Board of Medicine

adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 8, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 465-01-1:1. Public Participation Guidelines.

Part I.

§ 1.1. Statement of purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Medicine. The guidelines do not apply to regulations exempted or

excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.

2. The number and title of the regulation to be addressed.

3. A description of the regulatory problem or need to be addressed.

4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for oral or written submittals on the proposed regulation. The impact on regulated entities, the public, as well as the cost of compliance with the proposed regulation shall be included in the submittal returns.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or Advisory Board or Committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the

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Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Board or Committee.

§ 4.1. Appointment of Advisory Board or Committee.

A. The Board may appoint an ad hoc Advisory Board or Committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc Advisory Board or Committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An Advisory Board or Committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An Advisory Board or Committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-609; Filed June 28, 1993, 3:35 p.m.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Title of Regulation: VR 470-01-01:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 37.1-10 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

1. **REQUEST:** The Governor's approval is requested to adopt the emergency regulations entitle Public Participation Guidelines. These regulations will enable compliance with § 9-6.14:7.1 of the Code of Virginia.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding these regulations. The Department intend to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ King E. Davis, Ph.D.
Commissioner
Date: June 22, 1993

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 24, 1993

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 30, 1993

6. **BACKGROUND:** As a result of actions of the 1993 General Assembly, § 9-6.14:7.1 has been amended to include provisions that:

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- allow individuals to petition agencies to develop new regulations or amend existing regulations.
- require at least a thirty day period for public comment prior to filing proposed regulations.
- require notification of whether or not agencies intend to schedule public hearings on the proposed regulations after publication.

7. **AUTHORITY TO ACT:** The Code of Virginia § 37.1-10 gives the State Mental Health, Mental Retardation and Substance Abuse Services Board the authority to promulgate regulations to carry out the provisions of the laws of the Commonwealth.

8. **FISCAL/BUDGETARY IMPACT:** These provisions are not anticipated to result in additional General Fund Expenditures by the Department. The Department has a low volume of regulatory activity and the provisions of this new regulation do not significantly change our original Public Participation Guidelines.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective July 1, 1993. From its effective date, this regulation is to remain in force until superseded by final regulations promulgated through the Administrative Process Act.

10. **APPROVAL SOUGHT FOR VR 470-01-01:** Approval of the Governor is sought for the adoption of the attached emergency regulations in accordance with Code of Virginia § 9-6.14:4.1 (c) (5).

VR 470-01-01:1. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Department of Mental Health, Mental Retardation and Substance Abuse Services. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Department of Mental Health, Mental Retardation and

Substance Abuse Services. The Department of Mental Health, Mental Retardation and Substance Abuse Services may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Department of Mental Health, Mental Retardation and Substance Abuse Services may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Department of Mental Health, Mental Retardation and Substance Abuse Services.
4. A notice of soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia, any person may petition the Department of Mental Health, Mental Retardation and Substance Abuse Services develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.

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4. A recommended addition, deletion, or amendment to the regulation.

C. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Department of Mental Health, Mental Retardation and Substance Abuse Services from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether The Department of Mental Health, Mental Retardation and Substance Abuse Services intends to hold a public hearing on the proposed regulation after it is published. If the Department of Mental Health, Mental Retardation and Substance Abuse Services does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Department of Mental Health, Mental Retardation and Substance Abuse Services receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Department of Mental Health, Mental Retardation and Substance Abuse Services and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

The Department of Mental Health, Mental Retardation and Substance Abuse Services shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Department of Mental Health, Mental Retardation and Substance Abuse Services determines that a hearing is not required.

§ 3.4. Biennial Review of Regulations.

A. At least once each biennium, the Department of Mental Health, Mental Retardation and Substance Abuse Services shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of

compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Department of Mental Health, Mental Retardation and Substance Abuse Services may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. The Department of Mental Health, Mental Retardation and Substance Abuse Services may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Department of Mental Health, Mental Retardation and Substance Abuse Services determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Department of Mental Health, Mental Retardation and Substance Abuse Services may be dissolved by the Department of Mental Health, Mental Retardation and Substance Abuse Services when:

1) There is no response to the Notice of Intended Regulatory Action, or

2) The Department of Mental Health, Mental Retardation and Substance Abuse Services determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1) If the Department of Mental Health, Mental Retardation and Substance Abuse Services determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2) At the end of that extended term, the Department of Mental Health, Mental Retardation and Substance Abuse Services shall evaluate the continued need and

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may continue the committee for additional six-month terms.

VA.R. Doc. No. R93-685; Filed June 30, 1993, 12:43 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-04-2. Board of Examiners Certification Regulations.

Statutory Authority: § 45.1-12 of the Code of Virginia.

Effective Dates: August 15, 1993, through August 14, 1994.

Summary:

The 1993 session of the General Assembly enacted Senate Bill 639 which requires that each agency file any regulations newly subject to the Virginia Register Act by August 15, 1993. Under these provisions, the Board of Examiners is submitting emergency regulations for the certification of positions to ensure the health and safety of miners. The Virginia Mine Safety Law, pursuant to § 45.1-12, provides that the Board shall examine and certify persons responsible for protecting miners and property. In fulfilling this legislative mandate, the Board established 22 types of certifications. Twenty of the 22 positions certified were established previously by Board rulings.

Basis of Emergency:

The Board received legal advice that in order to comply with SB 639, the Board must promulgate these standards by regulation. The certification regulations are being promulgated as emergency regulations to protect miners from imminent threats to their health and safety. There is insufficient time to promulgate regulations through the full Administrative Process Act procedure. Therefore, this emergency regulation is required.

Preamble:

The Department of Mines, Minerals and Energy will promulgate a permanent regulation in accordance with the Administrative Process Act and the Board's Public Participation Guidelines to replace this emergency regulation. The Department will establish a regulatory working group representing the public, industry, miners, and government agencies to develop the permanent regulations.

The emergency regulation is designated as VR 480-04-2 of the Department of Mines, Minerals and Energy. The regulation shall become effective on August 15, 1993. The Board plans to have permanent regulations in place before the emergency regulations expire on August 14, 1994.

The Department will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision of this emergency regulation.

IT IS SO ORDERED BY:

/s/ Harry D. Childress
Chair
Board of Examiners
Date: August 9, 1993

APPROVED BY:

/s/ Cathleen A. Magennis
Secretary of Commerce and Trade
Date: August 11, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: August 13, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: August 13, 1993

VR 480-04-2. Board of Examiners Certification Regulations.

§ 1. Authority and applicability.

The Board of Examiners is authorized to promulgate this regulation pursuant to § 45.1-12 of the Code of Virginia.

§ 2. General and specific requirements for Certification.

The Board of Examiners has established standards for miners doing specialized tasks. General requirements for all certification are described below, followed by additional requirements for different types of certifications. Requirements shall be met for certification.

A. General Requirements.

1. Complete and submit the Application for Examination for Certification, Form BOE-1.
2. Complete and submit the Certification of Work Experience Form BOE-2, signed and notarized by a company official.
3. Submit a valid Mine Health and Safety Administration Form 5000-23 (including first aid training), advanced first aid, first responder, or Emergency Medical Technician Certification.
4. Submit a ten dollar fee for each examination in the form of a certified check or money order at least two

Emergency Regulations

working days prior to examination.

5. Submit a copy of all degrees required for certification.

6. If reciprocity is requested by a person certified in another state which accepts Virginia certifications, a current copy of the pocket card or certificate and grades from the other state are required along with other requirements listed in this section. Reciprocity shall only be available for persons certified by states which accept Virginia certifications.

7. Applicants must score 85% on all sections. In case a section of the examination is not passed, the following retake procedure shall be adhered to:

- a. if sections failed, shall retake within 90 days;
- b. if failed, entire examination shall be retaken; and
- c. if failed the third time, shall wait one year from date of first examination.

B. First Class Mine Foreman Certification.

1. Five years mining experience, three of which shall be underground.

2. Given three years credit for degree in mining engineering or two years experience credit for degree in mining technology.

3. Score 85% on all sections of the first class mine foreman's examination and oral gas examination.

C. First Class Shaft or Slope Foreman Certification.

1. Possess five years mining work experience at shaft, slope or appropriately related work experience approved by the Division of Mines.

2. Given three years credit for degree in mining engineering or two years credit for degree in mining technology.

3. Score 85% on all sections of the first class shaft or slope examination and oral gas examination.

D. Underground Foreman, Mineral Mining Certification.

1. Possess five years work experience at underground mineral mining site.

2. Given three years credit for degree in mining engineering and two years credit for degree in mining technology.

3. Score 85% on all sections of the underground mineral mining examination.

E. Surface Foreman, Coal and Mineral Mining Certification.

1. Five years mining experience, at least one year on surface. Will be given credit for four years underground experience.

2. Given three years credit for degree in mining engineering or two years credit for degree in mining technology.

3. Score 85% on all sections of the surface foreman examination and oral gas examination.

F. Surface Foreman, Open Pit, Mineral Mining.

1. Five years mining experience, at least one year on surface. Will be given credit for four years underground experience.

2. Given three years credit for degree in mining engineering or two years credit for degree in mining technology.

3. Score 85% on all sections of the surface foreman examination and oral gas examination.

G. Surface Blaster Certification, Coal and Mineral Mining.

1. One year work experience at a surface coal mine and one year blasting experience or appropriately related work experience approved by the Division of Mines.

2. Score 85% on all sections of the surface blaster examination. Coal miners are also required to have Division of Mined Land Reclamation endorsement examination.

H. Underground Shot Firer Certification.

1. Two years mining experience underground and one year of the two years must be handling and use of explosives underground.

2. Score 85% on the written examination and oral gas examination.

I. Electrical Repairman Certification, Coal and Mineral Mining.

1. One year of electrical experience as applied to underground coal mining or appropriately related work experience approved by the Division of Mines.

2. Given six months credit for electrical educational training from college, technical school, or vocational school.

3. Score 85% on all sections of the electrical

Emergency Regulations

repairman examination and oral gas examination.

J. Electrical Maintenance Foreman Certification, Coal and Mineral Mining.

1. Must hold a valid Electrical Repairman Certification prior to being eligible to take the maintenance foreman examination.
2. Three years electrical experience as applied to underground mining or appropriately related work experience approved by the Division of Mines.
3. Given one year credit for electrical engineering degree or certificate from college or six months experience for technical school or vocational school Electrical Technology Certificate.
4. Score 85% on the maintenance foreman written examination and oral gas examination.

K. Chief Electrician Certification, Coal and Mineral Mining.

1. Must hold a valid repairman and maintenance foreman certification prior to being eligible to take the chief electrician examination and oral gas examination.
2. Five years electrical experience as applied to underground mining or appropriately related work experience approved by the Division of Mines.
3. Given two years credit for electrical engineering degree or six months experience credit for technical or vocational school.
4. Score 85% on the chief electrician written examination.

L. Hoisting Engineer Certification.

1. Two years of practical mining experience and one year of hoisting experience. A certified hoisting engineer must verify the one year of hoisting experience.
2. Score 85% on the hoisting written examination and hoist operation observation. Applicant must obtain written permission from a mine official to have the observation conducted at the mine site. This written permission must be on company stationery, signed by the company official, and submitted to the Division of Mines. Observation will be conducted by a Division of Mines' representative after the written examination has been successfully completed.

M. Top Person Certification.

1. One year of practical mining experience with at least 30 days as a top person.

2. Score 85% on the top person written examination.

N. Automatic Elevator Operator Certification.

1. One year actual mining experience (not just working at a mine).
2. Applicant must obtain written permission from a mine official to have the observation conducted at the mine site using company automatic elevator. This written permission must be on company stationery signed by a company official, then submitted to the Division of Mines with certification application and other required forms.

O. Preparation Plant Foreman Certification.

1. Five years experience, at least one year must be at a preparation plant.
2. Given three years credit for degree in mining engineering or two years credit for degree in mining technology.
3. Score 85% on the written examination and oral gas examination.

P. Dock Foreman Certification.

1. Two years experience at a dock.
2. Score 85% on all sections of the dock foreman examination and oral gas examination.

Q. Mine Inspector Certification.

1. Seven years work experience underground.
2. Given three years credit for degree in mining engineering.
3. Score 85% on all sections of the mine inspector examination and oral gas examination.
4. Must hold a valid First Class Mine Foreman Certification.

R. Gas Detector Certification.

1. Training is conducted on the use of equipment and a certificate is issued if applicants demonstrates its proper use.
2. No general requirements apply to this certification.

V.A.R. Doc. No. R93-757; Filed August 13, 1993, 11:38 a.m.

BOE-1



COMMONWEALTH OF VIRGINIA
Board of Examiners

DIVISION OF MINES
BIG STONE GAP

REGISTRAR OF REGULATIONS
93 AUG 13 AM 11: 38

APPLICATION FOR EXAMINATION FOR CERTIFICATION
FILL OUT THIS APPLICATION WITH INK OR TYPEWRITER

Mail application to Chairman, Board of Examiners, 219 Wood Ave., Big Stone Gap, Virginia 24219 TEN days prior to date of examination. Do not enclose \$10.00 examination fee with this application. The fee must be paid on day of examination by Certified Check, Cashier's Check or Postal Money Order made payable to the TREASURER OF VIRGINIA.

1. Your Social Security Number _____ Date _____
2. Your full name _____ Date of Birth _____
(Month) (Day) (Year)
3. Address _____
(Street or P.O. Box) (City) (State) (Zip Code)
4. Are you a citizen of the United States _____ Native born or naturalized _____
5. Total years employed at or in coal mines _____
(Years) (Months)
Total years employed UNDERGROUND _____ Total years employed on SURFACE _____
6. Give last three companies at which you have worked, kind of work you did and dates. If the combined experience of (A) (B) and (C) does not equal a total of five years, three years underground, for mine foreman, or five years underground for fire boss, please attach a statement from the company where you are now working certifying that you have had this additional experience.
 - A. Company Name _____ Address _____
Work done _____ From _____ To _____
(Month) (Year) (Month) (Year)
 - B. Company Name _____ Address _____
Work done _____ From _____ To _____
(Month) (Year) (Month) (Year)
 - C. Company Name _____ Address _____
Work done _____ From _____ To _____
(Month) (Year) (Month) (Year)
7. Have you a First Aid Certificate: _____
(Month) (Day) (Year)
8. Do you wish to take Mine Foreman, Fire Boss, Chief Electrician, Maintenance Foreman, Repairman, Surface Foreman, Certified Blaster, Shot Firer (Underground), Preparation Plant Foreman, Hoisting Engineer, F.C. Shatt Slope Foreman, Others _____ (CIRCLE ONE)

I HEREBY CERTIFY THAT THE ANSWERS GIVEN TO THE ABOVE ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF

Signed _____

HAVE TEN CITIZENS OF YOUR COMMUNITY SIGN THE FOLLOWING STATEMENT.

I HEREBY CERTIFY that I am personally acquainted with that above named applicant and _____ as a man of good moral character and temperate habit.

	NAME	ADDRESS	TITLE OR POSITION
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

REGISTRAR OF REGULATIONS
93 AUG 13 AM 11: 38

BOE-2



REGISTRAR OF REGULATIONS

93 AUG 13 AM 11:38

COMMONWEALTH of VIRGINIA

Board of Examiners
DIVISION OF MINES
219 Wood Avenue, Big Stone Gap, Virginia 24219

CERTIFICATION OF WORK EXPERIENCE

Name of Applicant _____ S.S.# _____

ADDRESS _____ (Rt.) (Box) (City) (State) (Zip Code)

All applicants for certification must submit a schedule of work record properly signed before a Notary Public and attach it to their application prior to reporting for examination.

Present or Previous Employer:

Company Name and Address _____ Mine Index Number _____

Job Title of Applicant _____ From _____ To _____ (Date of employment)

State of _____
County of _____
On the _____ day of _____, 19____
before me came _____
to me known to be the individual described in and who executed the foregoing instrument and acknowledged that he executed the same.

NOTARY PUBLIC _____

My Commission Expires _____

SEAL _____

I hereby certify, under the penalties of perjury, that the information related to this applicant's experience and submitted on this form is correct

Emergency Regulations

BOARD OF NURSING

Title of Regulation: VR 495-04-1:1. Public Participation Guidelines.

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On May 27, 1993, the Virginia Board of Nursing adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated. The Board of Nursing has begun its biennial review of all regulations and has followed requirements of the APA as amended. Without emergency PPG's, it would be unable to continue in the process of proposing regulations, conducting a public hearing, or receiving comment.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 8, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 495-04-1:1. Public Participation Guidelines.

Part I.

Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Nursing. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II.

Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

- 1. A Notice of Intended Regulatory Action.*
- 2. A Notice of Comment Period.*
- 3. A copy of any final regulation adopted by the Board.*
- 4. A notice soliciting comment on a final regulation when the regulatory process has been extended.*

Emergency Regulations

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or

written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

Emergency Regulations

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

VA.R. Doc. No. R93-606; Filed June 28, 1993, 3:38 p.m.

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: VR 500-01-01. Public Participation Guidelines.

Statutory Authority: § 54.1-3100 of the Code of Virginia.

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On May 28, 1993, the Virginia Board of Nursing Home Administrators adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the

effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 8, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 500-01-01. Public Participation Guidelines.

Part I.

§ 1.1. Statement of purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Nursing Home Administrators. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for oral or written submittals on the proposed regulation. The impact on regulated entities, the public, as well as the cost of compliance with the proposed regulation shall be included in the submittal returns.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or

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hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-607; Filed June 28, 1993, 3:39 p.m.

* * * * *

Title of Regulation: VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

Statutory Authority: §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

REQUEST FOR APPROVAL OF EMERGENCY REGULATION OF THE BOARD OF NURSING HOME ADMINISTRATORS

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation setting requirements for continuing education is necessary to replace an emergency regulation which will expire on November 5, 1993. The Board and the Department have determined that the former regulations were burdensome on licensees.

The emergency regulation will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 22, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 23, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor
Date: June 29, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

Preamble:

The Governor approved Emergency Regulations for the Board of Nursing Home Administrators effective November 4, 1992. The Governor directed the Board to conduct a study of its continuing education requirements prior to promulgating permanent regulations.

I. Response to Mandate. Since November, 1992, the Board has been actively and continuously involved in multiple processes to meet the mandate of the Governor, Executive Order Twenty-Three (90) (Revised) and the expiration deadline of the emergency regulations. The process involved extensive and time-intensive meetings, deliberations and research and concluded that a reevaluation of the regulations was necessary. Thus, a comprehensive regulatory review was conducted.

Emergency Regulations

II. Results. The results were presented to the Director of the Department of Health Professions in response to Executive Order Twenty-Three (90) (Revised) on March 5, 1993. The Director presented his conclusions to the Board on April 28, 1993, that the regulations may not comply with the Executive Order. The Board began the process of regulatory review a second time in order to conscientiously produce reasonable, necessary and absolutely essential requirements.

On May 28, 1993, the Board concluded its review and approved, based upon advice of Board counsel, VR 500-01-2:1 as emergency regulations in order to have regulations in place when the present emergency regulations expire November 4, 1993.

III. Statement of Emergency.

A. The Board originally intended to promulgate the regulations through the Administrative Process Act as permanent regulations. That process has been delayed until after emergency public participation guidelines are presented by the 12 regulatory boards under the Department of Health Professions to the Governor for approval. Such public participation guidelines are mandated by legislation passed by the 1993 General Assembly to become effective July 1, 1993. The agency priority is to process the public participation guidelines as emergency regulations and to place on hold the promulgation of all other regulations until after July 1. This timeline would render it impossible for the Board of Nursing Home Administrators to promulgate permanent regulations by November 4, 1993.

B. If the current emergency regulations expire, the former regulations which were not repealed will go back into effect on November 5, 1993. The Board and the Department have already determined that the former regulations were overly stringent and burdensome on licensees.

C. If the former regulations are reinstated, reduced fees will apply which will result in a budget deficit for the biennium.

D. The former regulations contain public participation guidelines which must be repealed by July 1, 1993.

IV. Summary of Emergency. Because of the responsibility of the Board to respond to a routine promulgation process in a more extensive and time-consuming manner, because of legislative mandate on public participation guidelines to be in place by July 1, 1993, and the Department's priority in meeting that mandate, because former regulations are overly stringent and burdensome, because former regulations contain public participation guidelines which must be repealed, and because a financial deficit will result if former regulations go back into

effect, an emergency exists to put the approved regulations in place as emergency regulations.

V. Board Assurance. The Board will file a notice of intended regulatory action effective July 1, 1993, to begin the process of adopting permanent regulations.

VR 500-01-04. Regulations of the Board of Nursing Home Administrators.

PART I GENERAL PROVISIONS.

Article I Definitions.

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

"Accredited institution" means any degree-granting college or university accredited by the following: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools; Western Association of Schools and Colleges; and public schools accredited by the Virginia Department of Education.

"Applicant" means a person applying to sit for an examination or applying for licensure by the Board.

"Administrator-in-training program (A.I.T.);" means the apprenticeship program which consists of 2,080 hours of continuous training in nursing home administration in a licensed nursing home.

"Administrator-of-record" means the licensed nursing home administrator designated in charge of the general administration of the facility and identified as such to the facility's licensing agency.

"Administrator-in-training applicant" means a person applying for approval to enter the administrator-in-training (A.I.T.) program.

"Classroom hour" means 50 minutes of attendance in a group program for obtaining continuing education.

"Continuing education" means the educational activities which serve to maintain, develop, or increase the knowledge, skills, performance, and competence generally recognized as relevant to the nursing home administrator's professional responsibilities.

"Department" means the Department of Health Professions.

"Direct supervision" means directing the activities and course of a subordinate's performance.

Emergency Regulations

"Executive director" means the board administrator for the Board of Nursing Home Administrators.

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

"Full-time employment" means employment of at least 37 1/2 hours per week.

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

"Instructional design" means a plan that specifies the learning objectives of the program; the content of the program; the methods of presentation (case studies, lectures, work group; programmed instruction, use of audio or visual aids or group participation); and the method whereby the participant evaluates whether the learning objectives were achieved. Adequacy of technical knowledge or skills in developing instructional design shall be demonstrated by appropriate experience or education of the presenter.

"Learning objectives" means specifications of what participants should gain as a result of completing continuing education courses.

"N.A.B." means the National Association of Boards of Examiners for Nursing Home Administrators.

"National examination" means a test used by the Board to determine competency of candidates for licensure.

"Nursing home administrator" means any individual licensed by the Board of Nursing Home Administrators.

"Nursing home" means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the Board of Health.

"Practicum" means a course of study as part of a degree or post-degree program designed especially for the preparation of candidates for licensure as nursing home administrators that involves supervision by an accredited college or university of the practical application of previously studied theory. The practicum shall be served under a preceptor registered with the board.

"Preceptor" means a nursing home administrator currently licensed in Virginia approved by the board to conduct an administrator-in-training (A.I.T) program.

"Quality instruction" means instruction that is provided by teachers/presenters who are capable through background, training, education and experience of communicating effectively and providing an environment

conducive to learning. Instructors shall be competent in the subject matter, skilled in the use of the appropriate teaching method(s) and prepared in advance.

"Sponsor" means an individual or business approved by the board to offer continuing education in accordance with these regulations.

"State examination" means a test used by the Board of Nursing Home Administrators to determine competency of a candidate relevant to regulations and laws in Virginia for purposes of licensure.

Article 2. Legal Base.

§ 1.2. The following legal base describes the authority of the Board of Nursing Home Administrators to prescribe regulations governing nursing home administrators in the Commonwealth of Virginia:

Title 54.1:

Chapter 1 (§ 54.1-100 through § 54.1-114);

Chapter 24 (§ 54.1-2400 through § 54.1-2403);

Chapter 25 (§ 54.1-2500 through § 54.1-2510); and

Chapter 31 (§ 54.1-3100 through § 54.1-3103) of the Code of Virginia.

