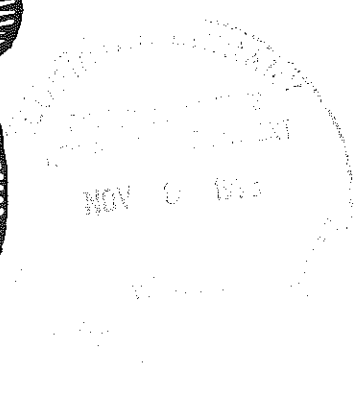
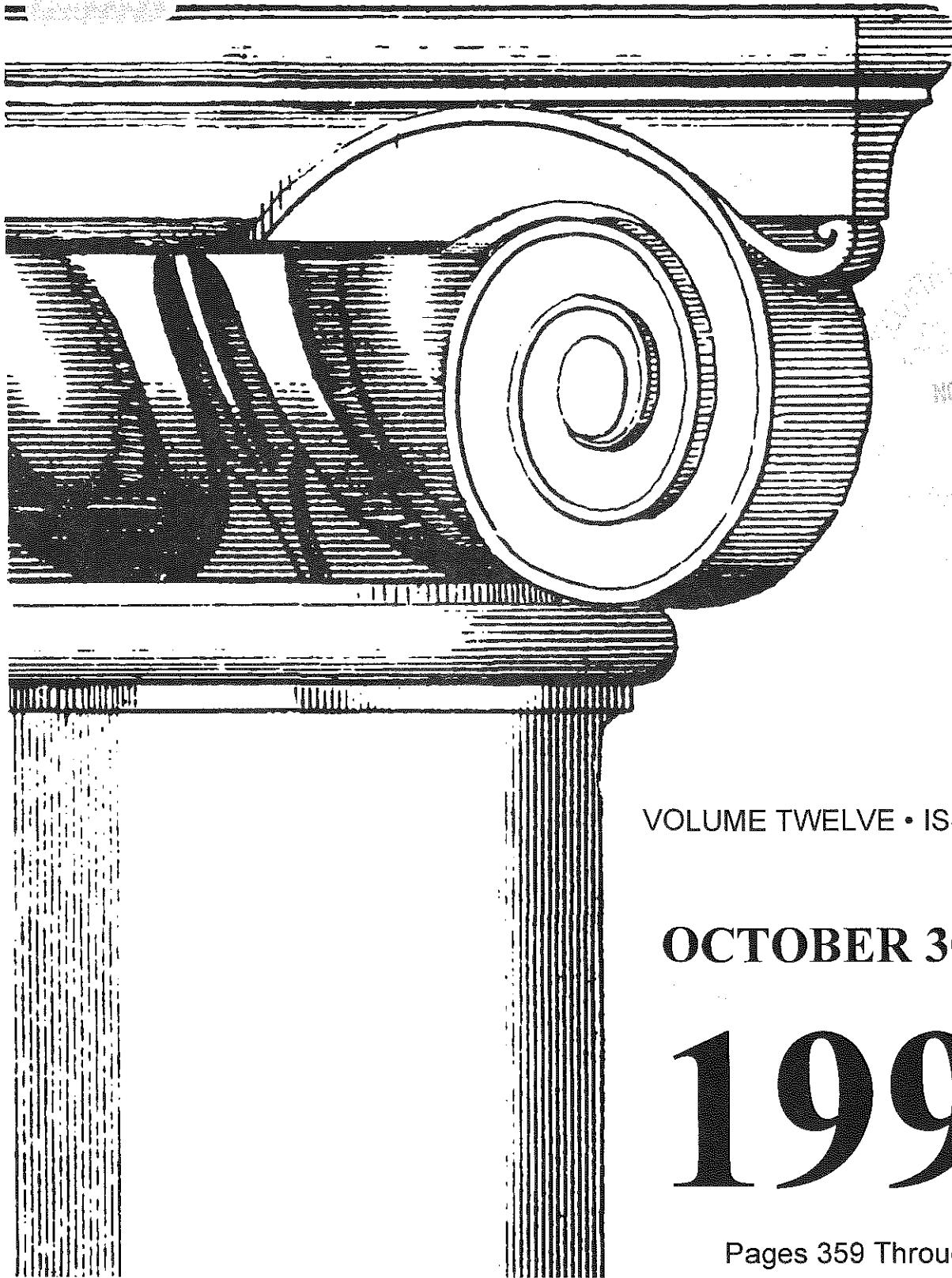