Article 3. Purpose.

§ 1.3. These regulations establish the standards for qualifications, training, examination, licensure, and practice of persons as administrators-in-training; nursing home administrators; and preceptors in the Commonwealth of Virginia.

Article 4. Applicability.

§ 1.4. Individuals subject to these regulations are (i) nursing home administrators, (ii) applicants, (iii) administrators-in-training, (iv) preceptors and (v) approved sponsors of continuing education courses.

PART II. OPERATIONAL RESPONSIBILITIES.

Article 1. Posting of License and Licensure.

§ 2.1. An individual shall have a valid nursing home administrator's license issued by the Board of Nursing Home Administrators in order to engage in the general administration of a nursing home.

§ 2.2. Each licensee shall post his license in a mai.

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entrance or place conspicuous to the public in the facility in which the licensee is administrator-of-record.

Article 2.
Records.

§ 2.3. Accuracy of information.

A. All changes of mailing address or name shall be furnished to the Board in writing within five days after the change occurs.

B. All notices required by law and by these regulations to be mailed by the Board to any registrant or licensee shall be validly given when mailed to the latest address on file with the Board and shall not relieve the licensee, trainee, or preceptor of the obligation to comply.

PART III.
FEES.

Article 1.
Initial Fees.

§ 3.1. The applicant shall submit ALL fees below which apply:

- 1. Application for A.I.T. program \$188
- 2. Preceptor application fee \$125
- 3. Application fee for license to practice nursing home administration \$156
- 4. Fee to sit for State examination \$125
- 5. Fee to sit for National examination \$188
- 6. Verification of licensure requests from other states \$ 63

Article 2.
Renewal Fees.

§ 3.2. Renewal fees received by the Board no later than the expiration date (see § 4.1).

The following annual fees shall be paid as applicable and received by the board no later than the expiration date for license and preceptor registration renewal (see § 4.4):

- 1. Nursing home administrator license renewal .. \$125
- 2. Preceptor registration renewal \$ 63

§ 3.3. Late renewal fees.

The following late fees shall be paid as applicable and received by the board within six months following the initial expiration date (see § 4.4):

- 1. Nursing home administrator late license renewal \$175
..... (\$125 renewal and \$50 penalty fee)
- 2. Preceptor late registration renewal \$ 88
..... (\$63 renewal and \$25 penalty fee)

Article 3.
Reinstatement Fees.

§ 3.4. The board, in its discretion, may reinstate a license that was not renewed within six month of the initial expiration date provided certain conditions are met. NOTE: There may be additional fees for nursing home administrator license reinstatement depending upon the conditions approved by the board for reinstatement (see § 4.7).

The board, in its discretion, may reinstate a preceptor registration that was not renewed within six months of the initial expiration date (see § 4.8).

If the board approves reinstatement, the following applicable reinstatement fees shall be paid.

- 1. Nursing home administrator reinstatement (See NOTE under § 3.4) \$ 225
- 2. Preceptor reinstatement \$ 113

Article 4.
Other Fees.

§ 3.5. Duplicates.

Duplicate licenses or wall certificates shall be issued by the Board after the licensee submits to the Board a signed affidavit that a document has been lost, destroyed, or the applicant has had a name change.

- A. Duplicate license \$ 31
- B. Duplicate wall certificates \$ 63

§ 3.6. Additional fee information.

- A. There shall be a fee of \$31 for returned checks.
- B. Fees shall not be refunded once submitted.

PART IV.
RENEWALS.

Article 1.
Expiration Dates.

§ 4.1. The following shall expire on March 31 of each calendar year:

- 1. Nursing home administrator license; and

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2. Preceptor registration.

§ 4.2. A licensee who fails to renew his license by the expiration date shall have an invalid license. See §§ 4.5 and 4.7.

§ 4.3. A preceptor who fails to renew his registration by the expiration date shall not serve as a preceptor. See §§ 4.6 and 4.8.

Article 2.

Renewal and Reinstatement.

§ 4.4. Renewal received by the board no later than the expiration date.

A. A person who desires to renew his license or preceptor registration for the next year shall, not later than the expiration date:

1. Return the renewal notice;
2. Submit the applicable fee(s) prescribed in § 3.2;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in § 8.1 through § 8.8 of these regulations.

B. The requirements in subsection A above shall be RECEIVED in the board office or the bank lock box no later than the expiration date. Postmarks shall not be considered.

§ 4.5. Late renewal for nursing home administrator license.

A. A person who fails to renew his license by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 - 8.8 for the previous calendar year.
5. The requirements in subsection A above shall be RECEIVED in the board office within six months of the initial expiration date. Postmarks shall not be considered.

B. A candidate for late renewal who does not meet the requirements in subsection A above shall reinstate as prescribed in § 4.7.

§ 4.6. Late renewal for preceptor registration.

A. A person who fails to renew his preceptor registration by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3; and
3. Notify the board of any changes in name and address.
4. The requirements of subsection A above shall be RECEIVED in the board office within six months of the initial expiration date. Postmarks shall not be considered.

B. A preceptor who fails to renew within six months of the initial expiration date shall reinstate as prescribed in § 4.8.

§ 4.7. Reinstatement for nursing home administrator license.

The board, in its discretion, may reinstate a license that was not renewed as prescribed in §§ 4.4 and 4.5 as follows:

A. An applicant for nursing home administrator license reinstatement shall:

1. Apply as a new applicant on forms provided by the board; and
2. Submit the applicable reinstatement fee prescribed in § 3.4; and
3. Meet ONE OR MORE of the following requirements as determined by the board at the time of application for reinstatement. All applications for reinstatement shall be reviewed by the Credentials Committee and the applicant shall be notified of which of the following requirements must be met:

a. Submit evidence of attendance at 20 classroom hours of continuing education for each year of expiration and for the year preceding expiration if continuing education requirements were not met for that year (NOTE: See § 8.3 B and C for possible exception to the 20 hour requirement);

b. Requalify for licensure under the requirements for initial licensure in effect at the time of application for reinstatement (see § 5.1. NOTE: Such requalification does not include retaking of the state and national examinations but may include more stringent qualifications than were in effect at the time of original application for licensure);

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c. Retake and pass the state and national examinations (see fees under § 3.1).

§ 4.8. Reinstatement of preceptor registration.

The board, in its discretion, may reinstate a preceptor registration that was not renewed as prescribed in § 4.6 as follows:

1. Apply as a new applicant on forms provided by the board; and
2. Meet the current requirements for preceptor approval in effect at the time of application for reinstatement (see §§ 6.8 - 6.9).
3. Submit the applicable reinstatement fee prescribed in § 3.4.

PART V. REQUIREMENTS FOR LICENSURE.

Article 1. Qualifications.

§ 5.1. One of the following sets of qualifications is required for licensure:

1. Degree and practicum experience.
 - a. Applicant holds a baccalaureate or higher degree in nursing home administration or a health administration field from an accredited college or university; and
 - b. Applicant has completed a 400 hour practicum (see § 1.1) in nursing home administration as part of the degree program under the supervision of a preceptor registered by the board; and
 - c. Applicant has received a passing grade on the state examination and the national examination.

OR

2. Certificate program.
 - a. Applicant holds a baccalaureate or higher degree from an accredited college or university; and
 - b. Applicant has completed successfully a program with a minimum of 21 semester hours study in long-term care administration from an accredited college or university. The program shall be one that has been recognized by the Board and shall include a minimum of 15 semester hours of academic courses related to long-term care administration; and
 - c. Applicant has completed successfully a 400 hour practicum (see § 1.1) as part of the certificate program under the supervision of a preceptor

registered by the board; and

d. Applicant has received a passing grade on the state examination and the national examination.

OR

3. Administrator-in-training program.

- a. Applicant has successfully completed 2,080 hours, or the approved equivalent thereof (see § 6.3), of continuous training in an A.I.T. program; and
- b. Applicant has received a passing grade on the state examination and the national examination.

OR

4. Endorsement.

The board may issue a Virginia license to any person by endorsement when the person:

- a. Holds a current unencumbered license from any state or the District of Columbia;
- b. Meets one of the following:
 - (1) Has practiced nursing home administration for one year; OR
 - (2) Complies with all regulations of the Board of Nursing Home Administration governing nursing home administration licensure in Virginia; OR
 - (3) Has education and experience equivalent to qualifications required by these regulations and has provided written evidence of those qualifications at the time of application for licensure; and
- c. Has successfully completed the State examination.

Article 2. Application Process.

§ 5.2. An individual seeking licensure as a nursing home administrator, approval as a preceptor, or seeking examination/reexamination shall submit simultaneously:

1. Application provided by the board;
2. Additional documentation as may be required by the board to determine eligibility of the applicant; and
3. The applicable fee(s) prescribed in § 3.1.

§ 5.3. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified

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transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

National examination scores will also be accepted from the examining authority.

§ 5.4. An applicant for examination shall submit the application package not less than 45 days prior to an examination date. The application package shall be RECEIVED in the board office on the examination application deadline date. Postmarks will not be considered.

§ 5.5. Waiver of time limits.

The board may, for good cause, waive the time requirement in § 5.4 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.

Article 3. General Examination Requirements.

§ 5.6. Failure to appear.

The applicant shall forfeit the examination fee if unable to sit for the examination for any reason.

§ 5.7. Reexamination.

Any person failing an examination may reapply for a subsequent examination, and shall pay the examination fee prescribed in § 3.1 with each application filed.

§ 5.8. Scheduling early examinations.

A. An applicant may request to take the scheduled examination most closely preceding the expected completion of the required formal education requirement or the administrator-in-training program.

B. All such requests shall be in writing.

C. Approval of the written request by the board shall be required prior to submitting the application and fee for examination (see §§ 5.2., 5.4, and 3.1.)

D. Application for licensure shall be submitted after the applicant completes the qualifications for licensure.

PART VI. ADMINISTRATOR-IN-TRAINING PROGRAM.

Article 1. Trainee Requirements and Application Process.

§ 6.1. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited

college or university;

2. Obtain a preceptor currently approved by and registered with the board to provide training;

3. Submit the fee prescribed in § 3.1;

4. Submit the application provided by the board; and

5. Submit additional documentation as may be required by the board to determine eligibility of the applicant.

6. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

Article 2. Training Program.

§ 6.2. The A.I.T. program shall consist of 2,080 hours or its approved equivalent (see § 6.3) of continuous training to be completed within 24 months. Extension may be granted by the board on an individual case basis.

§ 6.3. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum 1,000 hours of credit toward the total 2,080 hours as follows:

1. Applicant shall have been employed full-time for four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing.

2. The employment described above shall have been in a facility as prescribed in § 6.4.

3. Applicants with experience as a hospital administrator shall have been employed full time for three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:

a. Regulatory;

b. Fiscal;

c. Supervisory;

d. Personnel; and

e. Management.

§ 6.4. Training shall be conducted only in:

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1. A nursing home, licensed by the Department of Health, Commonwealth of Virginia; or

2. An institution licensed by the Virginia Mental Health, Mental Retardation and Substance Abuse Services Board in which long-term care is provided; or

3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or

4. A certified nursing home unit located in and operated by a general or special hospital licensed under procedures of Rules and Regulations for Licensure of General and Special Hospitals of the Virginia Department of Health.

§ 6.5. Training shall be under the direct supervision of a certified preceptor (see §§ 6.8 - 6.9).

§ 6.6. Not more than two A.I.T.'s may be supervised per approved and registered preceptor at any time.

§ 6.7. An A.I.T. shall be required to serve full time weekday, evening, and weekend shifts to receive training in all areas of nursing home operation.

Article 3.

Qualifications and Application Process to Train: Preceptors.

§ 6.8. An individual shall be approved by and registered with the board prior to serving as a preceptor.

§ 6.9. The board shall approve and register only preceptors to give training who:

1. Have a full, unrestricted, and current Virginia nursing home administrator license;

2. Are employed full-time in the facility where training occurs (see § 6.4);

3. Have served for a minimum of two of the past three years immediately prior to the preceptorship as a full-time administrator in accordance with § 6.4 or as an approved preceptor in another state.

4. Submitted the fee prescribed in subdivision 2 of § 3.1;

5. Submitted the application provided by the board; and

6. Submitted additional documentation as may be required by the board to determine eligibility of the applicant.

7. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Preceptors submitting information which documents preceptorship served in another state, may have the other state send information directly to the licensing authority. That policy is acceptable to the board.

Article 4.

Administration of A.I.T. Program.

§ 6.10. Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit to the board for approval, a training plan which shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall include the Core of Knowledge as defined by Title XVIII and Title XIX of the Social Security Act and published in the Federal Register on February 2, 1989 and the Domains of Practice as appended to these regulations. (See Appendices I and II) The training plan developed by the board or an alternate plan may be used.

§ 6.11. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training.

§ 6.12. The A.I.T.'s certificate of completion plus the accumulated original monthly reports shall be submitted by the preceptor to the board within 30 days following the completion of the A.I.T. program.

§ 6.13. If the preceptor fails to submit the reports required in § 6.14, the A.I.T. shall forfeit all credit for training. The board may waive such forfeiture.

§ 6.14. If the A.I.T. program is terminated prior to completion, the trainee and the preceptor shall submit the following information to the board within five working days:

1. Preceptor

a. All required monthly progress reports prescribed in § 6.11; and

b. Written explanation of the causes of program termination.

2. A.I.T.

The A.I.T. shall submit written explanation of the causes of program termination.

§ 6.15. If the program is interrupted because the approved and registered preceptor is unable to serve, the A.I.T. shall notify the Board within five working days and shall obtain a new preceptor who is registered with the board.

§ 6.16. Credit for training shall resume when a new preceptor is obtained and approved and registered by the board.

§ 6.17. If an alternate training plan or set of goals is developed, it shall be submitted to the board for approval

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before the A.I.T. resumes training.

PART VII. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

Article I. Unprofessional Conduct.

§ 7.1. The board may refuse to admit a candidate to any examination; refuse to issue or renew a license or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes:

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Demonstrated inability or unwillingness to maintain a facility in accordance with the Virginia Department of Health Rules and Regulations for the Licensure of Nursing Homes in Virginia;
3. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;
4. Conviction of a felony related to the practice for which the license was granted;
5. Failure to comply with any regulations of the board;
6. Failure to comply with continuing education requirements;
7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse;
8. Failure to comply with board's regulations on preceptorship while serving as a preceptor.

PART VIII. CONTINUING EDUCATION.

§ 8.1. As a prerequisite to renewal of a license or reinstatement of a license, each licensee shall be required to take continuing education related to health care administration. See § 8.2 and §§ 8.6 through 8.9.

§ 8.2. Continuing education shall consist of training programs, seminars, and workshops directly related to the following:

1. Nursing home administration;

2. Long term care;
3. Resident care;
4. Physical resource management;
5. Laws, regulatory codes, and governing boards;
6. Courses to gain knowledge in departmental areas;
7. Core of Knowledge in Appendix I; and
8. Domains of Practice in Appendix II.

§ 8.3. Continuing education requirements for each calendar year.

A. An administrator who holds a license on January 1 of any calendar year shall attend 20 classroom hours of continuing education for that calendar year.

B. An administrator whose initial date of licensure is between April 1 and July 31 of any calendar year shall attend 10 classroom hours of continuing education for the calendar year in which initial licensure takes place.

C. An administrator whose initial date of licensure is between August 1 and December 31 of any calendar year shall not be required to attend continuing education for the calendar year in which initial licensure takes place.

§ 8.4. The licensee shall retain in his personal files complete documentation of continuing education as specified in subsections 1 and 2 of § 8.5.

§ 8.5. IF CONTACTED FOR AN AUDIT, the licensee shall forward to the board by the date requested the following:

1. Completed and signed affidavit of completion on forms provided by the board;
2. Evidence of attendance provided by the approved sponsor for each course taken. Evidence of attendance shall include:
 - a. Date(s) the course was taken;
 - b. Hours attended;
 - c. Participant's name;
 - d. Approved sponsor's signature.

§ 8.6. Credit shall be considered only for courses taken under sponsors approved by the board or courses taken from an accredited institution as defined in § 1.1 or an appropriate state agency.

Exception: Credit shall be considered for courses taken in another state by Virginia-licensed nursing home administrators who reside out-of-state when the sponsors of

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such courses are listed in good standing with the National Association of Boards of Examiners of Nursing Home Administrators or the American College of Nursing Home Administrators.

§ 8.7. Only classroom hours shall be accepted.

§ 8.8. Credit shall only be given for 30-minute increments.

§ 8.9. The continuing education hours shall be current to the calendar year in which they were required.

PART IX. Continuing Education Sponsors.

Article 1. Applicability.

§ 9.1. Applicability.

These regulations apply to individuals or businesses applying for approval and approved by the Board of Nursing Home Administrators to provide continuing education courses recognized for credit by the Board of Nursing Home Administrators.

Exception: Providers of courses given in other jurisdictions than Virginia do not have to have prior approval of the Virginia Board of Nursing Home Administrators if such courses are provided by sponsors listed in good standing with the National Association of Boards of Examiners of Nursing Home Administrators or the American College of Nursing Home Administrators.

Courses provided by an accredited institution as defined in § 1.1 and taken for credit do not have to have prior approval of the Virginia Board of Nursing Home Administrators.

Article 2. Application Process.

§ 9.2. Individuals or businesses as required by § 9.1 seeking registration as an approved sponsor of continuing education courses for licensed nursing home administrators shall apply for sponsor-approval by the board as follows:

1. Submit a completed application on a form provided by the board;
2. Submit additional information as prescribed on the application to determine eligibility of the sponsor;
3. Submit applicable fee prescribed in § 9.5.

§ 9.3. All required parts of the application package shall be submitted at the same time. An incomplete package will not be considered.

§ 9.4. An applicant for approved sponsorship shall submit the application package not less than 30 days prior to

presenting a course. The application package shall be RECEIVED by the deadline date. Postmarks will not be considered.

Article 3. Fees.

§ 9.5. Fees.

- A. Initial Application for Sponsorship Approval \$275
- B. Annual Renewal of Sponsorship Approval \$200

Article 4. Renewal of Sponsorship Approval.

§ 9.6. Expiration date.

Sponsorship approval shall expire on December 31 of each calendar year. A renewal notice will be sent by the board to each registered sponsor within 60 days prior to expiration. All renewal notices required by these regulations shall be validly given when mailed to the latest address on file with the board and shall not relieve the sponsor from obligation to comply.

§ 9.7. Renewals.

A. Renewal fees RECEIVED by the board no later than the expiration date shall be in the amount prescribed in subsection B of § 9.5. Postmarks shall not be considered.

B. An individual or company who fails to renew the sponsorship approval by the expiration date shall reapply for approval as a new sponsor and pay the fee prescribed in subsection A of § 9.5.

Article 5. Qualifications for Approval.

§ 9.8. Course content.

A. If audited by the board, the sponsor shall document that the content of each course provided meets at least one of the requirements prescribed in § 8.2 of these regulations.

NOTE: Self-study courses and home video courses shall not meet the requirements of these regulations. Courses designed to enhance the profitability or decorating needs of the nursing home facility shall not meet the requirements of these regulations.

B. If audited by the board, the sponsor shall document that the primary objective of the course shall be to increase the licensees' professional competence and skills and shall improve the quality of long-term care services rendered to the public as follows:

1. Sponsor shall establish learning objectives of each course as defined in § 1.1.

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2. Sponsor shall establish the level of knowledge of each course. Levels of knowledge shall be described as basic, intermediate, advanced or updated.

3. Sponsor shall establish method(s) of presentation as defined under "Instructional design" in § 1.1.

4. Instructional design shall comply with §§ 9.9 through 9.14.

§ 9.9. Prerequisites.

Sponsors shall state in writing the prerequisites for education, experience or both for all courses. Prerequisites shall be written in precise language so that potential participants can readily ascertain whether they qualify for the program or whether the program's specified level of knowledge is appropriate for them.

§ 9.10. Presenters/Instructors.

Sponsors shall maintain a Vita on each presenter and shall be able to demonstrate to the board if audited that each presenter is qualified in the subject matter (see "Qualified Instructors" in § 1.1) and knowledgeable in instructional design as defined in § 1.1.

§ 9.11. Program materials.

Sponsors shall be able to demonstrate to the board if audited that program materials are technically accurate, current and sufficient to meet the course's stated objectives.

§ 9.12. Program presentation.

A. Sponsors shall inform participants in writing prior to the date of the course of the following:

1. Learning objectives;
2. Prerequisites;
3. Level of knowledge of course;
4. Program content;
5. Nature and extent of advance preparation;
6. Method of presentation to be used;
7. Amount of continuing education credit in classroom hours;
8. Date(s) of course;
9. Registration policies/procedures, fees, refunds;
10. That the sponsor is approved by the Board of Nursing Home Administrators to provide courses for which credit shall be considered by the board; and

11. A written agenda of the program's activities.

B. Sponsors shall monitor group courses and accurately record attendance including participants who arrive late or leave before a program is completed. Such individuals shall not be presented certificates of attendance. Sponsors shall be able to demonstrate to the board if audited the attendance recording procedure.

§ 9.13. Evaluations.

A. Sponsors shall evaluate instructors' performance at the conclusion of each program to determine continued use of such instructor. Sponsor shall be able to document the evaluation to the board if audited.

B. Sponsors shall solicit evaluations on the course and the instructor from the participants to include the following:

1. Were learning objectives met?
2. Were prerequisites necessary?
3. Did program materials contribute to the achievement of the learning objectives?
4. Did the program content comply with the stated contents in the course's advertisement?
5. Was the instructor qualified and knowledgeable in communicating effectively and competent in the subject matter?

§ 9.14. Certificates of attendance.

A. Each attendee shall receive from the sponsor a certificate of attendance when the attendee arrived on time and attended the entire course. A sample copy of the certificate of attendance for each course shall be retained and available for inspection during an audit.

B. The certificate of attendance shall contain the following information:

1. Date the course was taken;
2. Classroom hours of the course;
3. Participant's name;
4. Signature of authorized representative of the sponsor.

Article 6. Record Keeping.

§ 9.15. Documentation retention.

A. The sponsor shall retain for three years complete documentation of each continuing education course

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provided as prescribed in Article 4, §§ 9.8 through 9.14.

B. If contacted for an audit, the sponsor shall forward by the date requested each item required in Article 4, §§ 9.8 through 9.14 which will be listed on the request for audit.

VA.R. Doc. No. R93-644; Filed June 29, 1993, 4:57 p.m.

BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-2. Public Participation Guidelines.

Statutory Authority: § 54.1-2400; Chapter 32 (§ 54.1-3200 et seq.) of the Code of Virginia.

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On June 9, 1993, the Virginia Board of Optometry adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 8, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 510-01-2. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Optometry. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.

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3. A copy of any final regulation adopted by the Board.

4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.

2. The number and title of the regulation to be addressed.

3. A description of the regulatory problem or need to be addressed.

4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such

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expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

VA.R. Doc. No. R93-604; Filed June 28, 1993, 3:35 p.m.

BOARD OF PHARMACY

Title of Regulation: VR 530-01-1:1. Public Participation Guidelines.

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On June 8, 1993, the Virginia Board of Pharmacy adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated. In order to continue the process of a biennial review of all regulations begun in the fall of 1992, the Board has determined that new Guidelines should be adopted.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this

regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 8, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 530-01-1:1. Public Participation Guidelines.

Part I.

§ 1.1. Statement of purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Pharmacy. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it

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believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for oral or written submittals on the proposed regulation. The impact on regulated entities, the public, as well as the cost of compliance with the proposed regulation shall be included in the submittal returns.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct

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an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-605; Filed June 28, 1993, 3:37 p.m.

DEPARTMENT OF STATE POLICE

Title of Regulation: VR 545-00-01. Public Participation Policy.

Statutory Authority: §§ 9-6.14:7.1, 18.2-295, 18.2-308.2:2, 46.2-1165, 52-8.4, 52-25.1 and 54.1-4009 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Preface:

The Superintendent of the Department of State Police is responsible for promulgation of rules and regulations governing many aspects of Virginia's overall crime prevention and highway safety programs. The changes to this agency's existing Public Participation Policy are necessary in order to conform to statutory amendments to the Administrative Process Act. The Department of State Police must reinitiate a minimum of six sets of regulations immediately after July 1, 1993; to do so this emergency regulation must be adopted.

VR 545-00-01. Public Participation Policy.

§ 1. Policy.

§ 1-1: It is the policy of the Department of State Police to seek public participation when proposing regulation or substantial changes to present regulations.

§ 2. Definitions.

"Agency" means the Department of State Police.

"Superintendent" means the Superintendent of the Department of State Police.

§ 3. Public Participation Procedures.

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

A. 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 these guidelines.

B. Any person may petition the agency for the adoption, amendment, or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of the petitioner.
2. Petitioner's mailing address and telephone number.
3. Petitioner's interest in the proposed action.
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations.
5. Statement of need and justification for the proposed regulation.

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6. *Statement of impact on petitioner and other affected persons.*

7. *Supporting documents, as appropriate.*

The Superintendent shall form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency to assist in the drafting or formation of regulations when:

A. The Superintendent, in his sole discretion, determines to form an ad hoc advisory group, utilize a standing committee, or consult with groups or individuals; and

B. The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action requesting the Superintendent to form an ad hoc advisory group, utilize a standing committee, or consult with individuals or groups.

The decisions as to whether or not to use an ad hoc group, standing advisory committee, or consult with groups and individuals as well as the membership of such groups or committees shall rest with the Superintendent.

No public hearing shall be held in conjunction with these procedures unless directed by the Superintendent, or required pursuant to § 9-6.14:7.1 C of the Code of Virginia.

§ 4. *Guidelines: General.*

§ 2.1. When the Department of State Police proposes regulations or substantial changes to present regulations, a notice of intent will be published in The Virginia Register. The notice will request input from interested parties and will contain information as outlined in the Virginia Register Form, Style and Procedure Manual.

The Department of State Police will mail a notice of proposed regulatory action to known interested parties and add to the mailing list as groups and individuals express an interest in the agency's regulatory activities.

A. The notice of proposed regulatory action shall include:

1. Subject of proposed regulation.
2. Purpose of proposed regulation.
3. Request for comments from interested parties.
4. Name, address, and telephone number of contact person.
5. Date for submission of comments by interested parties.

§ 2.2. The agency shall file a "Notice of Comment Period" and its proposed regulations with the Registrar of

Regulations as required by § 9-6.14:7.1. Such notice shall establish the last date on which written comments will be accepted from interested parties.

§ 2.3. Final regulations shall be published in The Virginia Register and shall become effective 30 days after publication.

§ 3.0. Adopted June 24, 1993.

/s/ Colonel Carl R. Baker
Superintendent
Virginia State Police

APPROVED:

/s/ O. Randolph Rollins
Secretary of Public Safety
Date: June 21, 1993

APPROVED:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth of Virginia
Date: June 22, 1993

FILED:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 24, 1993

VA.R. Doc. No. R93-616; Filed June 24, 1993, 11:02 a.m.

BOARD OF PROFESSIONAL COUNSELORS

Title of Regulation: VR 560-01-01:1. Public Participation Guidelines.

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

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

On June 18, 1993, the Virginia Board of Professional Counselors adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this

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regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 22, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 23, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 29, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 560-01-01:1. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Licensed Professional Counselors. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board.

The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on

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its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-645; Filed June 29, 1993, 5:00 p.m.

BOARD OF PSYCHOLOGY

Title of Regulation: VR 565-01-1:1. Public Participation Guidelines.

Emergency Regulations

Statutory Authority: § 54.1-3600 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 15, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 24, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 565-01-1:1. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Psychology. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on

the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from

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receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-637; Filed June 29, 1993, 2:30 p.m.

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-01:1. Public Participation Guidelines.

Emergency Regulations

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

Effective Dates: June 29, 1993, through June 28, 1994.

Summary:

REQUEST: The Governor's approval is requested to adopt the emergency regulation entitled "Public Participation Guidelines" as approved by the State Board of Social Services on June 16, 1993.

PURPOSE OF THE REQUEST: The 1993 General Assembly amended the Administrative Process Act, Chapter 1:1:1 (§ 9-6.14:1 et seq.), of the Code of Virginia. These emergency regulations are required for the Department of Social Services to comply with the amended provisions of the Administrative Process Act in order to continue to carry out its statutory responsibilities.

PERSONS AFFECTED BY THIS REGULATION: Individuals, public and private organizations, businesses and governmental bodies with an interest in programs managed, supervised and administered by the Department of Social Services and for which regulations are required will be affected by this regulation.

AUTHORITY TO ACT: The Code of Virginia, § 63.1-25, gives the State Board of Social Services authority to promulgate regulations to carry out the purposes of the Department of Social Services as defined in the Code of Virginia.

FISCAL IMPACT: This regulation was developed to comply with the Administrative Process Act with maximum administrative efficiency, effectiveness and economy. There is no fiscal impact.

FUTURE DEPARTMENT ACTION: The department is authorized by action of the State Board of Social Services to proceed immediately to initiate formal adoption of these regulations through the conventional regulatory process and following the public participation provisions of these emergency regulations in conformance with Chapter 898 of the 1993 Virginia Acts of Assembly.

Preamble:

An emergency regulation for public participation guidelines for the Virginia Department of Social Services is required for the department to comply with the provisions of Chapter 898 of the 1993 Virginia Acts of Assembly. The adoption of these guidelines will allow the State Board of Social Services and the department to carry out their statutory responsibilities in conformance with the specifications of the Act.

VR 615-01-01:1. Public Participation Guidelines.

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:

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

"Agency" means Department of Social Services.

"Approving authority" means State Board of Social Services.

"Board" means State Board of Social Services.

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Department" means Department of Social Services.

"Division" means organizational entity within the Department, designated by the commissioner, which develops regulations subject to the Administrative Process Act.

"Governor's Executive Order" means any policy or procedure issued by the Governor under § 2.1-41.1 or § 9-6.14:9.1 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

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

§ 1.2. Application.

These guidelines apply to all regulations adopted by the board.

PART II. PUBLIC PARTICIPATION.

§ 2.1. General.

A. The procedures in § 2.3 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 or excluded from the provisions of the Administrative Process Act. (§ 9-6.14:4:1).

B. The department shall follow the policies and procedures established by the Administrative Process Act and the Governor's Executive Order in promulgating

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emergency, proposed and final adoption, amendment or repeal of regulations.

C. At the discretion of the approving authority or the agency, the public participation procedures in § 2.3 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

D. 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 regulations otherwise adopted in accordance with this regulation.

§ 2.2. Petitions from interested parties.

Any person may petition the agency to develop a new regulation or to adopt, amend or repeal a regulation. The petition, at a minimum, shall contain the following information:

- A. Name of petitioner;
- B. Petitioner's mailing address and telephone number;
- C. Petitioner's interest in the proposed action;
- D. Recommended new regulation or addition, deletion, or amendment to a specific regulation or regulations;
- E. Statement of need and justification for the proposed action;
- F. Statement of impact on the petitioner and other affected person; and
- G. Supporting documents, as applicable.

The agency shall provide a written response to such petition.

§ 2.3. Solicitation of input.

A. Each division of the agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations under its administration, management or supervision. Persons may request the addition of their name and address to the list at any time. The lists will be updated as additional interested parties are identified. Deletions will be made when lack of interest is determined by the division as a result of periodic contact initiated by the division.

B. The department may form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting, formation or review of a proposal when expertise is necessary to address a specific regulatory interest or issue, or when persons register an interest in the subject of the regulation and in working with the agency.

C. Whenever a division identifies a need for the adoption, amendment or repeal of regulations under its administration, management or supervision, it may commence the regulation adoption process according to these procedures.

D. The agency shall issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation for all regulatory proposals in accordance with the Administrative Process Act. The NOIRA shall state whether the agency intends to hold a public hearing.

E. The commissioner shall disseminate the NOIRA to the public by:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register, and
2. Distribution by mail to parties on the list established under subsection A of this section.

F. The agency shall consider public comment in drafting proposed regulations.

G. Upon approval by the board of the proposed regulations prepared by the department, the department shall solicit public comment through:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register,
2. Publication of a Notice of Comment Period in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate, and
3. Distribution of a notice of comment by mail to persons on the list(s) established under subsection A of this section.

§ 2.4. Public hearings.

A. The board shall permit public comment concerning the adoption, amendment, or repeal of a regulation submitted for its approval by the agency during the board's regularly scheduled public comment period of its authorized meetings in conformity with the established rules of the board. The board may allow public comment about a proposed regulation at a committee meeting when the proposed regulation is under consideration by the committee.

B. When the NOIRA states that the agency does not plan to hold a hearing on the proposed regulation, the agency shall schedule a hearing when it determines that there is sufficient public interest in a proposed regulation through receipt of requests for a hearing from 25 people or more. The hearing(s) may be held at any time during the public comment period and at such times and locations as the department decides will best facilitate input from

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interested persons.

§ 2.5. Withdrawal of regulations.

If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the agency shall present a recommendation and rationale for the withdrawal of the proposed regulation to the approving authority.

§ 2.6. Transition.

A. All regulatory actions for which a Notice of Intended Regulatory Action has been published in the Virginia Register prior to July 1, 1993, shall be processed in accordance with the Public Participation Guidelines specified in Chapter 656 of the Acts of Assembly of 1989.

B. All regulatory actions for which a Notice of Intended Regulatory Action has not been published in the Virginia Register prior to July 1, 1993, shall be processed in accordance with this regulation.

I certify that this action is full, true and correctly dated.

/s/ Larry D. Jackson
Commissioner
Date: June 21, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 28, 1993

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VA.R. Doc. No. R93-634; Filed June 29, 1993, 1:50 p.m.

BOARD OF SOCIAL WORK

Title of Regulation: VR 620-01-1. Public Participation Guidelines.

Statutory Authority: § 54.1-3700 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

On June 24, 1993, the Virginia Board of Social Work adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that

regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 24, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 24, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 620-01-1. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Social Work. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities

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who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing

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regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-635; Filed June 29, 1993, 2:30 p.m.

DEPARTMENT OF THE TREASURY (THE TREASURY BOARD)

Title of Regulation: VR 640-01-1. Public Participation Guidelines for the Department of the Treasury and Treasury Board.

Statutory Authority: §§ 2.1-177 and 2.1-179(9) of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Summary:

The 1984 amendments to the Administrative Process Act required that each regulatory agency develop, adopt and use Public Participation Guidelines for seeking comments from interested parties when developing, revising or repealing regulations. These procedures were required before initial action on any regulation, and during the entire promulgation process. All regulations adopted after October 1, 1984, were subject to this requirement.

Legislation enacted by the General Assembly amended the Administrative Process Act (Acts of Assembly 1993, Chapter 898) by adding additional provisions to be included in agency Public Participation Guidelines.

This regulation will supersede (but only for the period that it is in effect) the regulation by the same title adopted by the Department of the Treasury and Treasury Board on September 3, 1986.

During the twelve month term of this emergency regulation, the Department of the Treasury and Treasury Board will promulgate a new permanent regulation following the Administrative Process Act and these Emergency Public Participation Guidelines.

Preamble:

Legislation enacted by the 1993 General Assembly expands the requirements of the Administrative Process Act for state agencies. This legislative action required the agency to include many of these requirements in its Public Participation Guidelines. Because these Public Participation Guidelines must be in order before other regulations can be promulgated, it is important that Public Participation Guidelines which include the new provisions be ready for use by July 1, 1993.

The Department's current Public Participation Guidelines have been amended to reflect current agency practice and to accommodate the new requirements in the Administrative Process Act. This emergency action will allow the Department of the Treasury and the Treasury Board to continue the promulgation of regulations after July 1, 1993.

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VR 640-01-1. Public Participation Guidelines.

§ 1. Generally.

In developing proposed regulations, the Department of the Treasury or Treasury Board (collectively, "department") are committed to active solicitation of input and comment from interested citizens, professional associations, and industry associations.

Any person who is interested in participating in the regulation development process should notify the department in writing. Such notification of interest should be sent to Agency Regulatory Coordinator, Department of the Treasury, P.O. Box 6-H 1879, Richmond, Va. 23215.

§ 2. Identification of interested parties.

Prior to the development of any regulation, the department shall identify persons likely to be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtaining annually from the Secretary of the Commonwealth a list of all persons, citizen groups, associations and others who have registered as lobbyists for the annual General Assembly session. This list will be used to identify interest groups which may be interested in the subject matter of the proposed regulation;
2. Utilizing the statewide listing of business, professional, civic and charitable associations and societies in Virginia published by the State Chamber of Commerce to identify additional industry and professional associations which might be interested in the regulation;
3. Utilizing department subject matter files to identify persons who have previously raised questions or expressed an interest in the subject matter under consideration through requests for rulings or information; and
4. Utilizing a standing list, compiled by the department, of persons who have previously participated in public proceedings relative to similar subject matters who have expressed a general interest in Treasury regulations.

§ 3. Notification of interested parties.

A. Generally.

The department shall prepare a Notice of Intended Regulatory Action prior to the development of any regulations. The notice shall identify the subject matter and purpose for the development of the new regulation(s) and shall specify a deadline for receipt of responses from persons interested in participating in the development

process.

B. Dissemination of notice.

The methods for disseminating the notice to the public shall include, but not be limited to, the following:

1. Sending notice to all persons identified (pursuant to subdivision 2 of § 2 above) as having a potential interest in the regulation;
2. Publishing notice in The Virginia Register of Regulations; and
3. Requesting that industry, professional and citizen associations publish the notice in their newsletters or journals or use any other means available to them to disseminate the notice to their membership.

§ 4. Public participation.

A. Regulation development.

1. Initial comment. After interested parties have responded to the notice, the department may schedule informal meetings prior to the development of any regulation to determine specific areas of interest and concern and to gather factual information relative to the subject matter of the regulation. Alternatively, the department may elect to request that persons who have responded to the notice make written submissions of comments, concerns and suggestions relative to the proposed regulation.

2. *Ad hoc advisory group or standing advisory committee.* The department shall form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the department to assist the department in the drafting and formation of regulations when: a) the department, in the department's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; or b) the department receives written comments from at least 25 persons during the comment period of the notice requesting the department to form an ad hoc advisory group, utilize a standing committee, or consult with groups and individuals and the subject matter of the notice has not previously been the subject matter of a notice published in The Virginia Register of Regulations by the department.

2- 3. Preparation of working draft. Subsequent to the initial public comment, the department shall develop a working draft of the proposed regulation. In certain instances where the technical nature of the subject matter merits, the department may request that industry or professional groups develop a working draft. Copies of such drafts will be furnished to all persons who responded to the notice indicating ar

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interest in the regulation and to those persons participating in the initial comment process. Persons to whom a copy of the working draft is furnished will be invited to submit written comments on the draft.

B. Promulgation of proposed regulation.

Upon conclusion of the development process, the department shall promulgate the regulation for submission to the Registrar of Regulations pursuant to the Administrative Process Act ("APA"), Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia. The department shall furnish to all persons identified as having a potential interest in the subject matter, a copy of the proposed regulation and a copy of the general public notice of opportunity for oral or written submission accompanied by a cover letter explaining the deadlines established by the APA for submissions of comment. In some cases, the public opportunity to comment may be limited to written submissions: such a limitation, however, must be clearly set forth in the notice. The date by which and place to which submissions must be made shall be clearly specified. Where a public hearing is to be held, the time, date, and place shall be clearly specified. Additionally, the date by which persons intending to participate in the public hearing should notify the department of their interest shall be noted. Persons who will participate will be encouraged to submit written copies of their comments in advance or at the public hearing in order to insure that all comments are accurately reflected in the formal transcript of the hearing.

C. Publication of final regulation.

In order to promote voluntary compliance, the department shall print and distribute copies of all regulations.

Upon issuing an order adopting a regulation, the department, at its discretion, may send to participants a copy of the regulation as adopted, together with its response to comments made during the public hearing or written submittal period.

IT IS SO ORDERED BY:

/s/ Ronald L. Tillett
State Treasurer and Chairman of the Treasury Board
Date: June 29, 1993

APPROVED BY:

/s/ Paul W. Timmreck
Secretary of Finance
Date: June 22, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth

Date: June 24, 1993

FILED BY:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: June 29, 1993

VA.R. Doc. No. R93-638; Filed June 29, 1993, 1:13 p.m.

BOARD OF VETERINARY MEDICINE

Title of Regulation: VR 645-01-0:1. Public Participation Guidelines.

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

On June 1, 1993, the Virginia Board of Veterinary Medicine adopted new Public Participation Guidelines as Emergency Regulations in order to comply with requirements of the Administrative Process Act effective on July 1, 1993.

The Board was advised by the Office of the Attorney General that current Public Participation Guidelines would not be in compliance beyond that date and that regulations could not be promulgated.

In order to have Guidelines that meet the requirements of the Administrative Process Act as amended by Chapter 898, 1993 Acts of the Assembly, the Board has adopted and requests approval of this regulation as an emergency.

I recommend approval of the proposed emergency regulation as cited above. The emergency regulation is necessary to set Public Participation Guidelines pursuant to provisions of the Administrative Process Act as amended by the 1993 Acts of the Assembly, Chapter 898.

The emergency regulations will expire one year from the effective date, or upon the promulgation of replacement regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: June 8, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 14, 1993

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I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 23, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 645-01-0:1. Public Participation Guidelines.

Part I. Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Veterinary Medicine. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

Part II. Mailing List.

§ 2.1. Composition of the mailing list.

A. The Board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Board. The Board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1. shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.

3. A copy of any final regulation adopted by the Board.

4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III. Public Participation Procedures.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1. of the Code of Virginia, any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Board intends to hold a public hearing on the proposed regulation after it is published. If the Board does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Board receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Board and may be requested in writing from the contact person specified in the Notice.

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B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The Notice shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the Board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The Board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the Board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

Part IV. Advisory Committees.

§ 4.1. Appointment of committees.

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Board.

B. The Board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Board determines that such

expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1.) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-610; Filed June 28, 1993, 3:36 p.m.

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-01-01. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 59.1-369 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

Background:

VR 662-01-01 Public Participation Guidelines for Adoption or Amendment of Regulations establishes the procedure by which the Virginia Racing Commission solicits input of interested persons in the formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for the promulgation of regulations under the Administrative Process Act (APA).

One of the requirements of the amended Act mandates that the Virginia Racing Commission include as part of its public participation guidelines a general policy for the use of standing advisory panels and

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consultation with ad hoc panels possessing special expertise not possessed by the commission or its staff. Further, the guidelines shall address the circumstances in which the commission considers standing panels appropriate and intends to utilize ad hoc panels.

Another provision of the legislation requires the commission to set out in its public participation guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or parties which the commission intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation requires that the public participation guidelines contain these two additional provisions. Because participation guidelines must be in compliance with the Act before the commission can initiate any regulatory actions, it is important that public participation guidelines satisfy the new requirements of the legislation as well as be in place and ready for use before July 1, 1993.

The commission's public participation guidelines establish the means by which the public is involved in the promulgation of regulations. Thus, the commission has amended the language of the guidelines to accommodate the impending requirements of the new legislation. For example, the commission has almost from its very inception appointed a standing advisory panel and now it incorporates this panel within its guidelines.

Nature of the Emergency:

The commission proposes to adopt emergency public participation guidelines in order to ensure its ability to promulgate necessary regulations after July 1, 1993. The commission is responsible for the administration of pari-mutuel horse racing in the Commonwealth. Without public participation guidelines which satisfy the new requirements, the commission will be unable to promulgate any regulations until such time as permanent public participation guidelines can be adopted. It could take as long as a year to adopt permanent public participation guidelines, which could possibly result in necessary regulatory actions taking as long as two years to complete.

Necessity for Action:

The adoption of emergency public participation guidelines is critical to the administration of pari-mutuel horse racing. For example, legislation passed by the General Assembly in 1992 mandates that the commission promulgate regulations pertaining to satellite facilities. Further, the commission has before it a proposed regulation pertaining to control of medication in racehorses.

Summary:

This regulation will establish public participation procedures which will allow the commission to initiate, after July 1, 1993, regulatory actions to adopt, amend or repeal regulations, in conformance with the Administrative Process Act as amended. Specifically, the amendments are as follows:

1. Clarifies that any person may petition the Commission to request the development of new regulation or amendment to an existing regulation.
2. Formalizes the long-standing policy of the commission of soliciting input from a standing advisory panel.
3. Establishes the procedure for the utilization of ad hoc panels to advise the commission where special expertise is needed.
4. Formalizes the long-standing policy of the commission of holding public hearings in the promulgation of regulations.

VR 662-01-01. Public Participation Guidelines.

1. Generally.

A. These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the Virginia Racing Commission. These guidelines shall not apply to regulations adopted on an emergency basis.

B. In developing any regulation governing horse racing and pari-mutuel wagering, the Virginia Racing Commission ("commission") is committed to obtaining comments from interested people. The commission intends to involve all interested parties in the development of those regulations.

C. Anyone who is interested in participating in the process of developing regulations should notify the commission in writing. This notification should be sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

1. The commission will maintain a list of the people who notified the commission in writing.
2. The commission will mail to everyone on the list a copy of the Notice of Intended Regulatory Action discussed in 4 of these guidelines.

2. Identification of needed regulations.

A. Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any existing regulation. The request for a new regulation or suggested change to a current regulation should be made in writing and sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

A. Any person may petition the commission to request

the development of a new regulation or amendment to an existing regulation. The commission upon receiving the petition shall receive, consider, and respond to the petition within 180 days. The commission's decision to initiate or not initiate rulemaking in response to petitions is not subject to judicial review. Requests should be sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA, 23208.

B. The commission, at its discretion, may consider any regulatory request or change.

3. Identification of interested parties.

Before the commission develops a regulation, it will identify persons who either would be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtaining the statewide listing of business, professional and civic associations published by the Virginia Chamber of Commerce. This list will be used to identify groups which might be interested in the regulation.
2. Using commission files to identify people who have raised questions or expressed an interest in the regulations.
3. Using a list, compiled by the commission, of persons who previously participated in public meetings.
4. Obtaining from the Secretary of the Commonwealth a list of all persons, associations and others who have registered as lobbyists for the most recent General Assembly session. This list will be used to identify groups which may be interested in the subject matter of the proposed regulation.
5. *The commission shall appoint a standing advisory panel which shall be consulted and requested to provide input to the commission regarding the formation and development of each of its regulations. The standing advisory panel shall consist of at least one representative from each of the following: the Virginia Thoroughbred Association, the Virginia Standardbred Association, the Virginia Arabian Racing Association, the Virginia Quarter Horse Association, the Virginia Steeplechase Association, the Association of Racing Commissioners International, and the Jockeys' Guild, together with at least one veterinarian, one attorney, and one accountant who possess expertise in their respective disciplines which is related to the breeding and racing of horses.*
6. *In addition to the standing advisory panel, the commission, in its discretion, may appoint and make use of ad hoc advisory panels to assist it in the formation and development of regulations whenever the commission considers the subject of such*

regulations to be outside the expertise of the members of its standing advisory panel or that some additional special expertise would be helpful in the formulation and development of such regulations, e.g., regulations regarding electronic data processing or satellite communications.