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# THE VIRGINIA REGISTER

OF REGULATIONS

VA  
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VOLUME TWELVE • ISSUE THREE

OCTOBER 30, 1995

# 1995

Pages 359 Through 496

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

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

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the 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 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-month 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

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Staff of the Virginia Register: E. M. Miller, Jr., Acting Registrar of Regulations; Jane D. Chaffin, Assistant Registrar of Regulations.

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### Will Be Published On

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October 30, 1995

October 25, 1995

November 13, 1995

November 8, 1995

November 27, 1995

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February 5, 1996

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

† Indicates entries since last publication of the *Virginia Register*

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## STATE AIR POLLUTION CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision UU)**. The purpose of the proposed action is to amend the regulation to make it conform to the federal requirements for prevention of significant deterioration new source review programs by adding provisions concerning air quality increments for particulate matter (PM<sub>10</sub>) and modeling guidelines.

**Public Meeting:** A public meeting will be held by the Department of Environmental Quality in House Committee Room One, State Capitol Building, Capitol Square, Richmond, Virginia, at 10 a.m. on November 15, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** 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. Any comments relative to this issue must be submitted in accordance with the procedures described under the "Request for Comments" section.

**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:** Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS. The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (the State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance). The Virginia SIP was submitted to EPA in early 1972. Many revisions to the SIP have been made since the original submittal in 1972. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare a SIP, or EPA does not approve a submitted SIP, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality

standards. Generally, the SIP is revised, as needed, based upon changes in the federal Clean Air Act and its requirements.

The PSD program is designed to protect air quality in areas where the air is cleaner than required by the NAAQS. The program has three classifications for defining the level of allowable degradation: Class I is the most stringent classification, allowing for little additional pollution, while Class III allows the most. All of Virginia is classified at the moderate level, Class II, with the exception of two Class I federal lands.

PSD's primary control strategy is new source review. Prior to construction or expansion of an industrial facility, a permit must be obtained that demonstrates that the facility will not emit pollutants in sufficient quantity to make a significant contribution to the deterioration of air quality or to violate the NAAQS.

In 1972, EPA declared all state plans to control air pollution inadequate because they did not provide for prevention of significant deterioration of air quality. EPA issued its own PSD regulations in 1974, which provided for three area classifications which would allow for three different levels of degradation, and required that new or modified major sources obtain a permit from EPA to construct. By 1978, EPA updated its PSD regulations, which then underwent considerable revision and controversy.

Because the federal PSD regulations were frequently in litigation and it was difficult to develop stable plans, most states, including Virginia, opted to accept a federal implementation plan (FIP) in lieu of a SIP. EPA promulgated a FIP but, due to limited enforcement resources, allowed states to enforce it under a delegated program approach. Since that time, the program has stabilized, and the states have gained considerable experience in carrying out the program.

EPA's plan, which consists of new source review, had been delegated to the State Air Pollution Control Board. To implement the EPA plan, the Board had new source review regulations (Section 120-08-02 of VR 120-01) for a PSD program that were essentially identical to EPA's. In 1993, Virginia submitted a SIP revision requesting that the state be granted full PSD authority.

Since the PSD SIP revision was submitted to EPA, EPA has revised its PSD program in two areas. The maximum allowable increases (increments) for particulate matter have been revised, from being based on total suspended particulate (TSP) to being based on particulate with an aerodynamic diameter of less than or equal to 10 micrometers (PM<sub>10</sub>). The "Guideline on Air Quality Models (Revised)", which sets forth air quality models and guidance for estimating ambient air concentrations for PSD purposes has also been revised.

EPA is in the process of reviewing Virginia's proposed PSD SIP. In the interim, the state must keep its PSD regulations on track with EPA's revisions and additions, specifically, revisions to particulate matter increments and to the modeling guidelines.