4. Notification of interested parties.

A. Generally.

The Commission will prepare a Notice of Intended Regulatory Action ("notice") before developing any regulation. The notice will identify the specify a time deadline and location for interested persons to submit written comments.

In the case of all regulations, except those regulations exempted by § 9-6.14:4.1, the commission shall provide the Registrar of Regulations with a Notice of Intended Regulatory Action which describes the subject matter and intent of the planned regulation. At least thirty days shall be provided for public comment after publication of the Notice of Intended Regulatory Action. The commission shall not file proposed regulations with the Registrar until the public comment period on the Notice of Intended Regulatory Action has closed.

B. Notifying those interested.

The methods of notifying interested persons shall include publishing the notice in the Virginia Register of Regulations (Virginia Register) and also include the following:

1. Sending the notice to all persons identified as interested parties through the methods described in section 3 above; and
2. Requesting that groups, associations and organizations to whom the notice is sent, publish the notice in newsletters or journals or use other means available to them to inform their members.

5. Public participation in regulation development.

A. Initial comment.

After interested parties have responded to the notice, the commission will determine the level of interest.

1. If sufficient interest exists, and if time permits, the commission may schedule informal meetings before the development of the proposed regulation. The meetings will determine the specific areas of interest and concern and will gather factual information on the subject of the regulation.
2. Instead of informal meetings, the commission may ask for additional written comments, concerns or suggestions on the development of the regulation from

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those who responded to the notice.

3. The commission may decide that the notice resulted in receipt of enough information so that it can develop the proposed regulation without either an informal meeting or additional written comments.

B. Preparing a proposed regulation.

After the initial public input on the intended regulatory action, the commission will develop a proposed regulation for review, revision and adoption.

6. Submission of regulations under the Administrative Process Act.

A. After the drafting process ends, the commission-approved regulation will be submitted to the Registrar of Regulations under the Administrative Process Act (APA), Chapter 1.1:1 Title 9, of the Code of Virginia. The commission-approved regulation will be published as a proposed regulation in the Virginia Register.

B. The commission will furnish a copy of the regulation published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulation.

~~C. If the commission elects to hold a public hearing, the time, date and place will be specified. In addition, the cutoff date for people to notify the commission that they will participate in the public hearing will be set out. People who choose to participate in the public hearing will be encouraged to submit, in advance, written copies of their comments. These copies will help to ensure that comments are accurately recorded in the formal transcript of the hearing.~~

C. The commission shall state in the Notice of Intended Regulatory Action whether it intends to hold a public hearing on the proposed regulation after it is published. The commission shall hold such public hearings if required by basic law. If the commission states an intent to hold a public hearing on the proposed regulation in the Notice of Intended Regulatory Action, then it shall hold the hearing. If the commission states in its Notice of Intended Regulatory Action that it does not plan to hold a hearing on the proposed regulation, then no public hearing is required unless, prior to completion of the comment period specified in the Notice of Intended Regulatory Action: (i) the Governor directs that the commission shall hold a public hearing or (ii) the commission receives requests for a public hearing from twenty-five persons or more.

D. When the commission issues an order adopting a regulation, it may elect to send a notice to people who participated in the APA comment process. The notice will state that the regulation will be published in the Virginia Register and will specify the issue number.

7. Publication and distribution of final regulation.

A. The commission will adopt all final regulations. The final regulations will be submitted for the publication in the Virginia Register.

B. The commission will order the printing of all adopted final regulations and make appropriate distribution.

C. The distribution of any regulation will be made with a goal of increasing public knowledge of the policies of the commission and compliance with the commission's regulations.

Adopted by the Virginia Racing Commission on June 30, 1993.

This is a full, true, and correctly-dated regulation.

/s/ Donald R. Price
Executive Secretary
Date: June 30, 1993

/s/ Cathleen A. Magennis
Secretary of Economic Development
Date: June 14, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 16, 1993

/s/ Joan W. Smith
Registrar of Regulations
Date: June 30, 1993

V.A.R. Doc. No. R93-687; Filed June 30, 1993, 2:25 p.m.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Title of Regulation: VR 670-01-100. Public Participation Guidelines.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

The Department for the Visually Handicapped is seeking approval of emergency regulations to implement new Public Participation Guidelines. This emergency action is necessary for the department to be in compliance with new requirements for public participation in the regulatory process which will become effective July 1, 1993.

VR 670-01-100. Public Participation Guidelines.

PART I.
STATEMENT OF PURPOSE.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Department for the Visually Handicapped. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

PART II. MAILING LIST.

§ 2.1. Composition of the mailing list.

A. The Commissioner shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Commissioner. The Commissioner may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Commissioner may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Commissioner shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Commissioner to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to

the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Commissioner shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Commissioner from receiving information from the public and proceeding on his own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Commissioner intends to hold a public hearing on the proposed regulation after it is published. If the Department does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Commissioner receives requests for a hearing from at least twenty-five persons.

§ 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Department and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

The Commissioner shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Commissioner determines that a hearing is not required.

§ 3.4. Biennial Review of Regulations.

A. At least once each biennium, the Commissioner shall conduct an informational proceeding to receive comment

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on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in the Virginia Register and shall be sent to the mailing list identified in § 2.1.

PART IV. ADVISORY COMMITTEES.

§ 4.1. Appointment of committees.

A. The Commissioner may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Department.

B. The Commissioner may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Commissioner determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Commissioner may be dissolved by the Commissioner when:

- 1) There is no response to the Notice of Intended Regulatory Action, or
- 2) The Commissioner determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

- 1) If the Commissioner determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
- 2) At the end of that extended term, the Commissioner shall evaluate the continued need and may continue the committee for additional six month terms.

/s/ Donald L. Cox
Commissioner
Department for the Visually Handicapped
Date: June 16, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth

Date: June 22, 1993

Filed with the Registrar of Regulations June 30, 1993.

V.A.R. Doc. No. R93-643; Filed June 30, 1993, 8:52 a.m.

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

August 4, 1993

..... Administrative Letter 1993-16

TO: All Companies Writing Any Form Of Property Or Casualty Insurance As Defined In Sections 38.2-110 Through 38.2-134

RE: Business Transacted With Producer-Controlled Property and Casualty Insurer Act

On July 1, 1993, Chapter 13 of Title 38.2 of the Code of Virginia was amended to include Article 7 (§ 38.2-1341 et seq.). This new law is sometimes referred to as the Business Transacted with Producer-Controlled Property and Casualty Insurer Act (the Act). Effective July 1, 1993, the Act imposes on all property and casualty carriers subject to licensure in Virginia certain contractual, audit, reporting and disclosure requirements relating to business placed with such insurers by a controlling producer. The purpose of this administrative letter is to assist the Bureau of Insurance in ensuring compliance with the new law by apprising insurers of the Act's applicability and by surveying insurers in regard to business placed with controlling producers.

DEFINITIONS

"Control," including the terms "controlling," "controlled by" and "under common control with," means direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, through (i) the ownership of voting securities, (ii) by contract other than a commercial contract for goods or nonmanagement services, or (iii) otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively ten percent or more of the voting securities of any other person.

"Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a producer.

"Controlling producer" means a producer who, directly or indirectly, controls an insurer.

"Foreign insurer" means any foreign or alien insurer licensed to transact the business of insurance in this Commonwealth pursuant to § 38.2-1024.

"Licensed insurer," "insurer" or "property and casualty insurer" means any person, firm, association or corporation duly licensed under Title 38.2 of the Virginia Code to write policies or agreements providing any form of insurance as defined in §§ 38.2-110 through 38.2-134 of the Code. The following, inter alia, are not licensed insurers for the purposes of the Act:

1. All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, 15 U.S.C. Section 3901 et seq. (1982 and Supp. 1986) and § 38.2-5101 of Title 38.2;

2. All residual market pools and joint underwriting authorities or associations; and

3. Any insurer licensed as a captive insurer under Chapter 11 (§ 38.2-1100 et seq.) and any foreign insurer which is either (i) an association captive or (ii) a pure captive. An "association captive" is an insurer whose exclusive purpose is transacting the business of insurance and reinsurance only on risks, hazards and liabilities of the members of an insurance association comprised of any group of individuals, corporations, partnerships, associations, or governmental units or agencies whose members collectively own, control, or hold with power to vote, all of the outstanding voting securities of the association insurer. A "pure captive" is an insurer whose exclusive purpose is transacting the business of insurance and reinsurance only on risks, hazards, and liabilities of its parent, subsidiary companies of its parent, and associated and affiliated companies.

"Producer" means:

1. Any insurance agent, managing general agent or reinsurance intermediary subject to licensure pursuant to the provisions of Chapter 18 (§ 38.2-1800 et seq.); or

2. Any person subject to substantially similar licensure provisions of another state when, for any compensation, commission or other thing of value, such agent, intermediary or person acts on behalf of an insured other than the agent, intermediary or person, or aids in any manner, in soliciting, negotiating, procuring or effecting the making of any contract of insurance in which the insured, owner and beneficiary are other than the agent, intermediary or person.

APPLICABILITY EFFECTIVE JULY 1, 1993, FOR ALL CARRIERS

Property and casualty insurers domiciled in Virginia must comply with all provisions of the Act. Foreign and alien insurers are subject to all the provisions of the Act unless they can demonstrate substantial compliance in a manner satisfactory to the Bureau. To demonstrate substantial compliance, foreign and alien insurers must be able to show compliance with the provisions of a substantially similar law enacted by an "accredited state" in which the insurer is licensed. An "accredited state" means a state in which the insurance department or regulatory agency responsible for administering the insurance laws of that state has qualified as meeting the minimum financial regulatory standards promulgated and

State Corporation Commission

established from time to time by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program.

Subsection 38.2-1342.B of the Act expressly requires foreign and alien insurers not domiciled in an accredited state to confirm, after January 1, 1994, substantial compliance at least once every five years as a condition to licensing. However, the requirement that all foreign and alien carriers comply substantially with the provisions of the Act, as set forth above, is effective July 1, 1993. Therefore, the Bureau intends to verify compliance at least annually, and more often where appropriate, effective July 1, 1993.

MINIMUM STANDARDS FOR CONTRACTS, AUDIT COMMITTEE AND REPORTING

The minimum standards set forth by Virginia Code § 38.2-1342 for producer-controlled insurers and controlling producers shall apply only if, in any calendar year, the aggregate amount of gross premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent of the admitted assets of the controlled insurer. These standards prescribe the existence of a written contract between the producer and the insurer, certain provisions in the contract, audit committee requirements for the insurer, and data and reporting requirements.

The requirements of § 38.2-1342, however, shall not apply if:

1. The controlling producer (i) places insurance only with the controlled insurer, or only with the controlled insurer and a member or members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate or subsidiary and receives no compensation based upon the amount of premiums written in connection with such insurance and (ii) accepts insurance placements only from nonaffiliated subproducers and not directly from insureds; and
2. The controlled insurer, except for insurance business written through a residual market facility such as the Virginia Automobile Insurance Plan, as set forth in § 38.2-2015, or the Virginia Property Insurance Association, as set forth in Chapter 27 (§ 38.2-2700 et seq.), accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

DISCLOSURE

Virginia Code § 38.2-1344 requires that a controlling producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. However, if the business is placed through a subproducer who is not a controlling producer, the

controlling producer shall retain in his records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

ATTACHED SURVEY

To enable the Bureau to ensure compliance with the Act, all insurers licensed in Virginia under Title 38.2 to write policies or agreements providing any form of insurance as defined in § 38.2-110 through § 38.2-134 must complete the attached survey and return it to the Bureau at the following address:

SCC/Bureau of Insurance
Financial Regulation Division
P. O. Box 1157
Richmond, VA 23209
Attention: Victoria I. Savoy, Chief Financial Auditor

Surveys must be returned not later than September 30, 1993. These surveys are being requested as an additional report in accordance with Virginia Code § 38.2-1301.1. If you have any questions concerning the Act, please contact Edward Buyalos (domestic companies) or Gregory Walker (foreign and alien companies) at (804) 371-9637.

/s/ Steven T. Foster
Commissioner of Insurance

V.A.R. Doc. No. R93-759; Filed August 10, 1993, 11:59 a.m.

Article 7.
Business Transacted with Producer-Controlled
Property and Casualty Insurer Act.

§ 38.2-1341. Definitions.—As used in this article:

"Accredited state" means a state in which the insurance department or regulatory agency responsible for administering the insurance laws of said state has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program.

"Control" or "controlled" has the meaning ascribed in § 38.2-1322.

"Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a producer.

"Controlling producer" means a producer who, directly or indirectly, controls an insurer.

"Foreign insurer" means any foreign or alien insurer licensed to transact the business of insurance in this Commonwealth pursuant to § 38.2-1024.

"Licensed insurer," "insurer" or "property and casualty insurer" means any person, firm, association or corporation duly licensed under this title to write policies or agreements providing any form of insurance as defined in §§ 38.2-110 through 38.2-134. The following, *inter alia*, are not licensed insurers for the purposes of this article:

1. All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, 15 U.S.C. Section 3901 et seq. (1982 & Supp. 1986) and § 38.2-5101 of this title;
2. All residual market pools and joint underwriting authorities or associations; and
3. Any insurer licensed as a captive insurer under Chapter 11 (§ 38.2-1100 et seq.) and any foreign insurer which is either (i) an association captive or (ii) a pure captive. An "association captive" is an insurer whose exclusive purpose is transacting the business of insurance and reinsurance only on risks, hazards and liabilities of the members of an insurance association comprised of any group of individuals, corporations, partnerships, associations, or governmental units or agencies whose members collectively own, control, or hold with power to vote, all of the outstanding voting securities of the association insurer. A "pure captive" is an insurer whose exclusive purpose is transacting the business of insurance and reinsurance only on risks, hazards, and liabilities of its parent, subsidiary companies of its parent, and associated and affiliated companies.

"Producer" means:

1. Any insurance agent, managing general agent or reinsurance intermediary subject to licensure pursuant to the provisions of Chapter 18 (§ 38.2-1500 et seq.); or
2. Any person subject to substantially similar licensure provisions of another state when, for any compensation, commission or other thing of value, such agent, intermediary or person acts on behalf of an insured other than the agent, intermediary or person, or aids in any manner, in soliciting, negotiating, procuring or effecting the making of any contract of insurance in which the insured, owner and beneficiary are other than the agent, intermediary or person.

§ 38.2-1342. Applicability.—A. All provisions of this article shall apply to domestic insurers.

B. Effective January 1, 1994, any foreign insurer not domiciled and licensed in an accredited state shall confirm, at least once every five years, as a condition of licensing and licensing renewal, its compliance with the provisions of this article or those of a substantially similar law enacted by an accredited state in which the insurer is licensed. The method of confirmation shall be determined by the Commission and may include examination of such foreign insurer and its controlling producer pursuant to Article 4 (§ 38.2-1317 et seq.) of Chapter 13. Any foreign insurer that is unable to confirm substantial compliance in a manner satisfactory to the Commission shall be subject to all of the provisions of this title.

C. All provisions of Article 5 (§ 38.2-1322 et seq.) of this chapter and Article 2 (§ 38.2-4230 et seq.) of Chapter 42, to the extent they are not superseded by the provisions of this article, shall continue to apply to all parties within holding company systems subject to this article.

§ 38.2-1343. Minimum standards.—A. The provisions of this section shall apply if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the prior year.

B. Notwithstanding the provisions of subsection A of this section, the provisions of subsections A, C, D and E of this section shall not apply if:

1. The controlling producer (i) places insurance only with the controlled insurer, or only with the controlled insurer and a member or members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate or subsidiary and receives no compensation based upon the amount of premiums written in connection with such insurance and (ii) accepts insurance placements only from nonaffiliated subproducers and not directly from insureds; and

2. The controlled insurer, except for insurance business written through a residual market facility such as the Virginia Automobile Insurance Plan, as set forth in § 38.2-2015, or the Virginia Property Insurance Association, as set forth in Chapter 27 (§ 38.2-2700 et seq.), accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

C. A controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between them specifying the responsibilities of each party, which contract has been approved by the board of directors of the insurer and contains the following minimum provisions:

1. The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination;
2. The controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to, the controlling producer;
3. The controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments thereof collected shall be remitted no later than ninety days after the effective date of any policy placed with the controlled insurer under this contract;
4. All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System, in accordance with the provisions of the insurance law as applicable. However, funds of a controlling producer not required to be licensed in this Commonwealth shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction;
5. The controlling producer shall maintain separately identifiable records of business written for the controlled insurer;
6. The contract shall not be assigned in whole or in part by the controlling producer;

7. The controlled insurer shall provide the controlling producer with its underwriting standards, rules and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates and conditions. The standards, rules, procedures, rates and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer;

8. The rates and terms of the controlling producer's commissions, charges or other fees and the purposes for those charges or fees shall be specified. The rates of the commissions, charges and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this subdivision and subdivision 7 of this subsection, examples of "comparable business" include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business;

9. If the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to subdivision 1 of subsection E of this section;

10. The contract shall place a limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or sub-line of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer if the limit is reached. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

11. The controlling producer may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

D. Every controlled insurer shall have an Audit Committee of the Board of Directors composed of independent directors. The Audit Committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the Commission to review the adequacy of the insurer's loss reserves.

E. The controlled insurer shall obtain annually prior to March 1 of each year the following data and reports:

1. In addition to any other required loss reserve certification, an opinion of an independent casualty actuary reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year's end (including incurred but not reported) on business placed by the producer; and

2. The controlled insurer shall annually report to the Commission the amount of commissions paid to the producer during the preceding calendar year, the percentage such amount represents of the net premiums written and comparable amounts and percentage paid to noncontrolling producers for placements of the same kind of insurance.

The data and reports required by this subsection shall be retained by the insurer for a period of not less than five years and shall be filed with the Commission upon request.

§ 38.2-1344. Disclosure.—The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. However, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in his records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

§ 38.2-1345. Penalties.—A. If the Commission finds, after providing an opportunity to be heard, that the controlling producer or any other person has not materially complied with the provisions of this article, or any regulation or order promulgated hereunder, the Commission may order the controlling producer to cease placing business with the controlled insurer.

B. If it is found that because of such material noncompliance that the controlled insurer or any policyholder thereof has suffered any loss or damage, the Commission may order the controlling producer or any other party licensed under this title to make restitution to the controlled insurer or its statutory successor, including any rehabilitator, liquidator or receiver of the insurer, for the net losses or damages incurred by the insurer or its policyholders.

C. Nothing contained in this section shall affect the right of the Commission to impose any other penalties provided for in this title.

D. Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors or other third parties.

§ 38.2-1346. Licensure.—A. No person shall act in this Commonwealth as a producer, and no resident of this Commonwealth shall act as a producer, unless such person or resident is licensed as an insurance agent, reinsurance intermediary or managing general agent pursuant to the provisions of Chapter 18 (§ 38.2-1800 et seq.) of this title.

B. As used in this section, the terms "resident" and "insurance agent" have the meanings prescribed in § 38.2-1800, and the terms "managing general agent," and "reinsurance intermediary" have the meanings set forth in §§ 38.2-1846 and 38.2-1858.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION BUREAU OF INSURANCE

SECTION 38.2-1342 REPORT

Business Transacted with Producer-Controlled Property and Casualty Insurer Act
(Virginia Code Sections 38.2-1341 through 38.2-1346) (the Act)

INSTRUCTIONS: Each "insurer" licensed to write any form of property or casualty insurance in the Commonwealth of Virginia is required to file this form. All such insurers, as defined by the Act, shall complete Section I and the Certification. Any insurer which is "controlled" by a "producer" shall complete Section II. All other insurers shall complete Section III indicating that the requirements of Virginia Code §§ 38.2-1341 through 38.2-1346 have been reviewed and there is no controlling producer information to be reported. This form is to be filed before September 30, 1993 with the Financial Regulation Division of the Virginia State Corporation Commission, Bureau of Insurance, P. O. Box 1157, Richmond, VA 23209.

SECTION I
To Be Completed by Each Licensed Property and/or Casualty Insurer

Reporting Insurer's Name: _____
Address: _____
City, State, ZIP: _____
Insurer's NAIC No.: _____ State of Domicile: _____
This form was completed by: _____
Telephone: _____

1. The Act defines key terms, including "insurer," "producer" and "control." Generally, "insurer" means any insurer licensed in Virginia to write any form of property or casualty insurance. As defined by the Act, the term "insurer" does not include risk retention groups (as defined by Virginia Code § 38.2-5101), residual market and joint underwriting authorities and associations, and certain captive insurers. As used in the Act, a "producer" is any person subject to licensure in Virginia as an insurance agent, managing general agent or reinsurance intermediary, and, as such, the term includes also surplus lines brokers. Persons subject to substantially similar licensure provisions of another state also qualify as "producers" subject to the Act when acting on behalf of an insurer. "Control" has the meaning ascribed in Virginia Code § 38.2-1322, a section in Virginia's Insurance Company Holding Company Act.

SECTION II
To Be Completed by Any Insurer That Is A Producer Controlled Insurer

NOTE: Insurers completing Section II shall prepare and attach as Exhibit A a listing identifying each Controlling Producer. For each producer the listing shall show: (i) name, (ii) complete mailing address, (iii) the aggregate amount of gross written premium on business placed by the producer with Insurer during the most recent calendar year, (iv) the percentage such amount represents of Insurer's total admitted assets as reported in the quarterly financial statement filed as September 30, and (v) the Insurer's projection as to the aggregate amount of gross written premium on business to be placed with the Insurer by the producer during the current calendar year.

_____ is a "Controlled Insurer" (Insurer), as defined by the provisions of the Virginia Business Transacted with Producer-Controlled Property and Casualty Insurer Act at Virginia Code §§ 38.2-1341 through 38.2-1347 (the Act), and responds as follows:

To each question, respond Yes, No or N/A (not applicable), whichever is most appropriate.

- | | YES | NO | N/A |
|---|-------|-------|-------|
| 1. Has the Insurer attached an Exhibit A, as prescribed by the instructions to this form, fully disclosing the identity of each Controlling Producer with whom it transacts business? | _____ | _____ | _____ |
| 2. Has the Insurer notified all such Controlling Producers of the requirements of the Act? | _____ | _____ | _____ |
| 3. If the Insurer is domiciled in Virginia, has it complied with all of the provisions of the Act? | _____ | _____ | _____ |
| 4. If the Insurer is not domiciled in Virginia, can it demonstrate substantial compliance with the provisions of the Act? | _____ | _____ | _____ |
| 5. Is the Insurer domiciled and licensed in an accredited state other than Virginia? | _____ | _____ | _____ |
| 6. Has the Insurer complied with the provisions of a substantially similar law enacted by an accredited state? | _____ | _____ | _____ |

SECTION III
To Be Completed by Insurers that are NOT Producer Controlled

_____ is not issuing any property or casualty insurance coverages that are or may be reportable in accordance with the provisions of the Virginia Business Transacted with Producer-Controlled Property and Casualty Insurer Act at Virginia Code §§ 38.2-1341 through 38.2-1346.

CERTIFICATION

I hereby certify under penalty of perjury that the foregoing statements and information appearing in Sections I and _____ (enter II or III, whichever is appropriate) are true and correct to the best of my knowledge and belief.

Dated and signed this _____ day of _____, 19 _____.