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# Notices of Intended Regulatory Action

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## Alternatives:

1. Amend the regulations to satisfy the provisions of the Clean Air Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act. If these alternative regulatory changes do not meet EPA's PSD program requirements, then the state's PSD program will not be acceptable to EPA, which may then impose a Federal Implementation Plan.
3. Take no action to amend the regulations and continue to operate under the federal implementation plan.

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

Applicable Statutory Requirements: Part C of Title I of the Clean Air Act Amendments of 1990 (42 USC 7471) is entitled, "Prevention of Significant Deterioration of Air Quality." As described in section 160, the purpose of Part C is to protect existing clean air resources. Part C requires that the state implementation plan include a prevention of significant deterioration (PSD) program. Section 161 of Part C says:

In accordance with the policy of section 101(b)(1), each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under this part, to prevent significant deterioration of air quality in each region (or portion thereof) designated pursuant to section 107 as attainment or unclassifiable.

This means that the air in areas that meet national clean air standards may not be allowed to become less clean, that is, to deteriorate.

Section 165, "Preconstruction Requirements," is the section of the Act that deals with new source review permit programs. This section requires that sources obtain permits demonstrating that they will not contribute to air pollution in excess of that allowed by the Act. Section 165 also specifies what steps are needed to coordinate this permitting process with the Federal Land Managers, who are responsible for maintaining air quality in the cleanest areas of the country: the national parks.

Section 166 of the Act requires EPA to regulate certain types of pollutants in PSD areas. Subsection f of Section 166 authorizes EPA to specify maximum allowable increases in particulate matter in terms of very small particulate, that is, PM<sub>10</sub>. Part of the proposed regulatory amendments focus on this particular provision of the Act.

EPA's regulation promulgated in response to Part C of the Act is found in the Code of Federal Regulations, 40 CFR Part 51, Section 51.166. This section requires that "... each applicable state implementation plan shall contain emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality," and includes specific detail on how relevant new source review permit programs are to be developed and implemented. Ambient air increments are specified throughout this section, and include specific particulate matter levels. Subsection (l), "Air Quality Models,"

describes the EPA guidelines to be used when performing PSD modeling.

EPA has recently revised its PSD program in two areas. Particulate matter requirements in 40 CFR Part 51, Section 51.166, Prevention of significant deterioration of air quality, have been changed. The maximum allowable increments for particulate matter have been revised from being based on total suspended particulate to being based on PM<sub>10</sub>. This revision is set out in the Federal Register of June 3, 1993 (58 FR 31622). The "Guidelines on Air Quality Models (Revised)," which sets forth air quality models and guidance for estimating ambient air concentrations for PSD purposes, has been revised twice. This primarily affects 40 CFR Part 51, Appendix W. The revisions are described in the Federal Register of July 20, 1993 (58 FR 38816) and of August 9, 1995 (60 FR 40465).

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

Public comments may be submitted until 4:30 p.m. on November 16, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst; Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4426.

VA.R. Doc. No. R96-32; Filed September 27, 1995, 10:57 a.m.

## **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-99-06. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.** The purpose of the proposed action is to develop a regulation which conforms to state law and federal Clean Air Act requirements for the testing of emissions from motor vehicles located or primarily operated in Northern Virginia.

Public Meeting: A public meeting will be held by the department in the auditorium, Lee High School, 6540 Franconia Road, Springfield, Virginia, at 7 p.m. on November 2, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

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 Ms. Alma Jenkins at the Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4070 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Jenkins no later than October 19, 1995.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. November 6, 1995, and provide your

## Notices of Intended Regulatory Action

name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop a recommended regulation for department consideration through the collaborative approach of regulatory negotiation and consensus.

**Public Hearing Plans:** After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation drafted pursuant to this notice.

**Need:** One of the primary goals of the federal Clean Air Act (Act) is the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). These standards, designed to protect public health and welfare, apply to six pollutants, of which ozone is the primary focus of this proposed action. Ozone is formed when volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) in the air react together in the presence of sunlight. VOCs are chemicals contained in gasoline, polishes, paints, varnishes, cleaning fluids, inks, and other household and industrial products. NO<sub>x</sub> emissions are a by-product from the combustion of fuels and industrial processes.

The National Ambient Air Quality Standard for ozone is 0.12 parts per million (ppm) and was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. When concentrations of ozone in the ambient air exceed the federal standard the area is considered to be out of compliance and is classified as "nonattainment." Numerous counties and cities within the Northern Virginia, Richmond, and Hampton Roads areas have been identified as ozone nonattainment areas according to new provisions of the Act.

States are required to develop plans to ensure that areas will come into compliance with the federal health standard. Failure to develop adequate programs to meet the ozone air quality standard: (i) may result in the continued violations of the standard and subsequent negative affects on human health, (ii) may result in assumption of the program 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 more restrictive requirements on new major industrial facilities and loss of federal funds for highway construction. Furthermore, if a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent control requirements.

Motor vehicle emissions inspection programs, known as inspection and maintenance (I/M) programs, are an integral part of the effort to reduce mobile source air pollution. Cars and trucks create about half of the ozone air pollution. Of all highway vehicles, passenger cars and light trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. Tremendous progress has been made in reducing these pollutants; however, total vehicle emissions remain high. This is because the number of vehicle miles travelled on our highways has doubled in the last 20 years,

offsetting much of the technological progress in vehicle emission control over the same two decades. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve our air quality goals.

I/M programs achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions and requiring them to be repaired. Minor malfunctions in the emissions control system can increase emissions significantly. The average car on the road can emit three to four times the carbon monoxide and hydrocarbons allowed by new car standards if emission control systems are malfunctioning. Unfortunately, rarely is it obvious which cars have malfunctions as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect vehicle driveability.

I/M programs provide a way to check whether the emission control systems on a vehicle are working correctly. All new passenger cars and trucks sold in the United States today must meet stringent air pollution standards and those standards became more stringent in model year 1994, but they can only retain this low-polluting profile if the emission controls and engine are functioning properly. An I/M program is designed to ensure that vehicles stay clean in actual use. This, in turn, can substantially reduce the amount of volatile organic compounds, carbon monoxide, and nitrogen oxides emitted to the ambient air, thereby reducing the formation of ozone, lowering ozone concentrations, and contributing toward attainment of the NAAQS.

### Alternatives:

1. Draft new regulations which will provide for implementation of a motor vehicle emissions testing program that meets the provisions of the state code, federal Clean Air Act and associated EPA regulations and policies.
2. Draft new regulations which will provide for implementation of a motor vehicle emissions testing program that does not meet the provisions, or meets alternative provisions, of the state code, federal Clean Air Act and associated EPA regulations and policies. No regulatory alternatives to an enhanced I/M program have been promulgated by EPA as meeting the requirements of the Act. Adopting an unapprovable program will result in sanctions being imposed by EPA.
3. Take no action to develop the regulations and risk sanctions by EPA.

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

**Applicable Statutory Requirements:** The 1990 amendments to the Clean Air Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the



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## Notices of Intended Regulatory Action

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lower classifications plus the more stringent requirements of its own class. Virginia's ozone nonattainment areas are classified as marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area.

The Northern Virginia area has an ozone air pollution problem classified by the EPA as "serious." The problem is a result of emissions from both industrial sources and motor vehicles. The Act requires that all areas classified as serious must implement an enhanced vehicle emissions inspection and maintenance program, commonly referred to as I/M.

Section 182(c)(3) of the Clean Air Act requires that the state submit revisions to the state implementation plan to "provide for an enhanced program to reduce hydrocarbon emissions and NO<sub>x</sub> emissions from in-use motor vehicles...." The program "shall comply in all respects with guidance...by the Administrator..." The Act requires that enhanced I/M Programs be implemented within two years of enactment (11/16/90) of the Clean Air Act Amendments of 1990. The program implemented by the state must achieve a performance standard equal to:

(i) "...a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and

(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard."

The compliance method is to be established, per the Act, by EPA. The state program, per the Act, must include, at a minimum:

- Computerized emission analyzers, including on-road testing devices.
- No waivers for vehicles and parts covered by an emission control performance warranty.
- For non-warranty situations, waivers only after \$450 (in 1990 dollars) has been spent for emissions-related repairs.
- Enforcement through registration denial.
- Annual testing unless biennial testing, in combination with other features, will equal or exceed emissions reductions obtainable through annual inspections.
- Operation on a centralized basis unless the state demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective.