(Insurer's Authorized Signature)

(Title)

State of _____

County of _____

Personally appeared before me the above named _____ personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

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

Notary Public

My Commission Expires: _____

[SEAL]

PROPOSED

..... AT RICHMOND, AUGUST 4, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

..... CASE NO. INS930382

Ex Parte: In the matter of
adopting revised Rules
Establishing Minimum Reserve
Standards for Individual and
Group Accident and Sickness
Insurance Contracts

ORDER SCHEDULING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code §§ 38.2-223, 38.2-1311 and 38.2-1314 provide that the Commission is authorized to issue reasonable rules and regulations governing reserve standards for accident and sickness insurance policies;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Establishing Minimum Reserve Standards for Individual and Group Accident and Sickness Insurance Contracts"; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

THEREFORE, IT IS ORDERED:

(1) That the proposed revised regulation entitled "Rules Establishing Minimum Reserve Standards for Individual and Group Accident and Sickness Insurance Contracts" be appended hereto and made a part hereof, filed and made a part of the record herein;

(2) That a hearing be held in the Commission's Courtroom, 2nd Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on October 21, 1993, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before September 30, 1993, any person desiring to comment on the proposed revised regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(4) That an attested copy hereof, together with a copy of the proposed regulation, be sent by the Clerk of the

Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order together with a copy of the proposed regulation to all insurance companies licensed to write life insurance or accident and sickness insurance in the Commonwealth of Virginia; and

(5) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

Section 1. Purpose

The purpose of this regulation is to set forth rules governing Reserve Standards for accident and sickness insurance policies which the Commission deems necessary to carry out the provisions of Sections 38.2-1311 and 38.2-1314 of the Code of Virginia.

Section 2. Authority

This regulation is promulgated and adopted pursuant to and in accordance with the provisions of §§ 12.1-13, 38.2-223, 38.2-1311 and 38.2-1314 of the Code of Virginia.

Section 3. General

A. Scope

(1) These standards apply to all individual and group accident and sickness insurance coverages, except credit accident and sickness insurance, coverages, provided by policies or contracts delivered or issued for delivery by any domestic, foreign or alien company licensed to transact the business of insurance in this Commonwealth.

(2) When a company determines that adequacy of its accident and sickness insurance reserves requires reserves in excess of the minimum standards specified herein, such increased reserves shall be held and shall be considered the minimum reserves for that company.

(3) With respect to any block of contracts, or with respect to a company's accident and sickness business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation will take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.

Such a gross premium valuation is to be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of

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contracts, or with respect to the company's accident and sickness business as a whole. In the event inadequacy is found to exist, immediate loss recognition shall be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium and contract reserves, if any) shall be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under these standards.

Whenever minimum reserves, as defined in these standards, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.

B. Categories of Reserves

The following sections of this regulation set forth minimum standards for three categories of accident and sickness insurance reserves:

Section 4. Claim Reserves

Section 5. Premium Reserves

Section 6. Contract Reserves

Adequacy of a company's accident and sickness insurance reserves is to be determined on the basis of all three categories combined. However, these standards emphasize the importance of determining appropriate reserves for each of the three categories separately.

C. Appendices

These standards contain two appendices which are an integral part of the standards, and one additional "supplementary" appendix which is not part of the standards as such, but is included for explanatory and illustrative purposes only.

Appendix A. Specific minimum standards with respect to morbidity, mortality and interest, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue.

Appendix B. Glossary of Technical Terms used.

Appendix C. (Supplementary) Waiver of Premium Reserves.

Section 4. Claim Reserves

A. General

(1) Claim reserves are required for all incurred but unpaid claims on all accident and sickness insurance policies.

(2) Appropriate claim expense reserves are required

with respect to the estimated expense of settlement of all incurred but unpaid claims.

(3) All such reserves for prior valuation years are to be tested for adequacy and reasonableness along the lines of claim runoff schedules in accordance with the statutory financial statement including consideration of any residual unpaid liability.

B. Minimum Standards for Claim Reserves

(1) Disability Income

(a) Interest. The maximum interest rate for claim reserves is specified in Appendix A.

(b) Morbidity. Minimum standards with respect to morbidity are those specified in Appendix A except that, at the option of the company:

(i) For claims with a duration from date of disablement of less than two years, reserves may be based on the company's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(ii) For group disability income claims with a duration from date of disablement of more than two years but less than five years, reserves may, with the approval of the Commission, be based on the company's experience for which the company maintains underwriting and claim administration control. The request for such approval of a plan of modification to the reserve basis must include:

- An analysis of the credibility of the experience;
- A description of how all of the company's experience is proposed to be used in setting reserves;
- A description and quantification of the margins to be included;
- A summary of the financial impact that the proposed plan of modification would have had on the company's last filed annual statement;
- A copy of the approval of the proposed plan of modification by the commissioner or other chief insurance regulatory official of the company's state of domicile; and
- Any other information deemed necessary by the Commission.

(c) Duration of Disablement. For contracts with an elimination period, the duration of disablement should be measured as dating from the time that benefits would have begun to accrue had there been no

elimination period.

(2) All Other Benefits

(a) Interest. The maximum interest rate for claim reserves is specified in Appendix A.

(b) Morbidity or other Contingency. The reserve should be based on the company's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

C. Claim Reserve Methods Generally

Any generally accepted or reasonable actuarial method or combination of methods may be used to estimate all claim liabilities. The methods used for estimating liabilities generally may be aggregate methods, or various reserve items may be separately valued. Approximations based on groupings and averages may also be employed. Adequacy of the claim reserves, however, shall be determined in the aggregate.

Section 5. Premium Reserves

A. General

(1) Unearned premium reserves are required for all contracts with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.

(2) If premiums due and unpaid are carried as an asset, such premiums must be treated as premiums in force, subject to unearned premium reserve determination. The value of unpaid commissions, premium taxes, and the cost of collection associated with due and unpaid premiums must be carried as an offsetting liability.

(3) The gross premiums paid in advance for a period of coverage commencing after the next premium due date which follows the date of valuation may be appropriately discounted to the valuation date and shall be held either as a separate liability or, unless questioned by the Commission, as an addition to the unearned premium reserve which would otherwise be required as a minimum.

B. Minimum Standards for Unearned Premium Reserves

(1) The minimum unearned premium reserve with respect to any contract is the pro-rata unearned modal premium that applies to the premium period beyond the valuation date, with such premium determined on the basis of:

(a) The valuation net modal premium on the contract reserve basis applying to the contract; or

(b) The gross modal premium for the contract if no contract reserve applies.

(2) However, in no event may the sum of the unearned premium and contract reserves for all contracts of the company subject to contract reserve requirements be less than the gross modal unearned premium reserve on all such contracts, as of the date of valuation. Such reserve shall never be less than the expected claims for the period beyond the valuation date represented by such unearned premium reserve, to the extent not provided for elsewhere.

C. Premium Reserve Methods Generally

When computing premium reserves, the company may employ suitable approximations and estimates including, but not limited to, groupings, averages and aggregate estimation. Such approximations or estimates should be tested periodically to determine their continuing adequacy and reliability.

Section 6. Contract Reserves.

A. General

(1) Contract reserves are required, unless otherwise specified in Section 6A(2), for:

(a) All individual and group contracts with which level premiums are used; or

(b) All individual and group contracts with respect to which, due to the gross premium pricing structure at issue, the value of the future benefits at any time exceeds the value of any appropriate future valuation net premiums at that time. The values specified in this Subparagraph (b) shall be determined on the basis specified in Section 6B.

(2) Contracts not requiring a contract reserve are:

(a) Contracts which cannot be continued after one year from issue; or

(b) Contracts already in force before the effective date of these standards for which no contract reserve was required under the immediately preceding standards.

(3) The contract reserve is in addition to claim reserves and premium reserves.

(4) The methods and procedures for contract reserves should be consistent with those for claim reserves for any contract, or else appropriate adjustment must be made when necessary to assure provision for the aggregate liability. The definition of the date of incurral must be the same in both determinations.

B. Minimum Standards for Contract Reserves

(1) Basis

State Corporation Commission

(a) Morbidity or other Contingency. Minimum standards with respect to morbidity are those set forth in Appendix A. Valuation net premiums used under each contract must have a structure consistent with the gross premium structure at issue of the contract as this relates to advancing age of insured, contract duration and period for which gross premiums have been calculated.

Contracts for which tabular morbidity standards are not specified in Appendix A shall be valued using tables established for reserve purposes by a qualified actuary and acceptable to the Commissioner.

(b) Interest. The maximum interest rate is specified in Appendix A.

(c) Termination Rates. Termination rates used in the computation of reserves shall be on the basis of a mortality table as specified in Appendix A except as noted in the following paragraph.

Under contracts for which premium rates are not guaranteed, and where the effects of company underwriting are specifically used by policy duration in the valuation morbidity standard or for return of premium or other deferred cash benefits, total termination rates may be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of:

(i) Eighty percent of the total termination rate used in the calculation of the gross premiums, or

(ii) Eight percent.

Where a morbidity standard specified in Appendix A is on an aggregate basis, such morbidity standard may be adjusted to reflect the effect of company underwriting by policy duration. The adjustments must be appropriate to the underwriting and be acceptable to the Commission.

(d) Reserve Method.

(i) For insurance except long-term care and return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated on the two-year full preliminary term method; that is, under which the terminal reserve is zero at the first and also the second contract anniversary.

(ii) For long-term care insurance, the minimum reserve is the reserve calculated on the one-year full preliminary term method.

(iii) For return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated as follows:

- On the one year preliminary term method if such

benefits are provided at any time before the twentieth anniversary;

- On the two year preliminary term method if such benefits are only provided on or after the twentieth anniversary.

The preliminary term method may be applied only in relation to the date of issue of a contract. Reserve adjustments introduced later, as a result of rate increases, revisions in assumptions (e.g., projected inflation rates) or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis.

(e) Negative Reserves. Negative reserves on any benefit may be offset against positive reserves for other benefits in the same contract, but the total contract reserve with respect to all benefits combined may not be less than zero.

C. Alternative Valuation Methods and Assumptions Generally

Provided the contract reserve on all contracts to which an alternative method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified above, a company may use any reasonable assumptions as to interest rates, termination and/or mortality rates, and rates of morbidity or other contingency. Also, subject to the preceding condition, the company may employ methods other than the methods stated above in determining a sound value of its liabilities under such contracts, including, but not limited to the following: the net level premium method; the one-year full preliminary term method; prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses; the use of approximations such as those involving age groupings, groupings of several years of issue, average amounts of indemnity, grouping of similar contract forms; the computation of the reserve for one contract benefit as a percentage of, or by other relation to, the aggregate contract reserves exclusive of the benefit or benefits so valued; and the use of a composite annual claim cost for all or any combination of the benefits included in the contracts valued.

D. Tests For Adequacy and Reasonableness of Contract Reserves

Annually, an appropriate review shall be made of the company's prospective contract liabilities on contracts valued by tabular reserves, to determine the continuing adequacy and reasonableness of the tabular reserves giving consideration to future gross premiums. The company shall make appropriate increments to such tabular reserves if such tests indicate that the basis of such reserves is no longer adequate; subject, however, to the minimum standards of Section 6B.

In the event a company has a contract or a group of related similar contracts, for which future gross premiums will be restricted by contract, insurance department regulations, or for other reasons, such that the future gross premiums reduced by expenses for administration, commissions, and taxes will be insufficient to cover future claims, the company shall establish contract reserves for such shortfall in the aggregate.

Section 7. Reinsurance

Increases to, or credits against reserves carried, arising because of reinsurance assumed or reinsurance ceded, must be determined in a manner consistent with these minimum reserve standards and with all applicable provisions of the reinsurance contracts which affect the company's liabilities.

Section 8. Severability

If any provision in this regulation or the application thereof to any person or circumstance is held for any reason to be invalid, the remainder of the provisions in this regulation shall not be affected thereby.

APPENDIX A. SPECIFIC STANDARDS FOR MORBIDITY, INTEREST AND MORTALITY

I. MORBIDITY

A. Minimum morbidity standards for valuation of specified individual contract accident and sickness insurance benefits are as follows:

(1) Disability Income Benefits Due to Accident or Sickness.

(a) Contract Reserves:

Contracts issued on or after January 1, 1965 and prior to January 1, 1986:

The 1964 Commissioners Disability Table (64 CDT).

Contracts issued on or after January 1, 1994:

The 1985 Commissioners Individual Disability Tables A (85CIDA); or

The 1985 Commissioners Individual Disability Tables B (85CIDB).

Contracts issued during 1986 through 1993:

Optional use of either the 1964 Table or the 1985 Tables.

Each company shall elect, with respect to all individual contracts issued in any one statement year, whether it will use Tables A or Tables B as

the minimum standard. The company may, however, elect to use the other tables with respect to any subsequent statement year.

(b) Claim Reserves:

The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred.

(2) Hospital Benefits, Surgical Benefits and Maternity Benefits

(Scheduled benefits or fixed time period benefits only).

(a) Contract Reserves:

Contracts issued on or after January 1, 1955, and before January 1, 1982:

The 1956 Intercompany Hospital-Surgical Tables.

Contracts issued on or after January 1, 1982:

The 1974 Medical Expense Tables, Table A, Transactions of the Society of Actuaries, Volume XXX, pg. 63. Refer to the paper (in the same volume, pg. 9) to which this table is appended, including its discussions, for methods of adjustment for benefits not directly valued in Table A: "Development of the 1974 Medical Expense Benefits," Houghton and Wolf.

(b) Claim Reserves:

No specific standard. See (5).

(3) Cancer Expense Benefits (Scheduled benefits or fixed time period benefits only).

(a) Contract Reserves:

Contracts issued on or after January 1, 1975 and prior to January 1, 1986:

The 1974 Cancer Tables as published by Nelson & Warren, Inc.

Contracts issued on or after January 1, 1994:

The 1985 NAIC Cancer Claim Cost Tables.

Contracts issued during 1986 through 1993:

Optional use of either the 1974 Tables or the 1985 Tables.

(b) Claim Reserves:

No specific standard. See (5).

State Corporation Commission

(4) Accidental Death Benefits.

(a) Contract Reserves:

Contracts issued on or after January 1, 1965:

The 1959 Accidental Death Benefits Table.

(b) Claim Reserves:

Actual amount incurred.

(5) Other Individual Contract Benefits.

(a) Contract Reserves:

For all other individual contract benefits, morbidity assumptions are to be determined as provided in the reserve standards.

(b) Claim Reserves:

For all benefits other than disability, claim reserves are to be determined as provided in the standards.

B. Minimum morbidity standards for valuation of specified group contract accident and sickness insurance benefits are as follows:

(1) Disability Income Benefits Due to Accident or Sickness.

(a) Contract Reserves:

Contracts issued prior to January 1, 1994:

The same basis, if any, as that employed by the company as of December 31, 1993;

Contracts issued on or after January 1, 1994:

The 1987 Commissioners Group Disability Income Table (87CGDT).

(b) Claim Reserves:

For claims incurred on or after January 1, 1994:

The 1987 Commissioners Group Disability Income Table (87CGDT);

For claims incurred prior to January 1, 1994:

Use of the 87CGDT is optional.

(2) Other Group Contract Benefits.

(a) Contract Reserves:

For all other group contract benefits, morbidity assumptions are to be determined as provided in the

reserve standards.

(b) Claim Reserves:

For all benefits other than disability, claim reserves are to be determined as provided in the standards.

II. INTEREST

A. For contract reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the accident and sickness insurance contract.

B. For claim reserves on policies that require contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the claim incurral date.

C. For claim reserves on policies not requiring contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of single premium immediate annuities issued on the same date as the claim incurral date, reduced by one hundred basis points.

III. MORTALITY

A. Except as provided in Subsection B, the mortality basis used shall be according to a table (but without use of selection factors) permitted by law for the valuation of whole life insurance issued on the same date as the accident and sickness insurance contract.

B. Other mortality tables adopted by the NAIC and promulgated by the Commission may be used in the calculation of the minimum reserve if appropriate for the type of benefits and if approved by the Commission. The request for such approval must include the proposed mortality table and the reason that the standard specified in Subsection A is inappropriate.

APPENDIX B.

GLOSSARY OF TECHNICAL TERMS USED

As used in this valuation standard, the following terms have the following meaning:

ANNUAL-CLAIM COST. The net annual cost per unit of benefit before the addition of expenses, including claim settlement expenses, and a margin for profit or contingencies. For example, the annual claim cost for a \$100 monthly disability benefit, for a maximum disability benefit period of one year, with an elimination period of one week, with respect to a male at age 35, in a certain occupation might be \$12, while the gross premium for this benefit might be \$18. The additional \$6 would cover expenses and profit or contingencies.

CLAIMS ACCRUED. That portion of claims incurred on or prior to the valuation date which result in liability of the company for the payment of benefits for medical services

which have been rendered on or prior to the valuation date, and for the payment of benefits for days of hospitalization and days of disability which have occurred on or prior to the valuation date, which the company has not paid as of the valuation date, but for which it is liable, and will have to pay after the valuation date. This liability is sometimes referred to as a liability for "accrued" benefits. A claim reserve, which represents an estimate of this accrued claim liability, must be established.

CLAIMS REPORTED. When a company has been informed that a claim has been incurred, if the date reported is on or prior to the valuation date, the claim is considered as a reported claim for annual statement purposes.

CLAIMS UNACCRUED. That portion of claims incurred on or prior to the valuation date which result in liability of the company for the payment of benefits for medical services expected to be rendered after the valuation date, and for benefits expected to be payable for days of hospitalization and days of disability occurring after the valuation date. This liability is sometimes referred to as a liability for unaccrued benefits. A claim reserve, which represents an estimate of the unaccrued claim payments expected to be made (which may or may not be discounted with interest), must be established.

CLAIMS UNREPORTED. When a company has not been informed, on or before the valuation date, concerning a claim that has been incurred on or prior to the valuation date, the claim is considered as an unreported claim for annual statement purposes.

DATE OF DISABLEMENT. The earliest date the insured is considered as being disabled under the definition of disability in the contract, based on a doctor's evaluation or other evidence. Normally this date will coincide with the start of any elimination period.

ELIMINATION PERIOD. A specified number of days, weeks, or months starting at the beginning of each period of loss, during which no benefits are payable.

GROSS PREMIUM. The amount of premium charged by the company. It includes the net premium (based on claim-cost) for the risk, together with any loading for expenses, profit or contingencies.

GROUP INSURANCE. The term group insurance includes blanket insurance and franchise insurance and any other forms of group insurance.

LEVEL PREMIUM. A premium calculated to remain unchanged throughout either the lifetime of the policy, or for some shorter projected period of years. The premium need not be guaranteed; in which case, although it is calculated to remain level, it may be changed if any of the assumptions on which it was based are revised at a later time.

Generally, the annual claim costs are expected to increase each year and the company, instead of charging premiums that correspondingly increase each year, charges a premium calculated to remain level for a period of years or for the lifetime of the contract. In this case the benefit portion of the premium is more than needed to provide for the cost of benefits during the earlier years of the policy and less than the actual cost in the later years. The building of a prospective contract reserve is a natural result of level premiums.

LONG-TERM CARE INSURANCE. Any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care, mental health or substance abuse services provided in a setting other than an acute care unit of a hospital. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. Long-term care insurance may be issued by insurers; fraternal benefit societies; health services plans; health maintenance organizations; cooperative non-profit life benefit companies or mutual assessment life, accident and sickness insurers or any similar organization to the extent it is otherwise authorized to issue life or accident and sickness insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

MODAL PREMIUM. This refers to the premium paid on a contract based on a premium term which could be annual, semi-annual, quarterly, monthly, or weekly. Thus if the annual premium is \$100 and if, instead, monthly premiums of \$9 are paid then the modal premium is \$9.

NEGATIVE RESERVE. Normally the terminal reserve is a positive value. However, if the values of the benefits are decreasing with advancing age or duration it could be a negative value, called a negative reserve.

PRELIMINARY TERM RESERVE METHOD. Under this method of valuation the valuation net premium for each year falling within the preliminary term period is exactly sufficient to cover the expected incurred claims of that year, so that the terminal reserves will be zero at the end of the year. As of the end of the preliminary term period, a new constant valuation net premium (or stream of changing valuation premiums) becomes applicable such that the present value of all such premiums is equal to the present value of all claims expected to be incurred following the end of the preliminary term period.

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PRESENT VALUE OF AMOUNTS NOT YET DUE ON CLAIMS. The reserve for "claims unaccrued" (see definition), which may be discounted at interest.

RESERVE. The term "reserve" is used to include all items of benefit liability, whether in the nature of incurred claim liability or in the nature of contract liability relating to future periods of coverage, and whether the liability is accrued or unaccrued.

A company under its contracts promises benefits which result in:

(a) Claims which have been incurred, that is, for which the company has become obligated to make payment, on or prior to the valuation date. On these claims, payments expected to be made after the valuation date for accrued and unaccrued benefits are liabilities of the company which should be provided for by establishing claim reserves; or

(b) Claims which are expected to be incurred after the valuation date. Any present liability of the company for these future claims should be provided for by the establishment of contract reserves and unearned premium reserves.

TERMINAL RESERVE. This is the reserve at the end of a contract year, and is defined as the present value of benefits expected to be incurred after that contract year minus the present value of future valuation net premiums.

UNEARNED PREMIUM RESERVE. This reserve values that portion of the premium paid or due to the insurer which is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of \$120 was paid on November 1, \$20 would be earned as of December 31 and the remaining \$100 would be unearned. The unearned premium reserve could be on a gross basis as in this example, or on a valuation net premium basis.

VALUATION NET MODAL PREMIUM. This is the modal fraction of the valuation net annual premium that corresponds to the gross modal premium in effect on any contract to which contract reserves apply. Thus if the mode of payment in effect is quarterly, the valuation net modal premium is the quarterly equivalent of the valuation net annual premium.

APPENDIX C. RESERVES FOR WAIVER OF PREMIUM (Supplementary explanatory material)

Waiver of premium reserves involve several special considerations. First, the disability valuation tables promulgated by the NAIC are based on exposures that include contracts on premium waiver as in-force contracts. Hence, contract reserves based on these tables are NOT reserves on "active lives" but rather reserves on contracts "in force." This is true for the 1964 CDT and for both the 1985 CIDA and CIDB tables.

Accordingly, tabular reserves using any of these tables should value reserves on the following basis:

Claim reserves should include reserves for premiums expected to be waived, valuing as a minimum the valuation net premium being waived.

Premium reserves should include contracts on premium waiver as in-force contracts, valuing as a minimum the unearned modal valuation net premium being waived.

Contract reserves should include recognition of the waiver of premium benefit in addition to other contract benefits provided for, valuing as a minimum the valuation net premium to be waived.

If a company is, instead, valuing reserves on what is truly an active life table, or if a specific valuation table is not being used but the company's gross premiums are calculated on a basis that includes in the projected exposure only those contracts for which premiums are being paid, then it may not be necessary to provide specifically for waiver of premium reserves. Any company using such a true "active life" basis should carefully consider, however, whether or not additional liability should be recognized on account of premiums waived during periods of disability or during claim continuation.

VA.R. Doc. No. R93-758; Filed August 12, 1993; 1:59 p.m.

STATE LOTTERY DEPARTMENT

EMERGENCY REGULATION

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-01-1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 58.1-4007 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

Preamble:

The State Lottery Department recommends approval of the Department's request to adopt an emergency regulation to amend its public participation guidelines to conform with legislation enacted by the 1993 General Assembly applicable to the Administrative Process Act (HB 1652). The regulation states that the department does not utilize standing or ad hoc advisory panels; however, when sufficient interest exists, it may schedule consultation in the form of informal meetings before the development of the regulation.

The Governor's approval of this emergency regulation will allow the State Lottery Department to enhance its public participation guidelines. As provided in the Code of Virginia, § 9-6.14:4.1, subsection C, paragraph 5, the agency shall receive, consider, and respond to petition by any interested person at any time with respect to reconsideration or revision.

VR 447-01-1. Public Participation Guidelines.

§ 1. Generally.

A. In developing any regulation, the State Lottery Board ("board") and the State Lottery Department ("department") are committed to obtaining comments from interested people.

B. Anyone who is interested in participating in the process of developing regulations should notify the department in writing. This notification should be sent to: Director, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

1. The department will maintain a list of the people who notified the department in writing.

2. The department will mail to everyone on the list a copy of the Notice of Intended Regulatory Action discussed in § 4 of these guidelines.

§ 2. Identification of needed regulations.

A. Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any

existing regulation. The request for a new regulation or suggested change to a current regulation should be made in writing and sent to: Director, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

B. The department and board, at their discretion, may consider any regulatory request or change.

§ 3. Identification of interested parties.

Before the department develops a regulation, it will identify persons who would be either interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtaining the statewide listing of business, professional and civic associations published by the Virginia State Chamber of Commerce. This list will be used to identify groups which might be interested in the regulation.

2. Using department files to identify people who have raised questions or expressed an interest in the regulations.

3. Using a list, compiled by the department, of persons who previously participated in public proceedings.

4. Obtaining annually from the Secretary of the Commonwealth a list of all persons, associations and others who have registered as lobbyists for the General Assembly session. This list will be used to identify groups which may be interested in the subject matter of the proposed regulation.

§ 4. Notification of interested parties.

A. Generally.

The department will prepare a Notice of Intended Regulatory Action ("Notice") before developing any regulation. The notice will identify the subject matter and purpose of the new regulation(s). The notice will specify a time deadline and location for interested persons to submit written comments.

B. Notifying those interested.

The methods for notifying interested persons will include, but not be limited to, the following:

1. Sending the notice to all persons identified as interested parties through the methods described in § 3 above;

2. Publishing the notice in the Virginia Register of Regulations (Virginia Register); and

3. Requesting that groups, associations, and

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organizations to whom the notice is sent publish the notice in newsletters or journals or use other means available to them to inform their members.

§ 5. Public participation in regulation development.

A. Initial comment.

After interested parties have responded to the notice, the department will determine the level of interest.

1. If it is the general policy of the department not to utilize standing or ad hoc advisory panels; however, if sufficient interest exists, the department may schedule consultation in the form of informal meetings before the development of the regulation. The meetings will determine the specific areas of interest and concern and will gather factual information on the subject of the regulation.

2. Instead of informal meetings, the department may ask for additional written comments, concerns or suggestions on the development of the regulation from those who responded to the notice.

3. The department may decide that the notice resulted in receipt of enough information so that it can develop the regulation without an informal meeting or additional written comments.

B. Preparing a working draft.

After the initial public input on the intended regulatory action, the department will develop a working draft of the proposed regulation for the board to review, revise and approve, after consultation with the director.

§ 6. Submission of regulation under the Administrative Process Act.

1. After the drafting process ends, the board-approved regulation will be submitted to the Registrar of Regulations under the Administrative Process Act (APA), Title 9, Chapter 1.1:1, of the Code of Virginia. The board-approved regulation will be published as a proposed regulation in the Virginia Register.

2. The department will furnish a copy of the regulation published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulation.

3. If the department elects to hold a public hearing, the time, date, and place will be specified. In addition, the cutoff date for people to notify the department that they will participate in the public hearing will be set out. People who choose to participate in the public hearing will be asked to submit, in advance, written copies of their comments. These copies will help to ensure that comments are accurately recorded in the

formal transcript of the hearing.

4. When the board issues an order adopting a regulation, the department may elect to send a notice to people who participated in the APA comment process. The notice will state that the regulation will be published in the Virginia Register and will specify the issue number.

§ 7. Publication and distribution of final regulation.

1. The board will adopt all final regulations after consultation with the director. The final regulations will be submitted for publication in the Virginia Register.

2. The board will order the department to print all adopted final regulations and make appropriate distribution.

3. The distribution of any regulation will be made with a goal of increasing public knowledge of the policies of the department and compliance with the department's regulations.

/s/ Kenneth W. Thorson
Director
State Lottery Department
Date: June 23, 1993

/s/ Lawrence Douglas Wilder
Governor
Date: June 24, 1993

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: June 29, 1993

V.A.R. Doc. No. R93-628; Filed June 29, 1993, 10:12 a.m.

MARINE RESOURCES COMMISSION

EMERGENCY REGULATION

MARINE RESOURCES COMMISSION

Title of Regulation: VR 450-01-0045. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 28.2-103 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

Preamble:

VR 450-01-0045 sets forth the manner in which the Habitat Management Division of the Virginia Marine Resources Commission, 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, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for processing rulemakings under the Administrative Process Act (Act).

One of the new requirements of the amended Act mandates that the Marine Resources Commission include as part of their Public Participation Guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Commission. Such policy shall address the circumstances in which the Commission considers such groups or consultation appropriate and intends to make use of such panels or consultations.

The legislation further requires the Commission to set out in their Public Participation Guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Commission intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require Public Participation Guidelines to contain such provisions. Because Public Participation Guidelines must be in compliance with the Act before the Commission can initiate any regulatory actions, it is important that Public Participation Guidelines that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993.

Nature of Emergency:

The Commission proposes to adopt emergency Public Participation Guidelines in order to ensure the Commission's ability to process any necessary regulatory actions after July 1, 1993. The Commission

is responsible for the administration of several habitat protection programs whose purpose is to protect and enhance the quality of the Commonwealth's marine resources. Among these are subaqueous lands permits, wetlands permits and coastal primary sand dunes and attendant guidelines. Without Public Participation Guidelines which satisfy the new requirements of the Act, the Commission will be unable to process any regulatory actions until such time as permanent Public Participation Guidelines can be adopted. Under the Act, it could take as long as year to adopt permanent Public Participation Guidelines which would result in necessary regulatory actions taking as much as two years to complete.

Necessity for Action:

The adoption of emergency Public Participation Guidelines is critical to ensure the continued and efficient operation of the Commission's regulatory programs.

Summary:

This regulation will establish Public Participation Guidelines which allow the Commission to initiate, after July 1, 1993, regulatory action processes to adopt, amend or repeal necessary regulations or guidelines, in conformance with the amended Act.

This emergency regulation will be enforced under applicable statutes and 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 Act and this emergency regulation.

The Commission will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered:

By:

/s/ William A. Pruitt
Commissioner
Virginia Marine Resources Commission
Date: June 23, 1993

Approved By:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

Approved By:

Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 21, 1993

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Filed With:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 25, 1993

VR 450-01-0045. Public Participation Guidelines.

§ 1. Authority.

A. Sections 9-6.14:7.1 and 28.2-103 of the Code of Virginia.

B. Effective ~~January 1~~ June 30, 1993.

§ 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, corporation, 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 regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempt from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

~~B. At the discretion of the commission, the procedures in § 4 may be supplemented to provide additional public participation in the regulation adoption process.~~

~~C. B. 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 .~~

~~D. C. Any person may petition the commission for the~~

adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The commission shall provide a written response to such petition within 180 days from the date the petition was received.

§ 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 regulations.

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 shall form an ad hoc advisory group ~~or~~, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency to assist the division in the drafting and formation of the proposal ~~unless the commission specifically authorizes the division to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:~~

1. a. The commissioner, in the commissioner's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; or

b. The division receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the commissioner to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and

2. The subject matter of the NOIRA has not previously been the subject of a NOIRA published in the Register of Regulations by the agency.

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When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

D. The division shall issue a ~~notice of intended regulatory action (NOIRA)~~ 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 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.
- e. A statement of the agency's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.

f. A statement inviting comment on whether the agency should establish an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the commissioner has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 4.C.

2. a. The division shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the commission specifically authorizes the division to proceed without holding a public meeting or the commissioner specifically determines the division can proceed without holding a public meeting in those cases where the subject matter of the NOIRA has previously been the subject of a NOIRA published by the division in the Register of Regulations .

b. 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 complete~~ the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a *standing advisory committee utilized, or groups and individuals consulted* the draft regulation shall be developed in consultation with ~~such group the selected advisor~~ . A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group , *standing advisory committee, or groups and individuals* 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 regulation by the commission, the division shall publish a Notice of Public Comment (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 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.

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

4. The identity of any locality particularly affected by the proposed regulation. For purposes of these guidelines the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

~~4.~~ 5. 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 regulation is proposed and the desired end result or objective of the regulation. The rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.~~

b. Estimated impact.

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(1) *Projected* number and types of regulated entities or persons *affected* .

(2) Projected cost , *expressed as a dollar figure or range*, 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 regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member(s) 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 as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

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.~~ 6. The time, date and location of at least one ~~public hearing~~ *informational proceeding* held in conformance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (*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 Virginia Code § 9-6.14:8 of the Code of Virginia.*) The ~~hearing(s)~~ *informational proceeding(s)* may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of 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)~~ *informational proceeding(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~~ *division* 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 the division's response to the comments received. *The division shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation.* The division shall submit the summary and agency response and if requested, submit the full comments to the commission. The summary, the agency response, and the comments shall become a part of the agency file and after final action on the regulation by the commission, made available upon request, to interested persons.

L. If the division determines that the process to adopt, amend or repeal any regulation should be terminated after the approval of the draft regulation by the commission, the division shall present to the commission for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.

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

§ 5. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with VR-450-01-0045, Public Participation Guidelines, effective June 2, 1987.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with this revised regulation.

The amending provisions contained in this emergency regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these guidelines take effect.

Marine Resources Commission

V.A.R. Doc. No. R93-613; Filed June 25, 1993, 11:23 a.m.

GOVERNOR

EXECUTIVE MEMORANDUM 1-93

Subject:

Payroll Deductions for State Employee Associations

Preface:

State agencies and institutions which are not a part of the centralized payroll system administered by the Department of Accounts do not have uniform policies related to the use of payroll deductions for state employee associations. This has created disparities in the treatment of state employees and state employee associations.

Purpose:

This memorandum establishes a uniform state policy on the use of payroll deductions for state employee associations.

Effective Date:

July 1, 1993

General Policy:

Executive branch employees who are members of a state employee association may elect to have membership dues or fees deducted from their pay. A state employee association shall be defined as a non-profit organization with voluntary membership that provides programs and services of general benefit to employees within the context of their employment. Such associations whose membership is specific to one agency or institution shall be approved by the head of the agency or institution upon review of a request that establishes such association meets the definition of state employee association. Such associations which are statewide and open to all employees who elect to participate shall be limited to those on the State Comptroller's Approved State Employee Association List.

Implementation:

The heads of all executive branch agencies and institutions are directed to follow the general policy stated above.

Continuation:

This Executive Memorandum shall remain in full force and effect until superseded or rescinded by further Executive Memorandum. Given under my hand and under the Seal of the Commonwealth of Virginia this 5th day of August, 1993.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE MEMORANDUM 2-93

Subject:

Use of State Agencies' and Institutions' Meeting Rooms by State Employee Associations.

Preface:

Policies related to the use of state agencies' and institutions' meeting rooms by state employee associations are not uniform. Consequently, disparities exist in the access by state employee associations to these facilities.

Purpose:

As a benefit to state employees, this Memorandum establishes uniform criteria for the use of meeting rooms in executive branch state agencies and institutions by state employee associations.

Applicability:

This memorandum applies to all executive branch state agencies and institutions.

General Policy:

It is the policy of the Commonwealth of Virginia to permit state employee associations to use state agencies' and institutions' meeting rooms, where the time, place, and nature of the use: do not violate any laws, leases, or other contracts; and are compatible with the safety and security of the particular facility and mission of the state agency or institution.

A state employee association shall be defined as any non-profit organization with voluntary membership that provides programs and services of general benefit to employees within the context of their employment. An association whose membership is limited to the employees of a specific agency or institution shall be approved by the head of the agency or institution upon review of a request that establishes such an association meets the definition of a state employee association. An association that is statewide and open to all employees who elect to voluntarily participate shall be limited to those associations on the State Comptroller's State Employees' Association list.

State agencies and institutions may recover from the state employee associations the actual costs incurred as a result of the use of the meeting rooms.

All agencies and institutions shall develop policies and procedures for permitting the use of meeting rooms consistent with this Executive Memorandum. The Department of General Services will issue guidelines for the development of such policies. These guidelines shall be issued no later than 30 calendar days from

the effective date of this Memorandum. Copies of agencies' and institutions' completed policies shall be submitted to the Department of General Services for approval not later than 60 calendar days from the effective date of this Memorandum.

Implementation:

The head of each executive branch agency and institution is directed to comply with this Memorandum.

Effective Date and Continuation:

This Executive Memorandum shall be immediately effective and remain in full force and effect until superseded or rescinded by further Executive Memorandum. Given under my hand and under the Seal of the Commonwealth of Virginia this 5th day of August, 1993.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER SEVENTY-FIVE (93)

EMERGENCY TRAVEL AUTHORIZATION FOR TRUCKS HAULING GOODS TO FLOOD DISASTER AREAS WITHIN CERTAIN MIDWESTERN STATES

By virtue of the authority vested in me as Governor by the Constitution of Virginia and Section 44-146.17 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby authorize the Departments of State Police, Transportation, Motor Vehicles (DMV), and the State Corporation Commission (SCC) to grant temporary overweight/registration/license exemptions to carriers transporting essential emergency relief supplies to states which have federally declared disaster areas as a result of extensive flooding. These states include Iowa, Missouri, Wisconsin, Kansas, Minnesota, Nebraska, South Dakota, Illinois, and North Dakota.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,000 Pounds
Tractor-Semitrailer (4 Axles)	75,000 Pounds
Tractor-Semitrailer (5 or more Axles) ..	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles) ..	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with SCC/DMV. This includes the vehicles enroute and returning to their home base.

The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This Executive Order is effective upon its signing and will remain in force and effect until November 1, 1993.

Given under my hand and under the Seal of the Commonwealth of Virginia this 5th day of August, 1993.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER SEVENTY-SIX (93)

DECLARATION OF A STATE OF EMERGENCY ARISING FROM TORNADOES IN THE SOUTHCENTRAL, SOUTHEASTERN AND EASTERN PARTS OF VIRGINIA

On the afternoon of August 6, 1993, several tornadoes touched down in jurisdictions located in the southcentral, southeastern and eastern regions of the Commonwealth. The results of the tornado action were wide-spread public and private property damage and destruction, imperilment, and a number of casualties. Major roads were blocked necessitating the use of State Police and National Guard assets to direct traffic, provide security, clear away debris, assess critical needs and help evacuate casualties.

The health and general welfare of the citizens of the affected localities required that state action be taken to help alleviate the conditions brought about by this situation, which constitutes both an emergency and a natural disaster as contemplated under the provisions of Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Sections 44-75.1 and 44-146.17 of the Code of Virginia, as Governor, as Commander-in-Chief of the armed forces of the Commonwealth, and as Director of Emergency Services, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby declare that a state of emergency exists in the affected areas of the Commonwealth and direct that appropriate assistance be rendered by the agencies of the state government to alleviate these conditions.

I further direct that the Adjutant General of Virginia make available, on state active duty service, such members of the Virginia National Guard and such equipment as might be necessary to combat the effects of tornadoes in the state.

In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by

Governor

Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of the state or local governments. They shall, however, work in close cooperation with the Department of Emergency Services and the Department of State Police.

Commonwealth of Virginia, this 11th day of August, 1993.

/s/ Lawrence Douglas Wilder
Governor

Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

The cost incurred by the Virginia Department of Military Affairs in performing this mission shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 555 of Chapter 994 of the 1993 Acts of Assembly, with any reimbursement thereof from nonstate agencies for partial or full reimbursement of this cost to be paid to the general fund of the state treasury.

This Executive Order shall be retroactively effective to August 6, 1993, upon its signing, and shall remain in full force and effect until June 30, 1994, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death shall continue to remain in effect after termination of this Executive Order as a whole.

Given under my hand and under the Seal of the

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Notice of Opportunity for Review and Comment

The Department of Criminal Justice Services (DCJS) announces its intention to apply to the Bureau of Justice Assistance, U.S. Department of Justice, for a grant pursuant to Part N of the Omnibus Crime Control and Safe Streets Act. Part N provides funds to states and localities for the purchase of closed-circuit television equipment and the provision of training in the use of the equipment in obtaining the testimony of children who are victims of abuse.

DCJS plans to apply for \$50,000 in federal funds. In accord with applicable federal law, the state will contribute \$17,000 in matching funds; so the total cost of this project will be \$67,000.

The funds will be used to purchase closed-circuit television equipment which will be made available on an as-needed basis to courts throughout the state which need it to obtain testimony from children as permitted by § 18.2-67.9 of the Code of Virginia.

Grant funds will also be used to provide training to judges, prosecutors and others on the implementation of state law allowing the use of closed-circuit television in certain abuse cases, and on the proper methods for actually using the equipment.

This application for federal assistance must be postmarked no later than September 15, 1993. Persons interested in reviewing and commenting on the application may contact Ms. Fran Ecker at the Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-3967.



DEPARTMENT OF HEALTH (STATE BOARD OF)

† Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1994

Pursuant to the authority vested in the State Board of Health by § 32.1-12 and in accordance with the provisions of Title 9, Chapter 1.1:1 of Public Law 95-627, notice is hereby given of a public comment period to enable the general public to participate in the development of the Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1994.

Written comments on the proposed plan will be accepted in the office of the Director, WIC Program, State Department of Health, 1500 East Main Street, Room 132, Richmond, Virginia 23219, until 5 p.m. on October 6, 1993.

The proposed State Plan for WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning September 6, 1993. Please contact your local health department for the location of this office in your area.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our 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

General Notices/Errata

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



DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

September 23, 1993 - 9 a.m. - Open Meeting
Virginia Association of Homes for Adults, Inc., Suite 101,
United Way Building, 224 West Broad Street, Richmond,
Virginia. ♿

Business will include further discussion on the goals and objectives for the Virginia Long-Term Care Ombudsman Program.

Contact: Etta V. Butler-Hopkins, Assistant Ombudsman,
Virginia Department for the Aging, 700 E. Franklin St.,
10th Floor, Richmond, VA 23219-2327, telephone (804)
225-2271 or toll-free 1-800-552-3402.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 29, 1993 - 9 a.m. - Open Meeting
Washington Building, 1100 Bank Street, Room 204,

Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

At this regular meeting, the board plans to discuss legislation, regulations and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward, Secretary to the Board, at least 10 days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

Contact: Roy E. Seward, Secretary to the Board,
Department of Agriculture and Consumer Services,
Washington Bldg., 1100 Bank St., Room 211, Richmond, VA
23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Pesticide Control Board

† September 30, 1993 - 10 a.m. - Open Meeting
Department of Agriculture and Consumer Services, 1100
Bank Street, Board Room No. 204, Richmond, Virginia.

The board will meet in general session to consider amendments to VR 115-04-20, Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act. The board will consider (i) revisions to the pesticide registration fees; (ii) establishment of a deadline for registering pesticide products and a late fee for pesticide products registered after the deadline; and (iii) deleting provisions that allow a commercial applicator or registered technician, in lieu of paying a penalty, to submit an affidavit certifying that he has not applied pesticide classified for restricted use subsequent to the expiration of his certificate. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin Lawson, Office of Pesticide Management, at least 10 days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Calendar of Events

AIR POLLUTION CONTROL BOARD

† September 10, 1993 – Open Meeting
Department of Environmental Quality, Innsbrook, 4900 Cox Road, Board Room, Glen Allen, Virginia. ☒

The board will consider a proposed regulation on automobile inspection and maintenance, as well as other business. Agendas will be available two weeks before the meeting.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

September 13, 1993 - 9:30 a.m. – Open Meeting
September 29, 1993 - 9:30 a.m. – Open Meeting
October 13, 1993 - 9:30 a.m. – Open Meeting
October 25, 1993 - 9:30 a.m. – Open Meeting
November 8, 1993 - 9:30 a.m. – Open Meeting
November 22, 1993 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

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

† September 9, 1993 - 9 a.m. – Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review minutes of June 29, 1993, meeting; (ii) review correspondence; and (iii) review enforcement files.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Architects

September 16, 1993 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from April 15, 1993, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department

of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Interior Designers

September 17, 1993 - 1 p.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from May 20, 1993, meeting; (ii) review applications; and (iii) interview applicants.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

September 8, 1993 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from June 16, 1993, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† November 4, 1993 - 9:30 a.m. – Open Meeting
6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9907.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

September 29, 1993 - 10 a.m. – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are

Calendar of Events

welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

September 23, 1993 - 10 a.m. - Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

September 24, 1993 - 1 p.m. - Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

† **September 9, 1993 - 9:30 a.m. - Open Meeting**
Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council will meet to discuss issues, concerns and programs that impact child day centers, camps, school-age programs, and preschool/nursery schools. The public comment period will be at 10 a.m. Please

call ahead of time for possible changes in meeting time.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, Theater Row Bldg., 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

Coordinating Committee

NOTE: CHANGE IN MEETING TIME

September 7, 1993 - 4 p.m. - Open Meeting
Saint Joseph's Villa, 8000 Brook Road, Administrative Building, Richmond, Virginia. ☎

October 15, 1993 - 8:30 a.m. - Open Meeting
Office of Coordinator, Interdepartmental Regulation, 730 East Broad Street, Theatre Row Building, Richmond, Virginia. ☎

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960.

STATE BOARD FOR COMMUNITY COLLEGES

† **September 15, 1993 - 1 p.m. - Open Meeting**

† **September 16, 1993 - 9 a.m. - Open Meeting**

James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled meeting of the board.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

BOARD OF CONSERVATION AND RECREATION

September 9, 1993 - 2 p.m. - Open Meeting
Department of Environmental Quality, Water Division, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☎ (Interpreter for deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory action to amend VR 215-00-00, Regulatory Public Participation Guidelines.

Calendar of Events

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

September 9, 1993 - 2 p.m. – Open Meeting
Department of Environmental Quality, Water Division, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory action to amend VR 217-00-00, Regulatory Public Participation Guidelines.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

Recovery Fund Committee

September 22, 1993 - 9 a.m. – Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discuss may be conducted in executive session.

Contact: Holly Erickson, Assistant Administrator, Recovery Fund, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

BOARD OF CORRECTIONS

† **September 15, 1993 - 10 a.m. – Open Meeting**

Virginia Correctional Center for Women, Route 6, Goochland, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

† **Contact:** Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

† **September 16, 1993 - 9:30 a.m. – Open Meeting**
Powhatan Correctional Center, Route 711, State Farm, Virginia. ☒

The committee will continue to address criminal justice issues.

† **Contact:** Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

† **September 13, 1993 - 10 a.m. - Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

October 6, 1993 - 9 a.m. – Public Hearing
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-5. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The regulation mandates entry-level training requirements for dispatchers.

Statutory Authority: § 9-170 (1) and (8) of the Code of Virginia.

Contact: L. T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

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September 29, 1993 - 2 p.m. – Public Hearing
State Capitol, House Room 1, Richmond, Virginia.

September 24, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-02-1. Regulations Relating to Criminal History Record Information Use and Security.** The purpose of the proposed amendment is to permit use of nondedicated telecommunication lines to access criminal history record information in limited, but secure, circumstances. Exceptions to the current requirement for use of dedicated telecommunication lines for data transmission would be granted on an exceptional basis provided that documented policies and procedures ensure that access to criminal history record information is limited to authorized users.

Statutory Authority: §§ 9-170 and 9-184 through 9-196 of the Code of Virginia.

Contact: Paul F. Kolmetz, Ph.D., Director, Division of Information Systems, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-7726.

BOARD OF DENTISTRY

September 30, 1993 - 8:30 a.m. – Open Meeting

October 1, 1993 - 1:30 a.m. – Open Meeting

October 2, 1993 - 8:30 a.m. – Open Meeting

Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia. ☒

Formal hearings will be held on September 30, 1993. On October 1, 1993, a business meeting of the Board of Dentistry will be held. Agenda to include standing committees and issues concerning dentistry. Committee report to include proposed regulations regarding continuing education, endorsement and trade names. This is a public meeting. A 20 minute public comment period will be held beginning at 1:30 p.m. on October 1, 1993; however, no other public comment will be taken.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9906.