This law is implemented by EPA through 40 CFR Part 51, subpart S. The performance standard for the program is contained in § 51.351, "Enhanced I/M Performance Standard." It includes:

- Centralized testing.
- Annual testing.
- Testing of 1968 and later model year vehicles.

- Transient, mass emissions testing on 1986 and later model year vehicles, two-speed idle testing of 1981-1985 vehicles, and single-speed idle testing of pre-1981 vehicles.
- Testing of light duty vehicles and trucks.
- Emissions standards according to model year and weight class as enumerated in § 51.351(a)(7).
- Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.
- Evaporative system integrity (pressure) test on 1983 and later vehicles and an evaporative system transient purge test on 1986 and later vehicles.
- Twenty percent emission test failure rate among pre-1981 model year vehicles
- Three percent waiver rate
- Ninety-six percent compliance rate
- On-road testing of at least 0.5% of the subject vehicle population.

Under the current rule, the state has some flexibility to design its own program and demonstrate that it is as effective as the EPA model program in reducing emissions. EPA intends to issue a new rulemaking under the Act to revise some requirements for enhanced I/M program. There may be additional, albeit limited, flexibility on test equipment and program design than exists under the rule conditions outlined above.

Sections 46.2-1176 through 46.2-1187.3 of the Virginia Motor Vehicle Emissions Control Law (Title 46.2, Chapter 10, Article 22 of the Code of Virginia) requires a "test and repair enhanced emissions inspection program" for vehicles that have actual gross weights of 10,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Key provisions of the legislation include:

- A biennial inspection;
- An inspection fee cap of \$20;
- A minimum repair cost of \$450 (in 1990 dollars) in order to qualify for a waiver, and requirement that repairs to qualify for a waiver be done by a certified repair technician;
- Motor vehicles being titled for the first time may be registered for up to two years without being subject to an emissions inspection;
- An exemption for any of the following vehicles, (i) vehicles powered by a clean special fuel as defined in § 58.1-2101, (ii) motorcycles, (iii) vehicles which, at the time of manufacture were not designed to meet emission standards set or approved by the federal government, (iv) any antique motor vehicle as defined in § 46.2-100 and licensed pursuant to § 46.2-730, or (v) vehicles for which no testing standards have been adopted by the board;

# Notices of Intended Regulatory Action

- The requirement for the inspection to apply to all vehicles registered and/or operated in the affected area including (i) vehicles owned by government entities, (ii) vehicles owned by military personnel residing in the affected areas, and (iii) vehicles owned by leasing or rental companies;
- The certification of motor vehicle emissions repair technicians and emissions repair facilities, including the suspension or revocation of such certification;
- In addition to biennial testing of all subject vehicles, on-road testing of motor vehicles in use and requirement for follow-up testing of those vehicles which exceed emissions standards; and

The state code directs the State Air Pollution Control Board to adopt regulations to implement the program.

Statutory Authority: § 46.2-1176 et seq. of the Code of Virginia.

Public comments may be submitted until November 6, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** David J. Kinsey, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4432, FAX (804) 762-4510, toll-free 1-800-592-5482 or (804) 762-4021/TDD ☎

VA.R. Doc. No. R96-20; Filed September 13, 1995, 11:52 a.m.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

### Notice of Intended Regulatory Action

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 consider amending regulations entitled: VR 240-03-2 [ 6 VAC 20-70-10 et seq. ] Regulations Relating to Private Security Services. The purpose of the proposed action is to ensure that the schedule of fees associated with these regulations is consistent with the cost of administering the private security services program, and that the public safety and welfare is adequately secured against unfit or unqualified persons engaged in the activities of private security services. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9-182 of the Code of Virginia.

Public comments may be submitted until November 15, 1995, to Leon D. Baker, Private Security Section, Department of Criminal Justice Services, P.O. Box 10110, Richmond, VA 23240.

**Contact:** Paula Scott Dehetre, Regulatory Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or FAX (804) 786-6344.

VA.R. Doc. No. R96-37; Filed September 27, 1995, 12:08 p.m.