LOCAL EMERGENCY PLANNING COMMITTEE - FAIRFAX COUNTY, CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

September 23, 1993 - 9:30 a.m. – Open Meeting

Fairfax County Government Center, 12000 Government Center Parkway, Conference Room 9, Fairfax, Virginia. ☒

A public hearing and LEPC meeting regarding 1993 HMER Plan.

Contact: Marysusan Giguere, Fire and Rescue Department, Management Analyst II, 4100 Chain Bridge Rd., Suite 400, Fairfax, VA 22030, telephone (703) 246-3991.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY, TOWN OF BLACKSBURG

† **September 14, 1993 - 3 p.m.** – Open Meeting

Montgomery County Courthouse, Franklin and Main Streets, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

A meeting to discuss the development of a hazardous materials emergency response plan for Montgomery County and the town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or fax (703) 831-6093.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

September 20, 1993 - 1:30 p.m. – Open Meeting

1 County Complex Court, Potomac Conference Room, Prince William, Virginia. ☒

A multi-jurisdictional local emergency planning committee to discuss issues related to hazardous substances in the jurisdictions. SARA Title III provisions and responsibilities for hazardous material emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1 County Complex Court, Internal Zip MC470, Prince William, VA 22192, telephone (703) 792-6800.

DEPARTMENT OF ENVIRONMENTAL QUALITY

September 8, 1993 - 10 a.m. – Open Meeting

Department of Environmental Quality, 4900 Cox Road, Training Room, Glen Allen, Virginia.

The Interagency Committee on Land Application of Sewage Sludge will meet to discuss PAN rates for the SCAT regulations, the use of values for soil productivity classification and crop N requirements, and the future role of the committee.

Contact: Martin Ferguson, Department of Environmental Quality, 4900 Cox Rd., Glen Allen, VA, 23060 telephone (804) 527-5030.

† **September 8, 1993 - 10 a.m.** – Public Hearing

Calendar of Events

5338 Peters Creek Road, Roanoke, Virginia. ☒

The Air Division will hold a public hearing to consider issuing a permit to Hoechst Celanese Corporation, located on U.S. 460, East of Narrows, Virginia, to install and operate a 16,000 gallon benzene storage tank.

Contact: Donald L. Shepherd, Air Regional Director, Department of Environmental Quality, 5338 Peters Creek Rd., Roanoke, VA 24019, telephone (703) 561-7000.

† **September 22, 1993 - 1:30 p.m.** – Open Meeting
Department of Environmental Quality, Lab Training Room, 4949 Cox Road, Room 111, Glen Allen, Virginia.

The department has established a work group on detection/quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of the Department of Environmental Quality. Other meetings of the work group have been scheduled at the same time and location, for October 6, October 20, November 3, November 17, December 1 and December 15, 1993. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date with the contact person below.

Contact: Alan J. Anthony, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5070.

† **October 6, 1993 - 10 a.m.** – Open Meeting
Department of Environmental Quality, 4900 Cox Road, Main Board Room, Glen Allen, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to amend Virginia Waste Management Board regulations entitled VR 672-10-1, Virginia Hazardous Waste Management Regulations. The proposal is to amend the Hazardous Waste Management Regulations to incorporate EPA amendments in federal regulations for the period from July 1, 1991, through September 30, 1993.

† **October 6, 1993 - 2 p.m.** – Open Meeting
Department of Environmental Quality, 4900 Cox Road, Main Board Room, Glen Allen, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to develop Virginia Waste Management Board regulations entitled VR 672-20-20, Regulations Governing Management of Coal Combustion Byproduct. The purpose is to develop regulations that establish standards and procedures pertaining to management, use and disposal of coal combustion byproducts or residues.

† **October 7, 1993 - 10 a.m.** – Open Meeting

Monroe Building, 101 North 14th Street, 10th Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to amend Virginia Waste Management Board regulations entitled VR 672-30-1, Virginia Regulations Governing the Transportation of Hazardous Materials. The proposed Amendment 12 to these regulations incorporates changes to U.S. Department of Transportation ("DOT") and U.S. Nuclear Regulatory Commission ("NRC") regulations on hazardous materials transportation and motor carrier safety. The proposal is to incorporate federal changes adopted from June 2, 1992, through July 1, 1993.

† **October 7, 1993 - 10 a.m.** – Open Meeting
Monroe Building, 101 North 14th Street, First Floor Conference Room C, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to develop Virginia Waste Management Board regulations entitled VR 672-20-30, Regulations Governing Management of Vegetative Waste. The proposed regulations would establish standards and procedures pertaining to management, use and disposal of vegetative waste and to encourage the development of facilities for the decomposition of vegetative waste.

Contact: William F. Gilley, Regulatory Service Manager, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966 or (804) 371-8737/TDD ☎

VIRGINIA FIRE SERVICES BOARD

† **October 22, 1993 - 9 a.m.** – Open Meeting
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A business meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

† **October 21, 1993 - 7:30 p.m.** – Public Hearing
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A public hearing business meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training

† **October 21, 1993 - 10 a.m.** – Open Meeting
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A committee meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **October 21, 1993 - 9 a.m.** – Open Meeting
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A committee meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **October 21, 1993 - 1 p.m.** – Open Meeting
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A committee meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

September 8, 1993 - 10 a.m. – Open Meeting
6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9907.

DEPARTMENT OF GENERAL SERVICES

October 11, 1993 – 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 General Services intends to repeal regulations entitled: **VR 330-02-06, Regulations for the Certification of Laboratories Analyzing Drinking Water** and adopt regulations entitled: **VR 330-02-06:1, Regulations for the Certification of Laboratories Analyzing Drinking Water**. The purpose of the proposed action is to repeal outdated regulations and promulgate regulations

to provide a mechanism to assure that laboratories are capable of providing data for compliance under the State Drinking Water Act.

Statutory Authority: § 2.1-429 of the Code of Virginia and 40 CFR 141.

Contact: Dr. James L. Pearson, Director, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, VA 23219, telephone (804) 786-7905.

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† **September 20, 1993 - 10:30 a.m.** – Open Meeting
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general meeting open to the public. Auxiliary aids and services are available to individuals with disabilities, upon request. Please call the number below by September 17, 1993, if assistance is required.

Contact: Abria M. Singleton, Executive Secretary, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9816, toll-free 1-800-552-7020 or (804) 367-6283/TDD ☎

HAZARDOUS MATERIALS TRAINING COMMITTEE

† **September 22, 1993 - 1 p.m.** – Open Meeting
Radisson Hotel, 1900 Pavilion Drive, Virginia Beach, Virginia.

The purpose of this meeting will be to discuss curriculum course development, and to review existing hazardous materials courses. Individuals with a disability, as defined in the Americans with Disabilities Act of 1990 (ADA), desiring to attend this meeting should contact VDES 10 days prior to the event so as to ensure appropriate accommodations are provided.

Contact: George B. Gotschalk, Jr., Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001.



DEPARTMENT OF HEALTH

Commissioner's Waterworks Advisory Committee

† **September 16, 1993 - 10 a.m.** – Open Meeting

Calendar of Events

APCO Service Center, 4001 Mayflower Drive, Lynchburg, Virginia.

A general business meeting.

Contact: Thomas B. Gray, P.E., Special Project Manager, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

DEPARTMENT OF HEALTH PROFESSIONS

September 8, 1993 - 9 a.m. – Open Meeting
Hyatt Hotel, 6624 West Broad Street, Taylor Room, Richmond, Virginia. ☒

An informal conference committee meeting. Public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9910.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

October 26, 1993 - 9:30 a.m. – Open Meeting
Blue Cross Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

A monthly meeting. All council task forces will meet at 8:30 a.m. prior to the full council meeting.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

September 13, 1993 - 8:30 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct examinations to eligible candidates, review enforcement cases, conduct regulatory review and discuss other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

September 13, 1993 - 1 p.m. – Open Meeting
September 14, 1993 - 1 p.m. – Open Meeting
Mountain Lake, Virginia. ☒ (Interpreter for the deaf

provided upon request)

The council's annual retreat. There will be a general business meeting on Tuesday, September 14. For more information, contact the council.

Contact: Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632 or (804) 361-8017/TDD ☒

VIRGINIA HISTORIC PRESERVATION FOUNDATION

NOTE: CHANGE IN MEETING DATE

September 22, 1993 - 10:30 a.m. – Open Meeting
State Capitol, Senate Room 4, Capitol Square, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☒

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

September 9, 1993 - 2 p.m. – Open Meeting
Department of Environmental Quality, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒

A meeting to receive comments and answer questions from the public concerning the intended regulatory actions to amend VR 390-01-01, Public Participation Guidelines for the Historic Resources Board and VR 392-01-01, Public Participation Guidelines for the Department of Historic Resources. Amendments to both sets of guidelines have been made necessary by amendments to the Administrative Process Act that took effect on July 1, 1993.

The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Doneva Dalton at the Department of Environmental Quality, Office of Regulatory Services, P.O. Box 11143, Richmond, VA 23230, or at telephone number (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

September 15, 1993 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf

provided upon request)

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A joint meeting of the Board of Historic Resources and State Review Board to consider the 1993-94 Work Program for the Department of Historic Resources.

† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

† **November 8, 1993** – Written comments may be submitted until this date.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-4. Amusement Device Regulations/1990.** The purpose of the proposed action is to amend existing regulations to add standards for gravity rides.

† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

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

† **November 8, 1993** – Written comments may be submitted until this date.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to adopt regulations entitled: **VR 394-01-1. Public Participation Guidelines.** The purpose of the proposed action is to amend existing regulations to conform with new legislation.

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

† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

† **November 8, 1993** – Written comments may be submitted until this date.

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1990.** The purpose of the proposed action is to update to 1993 National Model Fire Prevention Code.

† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

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

† **November 8, 1993** – Written comments may be submitted until this date.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-2. Certification Standards for Building Inspection Personnel, Amusement Device Inspectors, Blasters, Plumbers, Electricians, and Building Related Mechanical Workers/1990.** The purpose of the proposed action is to amend existing regulations to establish certification standards for certain local building and fire inspectors.

* * * * *

Statutory Authority: §§ 15.1-11.4, 36-98.3, 36-137 and 27-97 of the Code of Virginia.

† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

† **November 8, 1993** – 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 Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I - New Construction**

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Code/1990. The purpose of the proposed action is to amend existing regulation to update to 1993 National Model Building Code.

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

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† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

† **November 8, 1993** – 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 Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1990.** The purpose of the proposed action is to amend existing regulation to update to 1993 National Model Building Code.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

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† **October 12, 1993 - 10 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

† **November 8, 1993** – 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 Housing and Community Development intends to amend regulations entitled: **VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1990.** The purpose of the proposed action is to amend existing regulation to up-date to 1993 National Model Building Code.

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

September 8, 1993 - 9 a.m. – Open Meeting
Wintergreen Lodge, Shamokin Room, Wintergreen, Virginia. ☒

A regular meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

VIRGINIA INTERAGENCY COORDINATING COUNCIL (VICC) EARLY INTERVENTION

September 22, 1993 - 9:30 a.m. – Open Meeting
Chesterfield County Public Library, 9501 Lori Road, Chesterfield, Virginia. (Interpreter for the deaf provided upon request)

The Virginia Interagency Coordinating Council (VICC), according to PL102-119, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency and the other state agencies involved in Part H in the implementation of a statewide early intervention program.

Contact: Michael Fehl, Director, Mentally Retarded Children/Youth Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

September 16, 1993 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the council. The tentative agenda is (i) a report of the Apprenticeship Related Instruction Study Committee; and (ii) a discussion of proposed public participation guidelines.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2381.

STATE LAND EVALUATION ADVISORY COUNCIL

September 8, 1993 - 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 land use and the use-value assessment program.

Contact: Ronald W. Wheeler, Acting Assistant Commissioner, Virginia Department of Taxation, Office of Taxpayer Services, 2220 W. Broad St., Richmond, VA 23219, telephone (804) 367-8028.

LIBRARY BOARD

September 13, 1993 - 10 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street at Capitol Square, Supreme Court Room, 3rd Floor, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

September 15, 1993 - 11 a.m. - Open Meeting
† **October 20, 1993 - 11 a.m. - Open Meeting**
† **November 17, 1993 - 11 a.m. - Open Meeting**
† **December 15, 1993 - 11 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 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: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

September 27, 1993 - 11 a.m. - Open Meeting
Purcellville area (site to be determined)

Oral presentations regarding the Town of Purcellville - Loudoun County Agreement defining annexation rights.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

September 27, 1993 - 7 p.m. - Public Hearing
Purcellville area (site to be determined)

Public hearing regarding the Town of Purcellville - Loudoun County Agreement defining annexation rights.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

September 28, 1993 - 9 a.m. - Open Meeting
Purcellville area (site to be determined)

Regular meeting of the Commission on Local Government to consider such matters as may be presented.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

November 4, 1993 - 9 a.m. - Open Meeting
Richmond area (site to be determined)

Oral presentations - Town of Colonial Beach - Westmoreland County. Arbitration of school funding issue at request of localities.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by October 21, 1993.

Contact: Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONG-TERM CARE AND AGING TASK FORCE

† **September 9, 1993 - 9:30 a.m. - Public Hearing**
Department of Parks and Recreation, 301 Grove Avenue, Lynchburg, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **September 10, 1993 - 9:30 a.m. - Public Hearing**
Virginia Highlands Community College, Route 372, Abingdon, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **September 13, 1993 - 1 p.m. - Public Hearing**

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The Lincolnia Center, 4710 North Chambliss Street, Fairfax, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **September 14, 1993 - 1 p.m.** – Public Hearing
Peninsula Health District, 416 J. Clyde Morris Boulevard, Newport News, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **September 15, 1993 - 9:30 a.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **September 17, 1993 - 9:30 a.m.** – Public Hearing
Lord Fairfax Community College, Route 11, Fairfax, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Virginia General Assembly passed legislation to address the way long-term care and aging services are provided. As a result, the Secretary of Health and Human Resources is to develop a plan to restructure and consolidate all aging and long-term care planning, financing and service programs administered by the Virginia Department for the Aging, the Virginia Department of Health, the Virginia Department of Medical Assistance Services and the Virginia Department of Social Services. The training, coordination and collaboration among agencies that administer long-term care services and delivery at the local level for the elderly will also be addressed. To ensure the development of the plan has the input and guidance of all interested parties, the Long-Term Care and Aging Task Force was established. The task force will sponsor the above public hearings to receive comments on the task force draft report. A copy of the report is available upon request by calling 804-225-2912.

Contact: Catherine P. Saunders, Director, Long-Term Care Council, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271, toll-free 1-800-552-4464 or (804) 225-2271/TDD ☎

STATE LOTTERY BOARD

September 27, 1993 - 10 a.m. – Open Meeting
2201 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or (804) 367-3000/TDD ☎

ADVISORY COMMITTEE ON MAPPING, SURVEYING AND LAND INFORMATION SYSTEMS

September 23, 1993 - 10 a.m. – Open Meeting
1100 Bank Street, Suite 901, Richmond, Virginia.

A regularly scheduled meeting. GIS comprehensive data project to be discussed.

Contact: Chuck Tyger, Computer Systems Chief Engineer, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 786-8169 or (804) 225-3624/TDD ☎

MARINE RESOURCES COMMISSION

† **September 28, 1993 - 9:30 a.m.** – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 12 noon. Items to be heard are as follows: 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: Sandra S. Schmidt, Secretary to the Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646, or (804) 247-2292/TDD ☎

MATERNAL AND CHILD HEALTH COUNCIL

September 22, 1993 - 1 p.m. – Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The meeting will focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health, including

prenatal care, school health, and teenage pregnancy.

Contact: Nancy C. Ford, MCH Nurse Consultant, Virginia Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23218-2448, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Drug Utilization Review Board

September 23, 1993 - 3 p.m. - Open Meeting 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

A regular meeting of the DMAS DUR Board. Routine business will be conducted.

Contact: Carol B. Pugh, Pharm. D., DUR Program Consultant, Quality Care Assurance Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

BOARD OF MEDICINE

October 7, 1993 - 8 a.m. - Open Meeting
October 8, 1993 - 8 a.m. - Open Meeting
October 9, 1993 - 8 a.m. - Open Meeting
October 10, 1993 - 8 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

The Board of Medicine will meet on Thursday, October 7, 1993, in open session to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also meet on Thursday, Friday, Saturday and Sunday to review reports, interview licensees, and make case decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 622-7197/TDD

October 27, 1993 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical

Psychology and Acupuncture. The proposed amendments address misleading or deceptive advertising, pharmacotherapy for weight loss, examinations for licensure in medicine and osteopathy, licensure for endorsement, examination fee, and delete a statement lacking statutory authority.

Statutory Authority: §§ 54.1-100 through 54.1-114, 54.1-2400, 54.1-2914 of the Code of Virginia.

Written comments may be submitted until October 27, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

October 25, 1993 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: VR 465-03-01. Regulations Governing the Practice of Physical Therapy. The proposed amendments address traineeship and examination after inactive practice when seeking physical therapist and physical therapist assistant licensure. In addition, a process fee is established for withdrawal of applications.

Statutory Authority: §§ 54.1-2400, 54.1-2943 and 54.1-2946 of the Code of Virginia.

Written comments may be submitted until October 25, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

September 14, 1993 - 9 a.m. - Public Hearing 6606 West Broad Street, 5th Floor, Richmond, Virginia.

October 25, 1993 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: VR 465-05-1. Regulations Governing the Practice of Physicians' Assistants. The purpose of the proposed amendments is to establish requirements granting prescriptive authority to physicians' assistants to prescribe and administer Schedule VI controlled substances and

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devices, and establish a clear and concise definition of the academic study required for prescriptive authority.

Statutory Authority: §§ 54.1-2400 and 54.1-2952.1 of the Code of Virginia.

Written comments may be submitted until October 25, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

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October 25, 1993 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-08-1. Regulations for the Certification of Occupational Therapists.** The proposed amendments address English proficiency by foreign-trained occupational therapists and examination criteria for certification.

Statutory Authority: §§ 54.1-2400, 54.1-2956.1 and 54.1-2956.4 of the Code of Virginia.

Written comments may be submitted until October 25, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

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Credentials Committee

October 8, 1993 - 8:15 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23233, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Informal Conference Committee

September 9, 1993 - 9 a.m. – Open Meeting
† September 10, 1993 - 9:30 a.m. – Open Meeting
Sheraton-Fredericksburg, I-95 and Route 3, Fredericksburg, Virginia. ☒

† September 16, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

† September 17, 1993 - 9:30 a.m. – Open Meeting
Fort Magruder Inn, Route 60 East, Williamsburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Advisory Board on Occupational Therapy

NOTE: CHANGE IN MEETING DATE AND TIME.
† November 1, 1993 - 10 a.m. – Open Meeting
6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to (i) review regulations relating to foreign educated therapists to consider additional requirement or alternatives to ensure minimal competency to practice occupational therapy with safety to the public; and (ii) to review public comments on proposed regulations and other issues which may come before the board. The chairperson will entertain public comments during the first 15 minutes of the meeting.

Contact: Eugenia Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

September 17, 1993 - 9 a.m. – Open Meeting
6606 West Broad Street, Board Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to (i) receive specific reports from officers and staff; (ii) review and evaluate traineeship evaluation forms; (iii) discuss requirements for facilities to employ foreign educated trainees and related forms; (iv) clarify the decision to allow foreign educated therapist to sit for the examination during the traineeship; (v) clarify, by regulation, the period

for license requirements in another state to be eligible for waiver of the required traineeship for foreign applicants; (vi) review § 6.1 of the regulations; (vii) review passing score for licensure examination; (viii) review the use of or storage of schedule VI drugs; and (ix) conduct such other business which may come before the advisory board. The chairman will entertain public comments during the first 15 minutes on any agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

† **October 1, 1993 - 9 a.m.** – Open Meeting
New River Valley Community Services Board, 210 3rd Avenue, 2nd Floor, Radford, Virginia. ☎

A regular meeting of the committee to discuss business relating to human rights issues.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23219, telephone (804) 786-3988.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

October 7, 1993 - 7 p.m. – Open Meeting
1845 Orange Road, Culpeper, Virginia. ☎

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases for eligibility to participate with the program. It will review the previous month's operation (budget and program-related business).

Contact: Lisa Ann Peacock, Program Director, 1845 Orange Rd., Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MUSEUM OF FINE ARTS

Collections Committee

September 21, 1993 - 2 p.m. – Open Meeting
Meeting location to be announced.

A meeting to consider proposed gifts, purchases and loans of art works.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

Finance Committee

September 23, 1993 - 11 a.m. – Open Meeting
Virginia Museum of Fine Arts Conference Room, Richmond, Virginia. ☎

A meeting to conduct budget review and approval.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

Board of Trustees

September 23, 1993 - Noon – Open Meeting
Virginia Museum of Fine Arts Auditorium, Richmond, Virginia. ☎

First meeting FY 1993-94 of the full Board of Trustees to receive reports from committees and staff; conduct budget review; and conduct acquisition of art objects.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

NORFOLK STATE UNIVERSITY BOARD OF VISITORS

† **September 14, 1993 - 10 a.m.** – Open Meeting
Harrison B. Wilson Hall Administration Building, Board Room, Norfolk, Virginia.

Committee meetings are as follows:

1. Academic Affairs will meet the afternoon of September 13.
2. Student Affairs will meet at 3 p.m. on September 13.
3. Audit and Finance will meet at 8:30 on September 14.

Contact: Gerald B. Tyler, Norfolk State University, 2401 Corprew Ave., Wilson-Hall S340, Norfolk, VA 23504, telephone (804) 683-8373.

BOARD OF NURSING

September 21, 1993 - 8:30 a.m. – Open Meeting
September 24, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings. Public comment will not be received.

Calendar of Events

September 22, 1993 - 9 a.m. - Open Meeting

September 23, 1993 - 9 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board to consider matters relating 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 Wednesday, September 22. A public hearing on proposed Board of Nursing Regulations, VR 495-01-1, will be held at 2 p.m. on Wednesday, September 22, 1993.

Contact: Corinne F. Dorsey, R.N., Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, or (804) 662-7197/TDD ☎

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† **September 22, 1993 - 2 p.m. - Public Hearing**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 5, 1993 - 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 Nursing intends to amend regulations entitled: **VR 495-01-1. Board of Nursing Regulations.** The proposed amendments will adjust fees as required to cover expenditures, simplify and clarify regulations and to proposed requirements for the approval of medication administration program.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9909.

BOARD FOR OPTICIANS

October 12, 1993 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct board business and any other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF PHARMACY

† **September 22, 1993 - 8:45 a.m. - Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

Informal conferences.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

POLYGRAPH EXAMINERS ADVISORY BOARD

September 21, 1993 - 10 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

The meeting is for the purpose of administering the Polygraph Examiners Licensing Examination to eligible polygraph examiner interns and to consider other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF PROFESSIONAL COUNSELORS

† **September 17, 1993 - 9 a.m. - Open Meeting**

† **September 18, 1993 - 9 a.m. - Open Meeting**

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A board meeting to conduct general business, respond to committee reports and board correspondence, and to conduct regulatory review.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

PROJECT ASSIST (AMERICAN STOP SMOKING INTERVENTION STUDY)

† **September 8, 1993 - Noon - Open Meeting**

American Cancer Society, Hampton Roads Area/Virginia Beach Unit.

† **September 9, 1993 - 10:30 a.m. - Open Meeting**

American Cancer Society, Glen Allen, Virginia.

† **September 13, 1993 - 3:30 p.m. - Open Meeting**

American Cancer Society, Charlottesville, Virginia.

† **September 13, 1993 - Noon - Open Meeting**

Hollins College, Roanoke, Virginia.

Calendar of Events

† **September 14, 1993 - 7 p.m.** – Open Meeting
Education Building, Park Boulevard, Marion, Virginia.

† **September 16, 1993 - Noon** – Open Meeting
Alternatives, Inc., 2013 Riverdale Plaza, Hampton, Virginia.

† **September 21, 1993 - Noon** – Open Meeting
Captain's Deck Restaurant, P.O. Box 703, Nassawadox, Virginia.

† **September 23, 1993 - 3 p.m.** – Open Meeting
New River Valley Assist Coalition, Radford, Virginia
(location to be announced).

† **September 30, 1993 - Noon** – Open Meeting
Southwest Virginia Community College, Richlands, Virginia.

Meetings to discuss and develop projects that will promote smoking cessation.

Contact: Grace Cooke, Office Services Assistant, 1500 East Main Street, Room 240, Richmond, Virginia 23218, telephone (804) 371-4076.

BOARD OF PSYCHOLOGY

September 14, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

An informal fact-finding conference to review residency documentation of applicant Michael D. Brunner, Ph.D. Following the informal conference the board will conduct general board business.

Contact: Evelyn B. Brown, Executive Director, or Jane Ballard, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

* * * * *

September 14, 1993 - 9:30 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia.

October 25, 1993 – 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 Psychology intends to amend regulations entitled: **VR 565-01-02. Regulations Governing the Practice of Psychology.** The proposed amendments increase license renewal fees for psychologists and school psychologists and increase application fees for clinical psychologists. The proposed amendments also increase examination fees. The proposed regulations conform to § 54.1-113 of the Code of Virginia.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Contact: Evelyn B. Brown, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES EXECUTIVE BOARD

† **September 20, 1993 - 5:30 p.m.** – Open Meeting
1300 Sunset Lane, Suite 3110, Culpeper, Virginia. ☒
(Interpreter for the deaf provided upon request)

A quarterly business meeting of the District Nine Virginia Alcohol Safety Action Program. Items for review include program deficit, program activities and personnel.

Contact: R. Dean Irvine, Director, 1300 Sunset Lane, Suite 3110, Culpeper, VA 22701, telephone (703) 829-7379.

REAL ESTATE APPRAISER BOARD

† **September 28, 1993 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

REAL ESTATE BOARD

September 8, 1993 - 10 a.m. – Open Meeting
Pembroke Five, 293 Independence Boulevard, Suite 407, 4th Floor, Virginia Beach, Virginia.

The Real Estate Board will meet to conduct a formal hearing in the matter of Real Estate Board v. Herbert Morewitz, II, File Number 92-00640.

Contact: Stacie Camden, Legal Assistant, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

† **September 16, 1993 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct board business including review of applications for licensure, disciplinary cases, correspondence, etc., and to adopt public participation guidelines regulations.

Contact: Joan L. White, Assistant Director, 3600 W. Broad

Calendar of Events

St., Richmond, VA 23230, telephone (804) 367-8552.

† **September 28, 1993 - 9 a.m. – Open Meeting**
Department of Alcoholic Beverage Control, 3023 Peters Creek Road, Roanoke, Virginia.

A formal administration hearing in regards to the Real Estate Board v. William C. Triplett, File No. 92-00881.

† **September 28, 1993 - 1 p.m. – Open Meeting**
Department of Alcoholic Beverage Control, 3023 Peters Creek Road, Roanoke, Virginia.

A formal administration hearing in regards to the Real Estate Board v. Donald W. Hall, File Nos. 92-01372, 92-00453, 92-01889, 92-00259 and 92-00354.

Contact: Stacie Camden, Legal Assistant, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

REFORESTATION OF TIMBERLANDS BOARD

† **September 15, 1993 - 10 a.m. – Open Meeting**
National Trust for Historic Preservation at Montpelier, P.O. Box 67, Montpelier Station, Virginia. ☒

A meeting to discuss general business and review accomplishments.

Contact: Phil T. Grimm, Assistant Chief, Forest Management, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555.

BOARD OF REHABILITATIVE SERVICES

September 23, 1993 - 10 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia.

A meeting to conduct regular monthly business meeting of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5019 or (804) 367-0315/TDD ☎

VIRGINIA RESOURCES AUTHORITY

September 14, 1993 - 9:30 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

A meeting to approve minutes of the meeting of August 19, 1993, to review the authority's operations for the prior months, and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available

at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

October 12, 1993 - 9:30 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

A meeting to approve minutes of the meeting of September 14, 1993, to review the authority's operations for the prior months, and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

November 9, 1993 - 9:30 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

A meeting to approve minutes of the meeting of October 12, 1993, to review the authority's operations for the prior months, and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Mutual Building, 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or fax (804) 644-3109.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

† **September 22, 1993 - 1:30 p.m. – Open Meeting**
† **September 23, 1993 - 2 p.m. – Open Meeting** (if necessary)
Holiday Inn Oceanside, 2101 Atlantic Avenue, Virginia Beach, Virginia. ☒

A general work session and business meeting.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-7096 or toll-free 1-800-552-7096/TDD ☎

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† **November 8, 1993** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of**

the United States Armed Forces. These regulations will establish guidelines for local departments of social services on sharing with the Family Advocacy Program information on founded child protective services complaints involving military families.

Statutory Authority: § 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until November 8, 1993, to Suzanne Fountain, CPS Program Consultant, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

BOARD OF SOCIAL WORK

September 24, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

An informal fact-finding conference.

September 30, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ☒

A formal hearing with a business meeting to follow, to consider general board business.

October 1, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ☒

A board meeting to discuss training curriculum for supervisors, and to consider amending regulations related to examination scheduling and standards of practice.

Contact: Evelyn B. Brown, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

September 20, 1993 - 10 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

VIRGINIA SOIL AND WATER CONSERVATION BOARD

September 9, 1993 - 2 p.m. - Open Meeting
Department of Environmental Quality, Water Division, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory action to amend VR 625-00-00:1, Regulatory Public Participation Guidelines.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

† **September 15, 1993 - 6 p.m. - Open Meeting**
Sheraton Inn Roanoke Airport, 2727 Ferndale Drive, N.W., Roanoke, Virginia.

A bi-monthly business meeting.

Contact: Linda J. Cox, Administrative Assistant, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

September 28, 1993 - 7 p.m. - Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory actions to amend VR 625-02-00, Erosion and Sediment Control Regulations, and to promulgate VR 625-02-01, Erosion and Sediment Control Regulations.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, September 13, 1993.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

Calendar of Events

COMMONWEALTH TRANSPORTATION BOARD

September 15, 1993 - 2 p.m. – Open Meeting
Department of Transportation, 1401 East Broad Street,
Board Room, Richmond, Virginia. ☒ (Interpreter for the
deaf provided upon request)

A work session of the Commonwealth Transportation
Board and the Department of Transportation staff.

September 16, 1993 - 10 a.m. – Open Meeting
Department of Transportation, 1401 East Broad Street,
Board Room, Richmond, Virginia. ☒ (Interpreter for the
deaf provided upon request)

A monthly meeting of the Commonwealth
Transportation Board to vote on proposals presented
regarding bids, permits, additions and deletions to the
highway system, and any other matters requiring
board approval. Public comment will be received at
the outset of the meeting on items on the meeting
agenda for which the opportunity for public comment
has not been afforded the public in another forum.
Remarks will be limited to five minutes. Large groups
are asked to select one individual to speak for the
group. The board reserves the right to amend these
conditions.

Contact: John G. Milliken, Secretary of Transportation,
1401 E. Broad St., Richmond, VA 23219, telephone (804)
786-8032.

TRANSPORTATION SAFETY BOARD

† **September 27, 1993 - 9 a.m.** – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Room 702, Richmond, Virginia. ☒

The board will meet to determine which projects in
Virginia will receive grants from federal 402 funds.

Contact: Bill Dennis, Executive Assistant, Department of
Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220,
telephone (804) 367-2666.

TREASURY BOARD

September 15, 1993 - 9 a.m. – Open Meeting
† **October 20, 1993 - 9 a.m.** – Open Meeting
† **November 17, 1993 - 9 a.m.** – Open Meeting
† **December 15, 1993 - 9 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Treasury
Board Room, 3rd Floor, Richmond, Virginia.

A regular meeting of the board.

Contact: Gloria J. Hatchel, Administrative Assistant,
Department of the Treasury, 101 N. 14th St., 3rd Floor,
Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

† **September 15, 1993 - 9:30 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, House
Room D, Richmond, Virginia. ☒

A regular commission meeting will be held including a
discussion of the proposed public participation
guidelines, satellite facilities regulations and the
procedure for the evaluation of applications to
construct a racetrack.

Contact: William H. Anderson, Policy Analyst, Virginia
Racing Commission, P.O. Box 1123, Richmond, VA 23208,
telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

† **October 2, 1993 - 11 a.m.** – Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. ☒ (Interpreter for the deaf provided
upon request)

The committee meets quarterly to advise the Virginia
Board for the Visually Handicapped on matters related
to services for blind and visually impaired citizens of
the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior,
397 Azalea Ave., Richmond, VA 23227, telephone (804)
371-3140, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

WASTE MANAGEMENT FACILITY OPERATORS BOARD

† **September 10, 1993 - 10 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,
Roanoke, Virginia.

A panel discussion and board meeting.

Contact: David E. Dick, Assistant Director, Department of
Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8595 or (804)
367-9753/TDD ☎

STATE WATER CONTROL BOARD

September 16, 1993 - 7 p.m. – Open Meeting
Fairfax County Government Center, Conference Center,
Rooms 4 and 5, 1200 Government Center Parkway,
Fairfax, Virginia.

A meeting to receive comments from interested
persons on the intent to amend the Potomac
Embayment Standards of VR 680-21-00, Water Quality
Standards and on the costs and benefits of the

intended action. (See Notices of Intended Regulatory Action)

Contact: Alan E. Pollock, Chesapeake Bay Program, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5155.

September 27, 1993 - 7 p.m. - Open Meeting
Norfolk City Council Chambers, City Hall Building, 810 Union Street, 11th Floor, Norfolk, Virginia.

September 28, 1993 - 7 p.m. - Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

September 29, 1993 - 2 p.m. - Open Meeting
McCourt Building, 4859 Davis Ford Road, One County Complex, Prince William County Administration Center, Prince William, Virginia.

September 30, 1993 - 2 p.m. - Open Meeting
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

The staff of the Department of Environmental Quality will convene public meetings to receive comments from the public on the board's intent to adopt a General Virginia Water Protection Permit for minor road crossings, associated fills and channel modifications.

Contact: Martin Ferguson, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

September 30, 1993 - 7 p.m. - Open Meeting
Henry County Administration Building, Kings Mountain Road, Board Room, Collinsville, Virginia.

The staff of the Department of Environmental Quality will convene a public meeting to receive comments from the public on the proposed amendment of the Roanoke River Basin Water Quality Management Plan, and the proposed adoption of a new Smith-Dan Subarea Water Quality Management Plan.

Contact: Wellford Estes, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 562-3666.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 23, 1993 - 8:30 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to conduct regular board business and other matters which may require board action.

Contact: Geralde W. Morgan, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

COLLEGE OF WILLIAM AND MARY

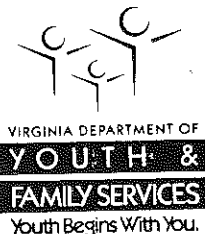
† **November 5, 1993 -** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the College of William and Mary intends to adopt regulations entitled: **Motor Vehicle Parking and Traffic Rules and Regulations**. The proposed regulation regulates traffic and parking on the campus of the College of William and Mary.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until November 5, 1993, to Mark Gettys, Parking Services, College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795.

Contact: Nancy S. Nash, Assistant to the Vice President for Administration and Finance, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2743.



BOARD OF YOUTH AND FAMILY SERVICES

September 9, 1993 - 8:30 a.m. - Open Meeting
Location to be decided.

October 14, 1993 - 8:30 a.m.
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☐

Committee meeting to be held from 8:30 - 10 a.m.; the general meeting will begin at 10 a.m. to review programs recommended for certification or probation, and to consider adoption of draft policies and other matters that may come before the board.

September 10, 1993 - 8:30 a.m. - Open Meeting
Location to be decided.

A board planning retreat.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

Calendar of Events

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING CIRCUIT COURT CLERKS' FEES

† **September 23, 1993 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The subcommittee will meet for the purpose of an organizational meeting.

Contact: Mary Geisen, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

STUDY COMMITTEE REVIEWING CRASH-DAMAGED MOTOR VEHICLES

† **October 7, 1993 - 10 a.m.** – Open Meeting
State Capitol, House Room 4, Richmond, Virginia.

The third meeting in a series to discuss possible recommendations to the 1994 General Assembly. HJR 455.

Contact: Dr. Alan Wambold, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING GAME PROTECTION FUND

September 7, 1993 - 10 a.m. – Open Meeting
State Capitol Building, House Room 4, Richmond, Virginia.

The joint subcommittee will meet to continue assessment of long-range financial status of the Game Protection Fund. HJR 444.

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **September 13, 1993 - 9:30 a.m.** – Open Meeting
General Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A staff briefing on Review of DOC Medical Care and Management of Health Services, and a staff briefing on Local Taxation of Public Service Corporations.

† **September 13, 1993 - 1:30 p.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A public hearing to discuss issues relating to the Virginia Retirement System and the RF&P Corporation.

Contact: Phil Leone, General Assembly Bldg, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

JOINT SUBCOMMITTEE STUDYING PROCEDURAL ASPECTS OF THE TRIAL, APPEAL AND COLLATERAL PROCEEDINGS OF CAPITAL CASES

† **September 28, 1993 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to hear Capital Study Group recommendations. HJR 402.

Contact: Frank Ferguson, Staff Attorney, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO STUDY WAYS TO IMPROVE THE REGISTRATION AND ELECTORAL PROCESS AND ENCOURAGE VOTER PARTICIPATION

September 8, 1993 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee is conducting regional hearings across the state to give the public an opportunity to comment on the electoral process in Virginia and to recommend ways to encourage voter participation and improve registration and election procedures. HJR 532.

Contact: Virginia Edwards, Staff Attorney, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SELECT COMMITTEE ON SALES TAX EXEMPTIONS

September 16, 1993 - 11 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia.

An open meeting. SJR 249, 1993.

Contact: Aubrey Stewart, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742, or John MacConnell, Staff Attorney, Division of Legislative Services, 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591.

Calendar of Events

JOINT SUBCOMMITTEE STUDYING SOLID WASTE MANAGEMENT AND RECYCLING NEEDS

September 15, 1993 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor
Conference Room, Richmond, Virginia.

The subcommittee will be hearing from industry representations and addressing the issue of full cost reporting. HJR 494.

Contact: Shannon Varner, Staff Attorney, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING VEHICLES POWERED BY CLEAN FUELS

† **September 8, 1993 - 11 a.m.** – Open Meeting
Washington Gas Light Company, Springfield, Virginia.

† **October 20, 1993 - 10 a.m.** – Open Meeting
James Madison University, Hall of Fame Room,
Convocation Center, Harrisonburg, Virginia.

The subcommittee will meet to receive testimony and discuss legislative recommendations regarding clean fuels. HJR 100.

Contact: Dr. Alan Wambold, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

September 15, 1993 - 9:30 a.m. – Open Meeting
Speaker's Conference Room, General Assembly Building,
910 Capitol Square, Richmond, Virginia.

A general business meeting.

October 20, 1993 - 9:30 a.m.
Speaker's Conference Room, General Assembly Building,
910 Capitol Square, Richmond, Virginia.

A general business meeting to award contract for the Virginia Administrative Code.

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

STATE WATER COMMISSION

† **September 13, 1993 - 1:30 p.m.** – Open Meeting
State Capitol, House Room 4, Richmond, Virginia.

The commission's agenda will include a discussion of

the issues involving small waterworks operations. HJR 652-Davies.

Contact: Shannon Varner, Staff Attorney, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT COMMISSION TO STUDY MANAGEMENT OF THE COMMONWEALTH'S WORKFORCE AND ITS COMPENSATION, PERSONNEL, AND MANAGEMENT POLICIES AND TO RECOMMEND IMPROVEMENTS TO VIRGINIA'S SYSTEM

September 7, 1993 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol
Street, Richmond, Virginia. ☐

SJR 279

Contact: John McE. Garrett, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742; or Nancy Roberts, Division Manager, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA COMMISSION ON YOUTH

† **September 13, 1993 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's
Conference Room, Richmond, Virginia.

A Serious Juvenile Offenders Task Force meeting. HJR 431.

† **September 29, 1993 - 1 p.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House
Room D, Richmond, Virginia.

A public hearing on confidentiality of juvenile records.
SJR 205.

Contact: Joyce Huey, Virginia Commission on Youth,
General Assembly Bldg., #517B, Richmond, VA 23219,
telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

September 7

† Children's Residential Facilities, Coordinating
Committee for Interdepartmental Regulation of
Game Protection Fund, Joint Subcommittee Studying
Interdepartmental Regulation of Children's Residential

Calendar of Events

Facilities, Coordinating Committee for
Workforce and Its Compensation, Personnel, and
Management Policies and to Recommend
Improvements to Virginia System, Joint Commission to
Study Management of the Commonwealth's

September 8

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Land Surveyors
Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
Health Professions, Department of
Housing Development Authority, Virginia
Land Evaluation Advisory Council, State
† Project Assist
Real Estate Board
† Vehicles Powered by Clean Fuels, Joint
Subcommittee Studying

September 9

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
† Child Day-Care Council
Conservation and Recreation, Board of
Conservation and Recreation, Department of
Historic Resources, Department of
Medicine, Board of
† Project Assist
Soil and Water Conservation Board, Virginia
Youth and Family Services, Board of

September 10

† Air Pollution Control Board, State
† Medicine, Board of
† Waste Management Facility Operators Board
Youth and Family Services, Board of

September 13

Alcoholic Beverage Control Board
† Cosmetology, Board for
Hearing Aid Specialists, Board for
Higher Education for Virginia, State Council of
† Joint Legislative Audit and Review Commission
Library Board
† Project Assist
† State Water Commission
† Commission on Youth, Virginia

September 14

† Local Emergency Planning Commission - County of
Montgomery/Town of Blacksburg
Higher Education for Virginia, State Council of
Medicine, Board of
† Norfolk State University Board of Visitors
† Project Assist
Psychology, Board of

September 15

† Community Colleges, State Board for
† Corrections, Board of

Historic Resources, Department of
- Board of Historic Resources and State Review
Local Debt, State Council on
† Reforestation of Timberlands Board
† Soil and Water Conservation Board, Virginia
Solid Waste Management and Recycling Needs, Joint
Subcommittee Studying
Transportation Board, Commonwealth
Treasury Board
Virginia Code Commission
† Virginia Racing Commission

September 16

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Architects
† Community Colleges, State Board for
† Corrections, Board of
- Liaison Committee
† Health, Department of
- Commissioner's Waterworks Advisory Committee
Labor and Industry, Department of
- Apprenticeship Council
† Medicine, Board of
† Project Assist
† Real Estate Board
Sales Tax Exemptions, Select Committee on
Transportation Board, Commonwealth
Water Control Board, State

September 17

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Interior Designers
Medicine, Board of
- Advisory Board on Physical Therapy
† Professional Counselors, Board of

September 20

Emergency Planning Committee, Local - Prince
William County, Manassas City, and Manassas Park
City
† Governor's Job Training Coordinating Council
Professional Soil Scientists, Board for
† Rappahannock-Rapidan Division of Court Services
Executive Board

September 21

Contractors, Board for
- Recovery Fund Committee
Museum of Fine Arts, Virginia
- Collections Committee
Nursing, Board of
Polygraph Examiners Advisory Board
† Project Assist

September 22

† Environmental Quality, Department of
- Work Group on Detection/Quantitation Levels
† Hazardous Materials Training Committee
Historic Preservation Foundation, Virginia

Interagency Coordinating Council Early Intervention,
Virginia
Maternal and Child Health Council
Nursing, Board of
† Pharmacy, Board of
† Social Services, State Board of

September 23

Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Circuit Court Clerks' Fees, Joint Subcommittee
Studying
Mapping, Surveying and Land Information Systems,
Advisory Committee on
Medical Assistance Services, Department of
- Drug Utilization Review Board
Museum of Fine Arts, Virginia
- Finance Committee
- Board of Trustees
Nursing, Board of
† Project Assist
Rehabilitative Services, Board of
† Social Services, State Board of
Waterworks and Wastewater Works Operators, Board
for

September 24

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Nursing, Board of
Social Work, Board of

September 27

Local Government, Commission on
Lottery Department, State
† Transportation Safety Board, Virginia
Water Control Board, State

September 28

Local Government, Commission on
† Marine Resources Commission
† Procedural Aspects of the Trial, Appeal and
Collateral Proceedings of Capital Cases, Joint
Subcommittee Studying
† Real Estate Appraiser Board
† Real Estate Board
Soil and Water Conservation Board, Virginia
Water Control Board, State

September 29

Agriculture and Consumer Services, Board of
Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Water Control Board, State

September 30

† Agriculture and Consumer Services, Department of

- Pesticide Control Board
Dentistry, Board of
† Project Assist
Social Work, Board of
Water Control Board, State

October 1

Dentistry, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Human Rights Committee
Social Work, Board of

October 2

Dentistry, Board of
† Visually Handicapped, Department for the
- Advisory Committee on Services

October 6

† Environmental Quality, Department of

October 7

† Crash-Damaged Motor Vehicles, Study Committee
Reviewing
† Environmental Quality, Department of
Medicine, Board of
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board

October 8

Medicine, Board of
- Credentials Committee

October 9

Medicine, Board of

October 10

Medicine, Board of

October 12

Opticians, Board for
Resources Authority, Virginia

October 13

Alcoholic Beverage Control Board

October 14

Youth and Family Services, Board of

October 15

Interdepartmental Regulation of Children's Residential
Facilities, Coordinating Committee for

October 20

† Local Debt, State Council on
† Treasury Board
Virginia Code Commission

October 21

† Fire Services, Board of
- Fire/EMS Education and Training

Calendar of Events

- Fire Prevention and Control
- Legislative/Liaison Committee

October 22

- † Fire Services Board, Virginia

October 25

- Alcoholic Beverage Control Board

October 26

- Health Services Cost Review Council, Virginia

November 1

- † Medicine, Board of
- Advisory Board of Occupational Therapy

November 4

- † Audiology and Speech-Language Pathology, Board of
- Local Government, Commission on

November 8

- Alcoholic Beverage Control Board

November 9

- Resources Authority, Virginia

November 17

- † Local Debt, State Council on
- † Treasury Board

November 22

- Alcoholic Beverage Control Board

December 15

- † Local Debt, State Council on
- † Treasury Board

PUBLIC HEARINGS

September 8

- † Environmental Quality, Department of
- Joint Subcommittee to Study Ways to Improve the
- Registration and Electoral Process and Encourage
- Voter Participation

September 9

- † Long-Term Care and Aging Task Force

September 10

- † Long-Term Care and Aging Task Force

September 13

- † Joint Legislative Audit and Review Commission
- † Long-Term Care and Aging Task Force

September 14

- Medicine, Board of
- † Long-Term Care and Aging Task Force

Psychology, Board of

September 15

- † Long-Term Care and Aging Task Force

September 17

- † Long-Term Care and Aging Task Force

September 22

- † Nursing, Board of

September 27

- Local Government, Commission on

September 29

- Criminal Justice Services, Department of
- † Youth, Virginia Commission on

October 6

- Criminal Justice Services, Department of

October 12

- † Housing and Community Development, Board of

October 21

- † Fire Services Board, Virginia