## DEPARTMENT OF GENERAL SERVICES

### Notice of Intended Regulatory Action

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 consider amending regulations entitled: VR 330-02-01 [ 1 VAC 30-50-10 et seq. ] Regulations for Breath Alcohol Testing. The purpose of the proposed action is to provide a means of evaluation, approval, maintenance and certification of evidential breath test devices; training and licensing of breath test operators; and evaluation and approval of preliminary breath testing devices. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 18.2-267 and 18.2-268.9 of the Code of Virginia.

Public comments may be submitted until November 1, 1995, to Robin Porter, Division of Forensic Science, Department of General Services, One North 14th Street, Richmond, VA 23219.

**Contact:** Frances V. Wright, Administrative Assistant, Department of General Services, 202 N. 9th St., Suite 209, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305 or (804) 786-6152 ☎

VA.R. Doc. No. R96-1; Filed September 1, 1995, 3:38 p.m.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: VR 370-01-001 [ 12 VAC 25-20-10 et seq. ] Rules and Regulations of the Virginia Health Services Cost Review Council. The purpose of the proposed action is to amend regulations in accordance with legislation enacted by the 1995 session of the General Assembly. That legislation exempts nursing homes from budgetary and Commercial Diversification Survey filing requirements and eliminates duplicative and unnecessary health care institution reporting requirements. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-158 and 9-160 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on November 30, 1995.

**Contact:** Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371, FAX (804) 371-0284 or (804) 786-6371/TDD ☎

VA.R. Doc. No. R96-61; Filed October 11, 1995, 11:47 a.m.

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# Notices of Intended Regulatory Action

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## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-3.1100. Amount, Duration and Scope of Services (Supplement 1 to Attachment 3.1 A and B); and VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Attachment 4.19 A).** The purpose of the proposed action is to make permanent policies to reduce the lengths of inpatient hospital and obstetric stays when medically appropriate in compliance with amendments to the budget. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 29, 1995, to Scott Crawford, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-60; Filed October 11, 1995, 11:18 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.5. Home and Community Based Services for Technology Assisted Individuals.** The purpose of the proposed action is to revise the regulations to reflect recent changes in the waiver and changes in HCFA's interpretation of federal guidelines. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 1, 1995, to Michelle Baker, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-13; Filed September 12, 1995, 11:43 a.m.

## DEPARTMENT OF STATE POLICE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to consider amending regulations entitled: **VR 545-01-16 [ 19 VAC 30-150-10 et seq. ] Regulations Relating to Standards and Specifications for Overdimensional Warning Lights.** The purpose of the proposed action is to revise the Standards and Specifications for Overdimensional Warning Lights by making it more consistent with the Society of Automotive Engineers (SAE) standards. Minor technical and administrative changes are included. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 46.2-1026 of the Code of Virginia.

Public comments may be submitted until November 2, 1995.

**Contact:** Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 378-3479 or FAX (804) 378-3487.

VA.R. Doc. No. R96-11; Filed September 12, 1995, 3:51 p.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to consider amending regulations entitled: **VR 545-01-17 [ 19 VAC 30-160-10-et seq. ] Regulations Relating to Standards and Specifications for Safety Lights for Farm Tractors in Excess of 108 Inches in Width.** The purpose of the proposed action is to revise the Standards and Specifications for Safety Lights for Farm Tractors in Excess of 108 Inches in Width by making it more consistent with the Society of Automotive Engineers (SAE) standards. Minor technical and administrative changes are included. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 46.2-1102 of the Code of Virginia.

Public comments may be submitted until November 2, 1995.

**Contact:** Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 378-3479 or FAX (804) 378-3487.

VA.R. Doc. No. R96-12; Filed September 12, 1995, 3:50 p.m.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR**

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## Notices of Intended Regulatory Action

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**385-01-6 [ 24 VAC 30-70-10 et seq. ]. Minimum Standards of Entrances to State Highways.** The purpose of the proposed action is to provide for improved safe and efficient movement of people and goods to commercial, industrial, and private properties abutting state roads, and to foster economic development in the Commonwealth. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 33.1-12(3), 33.1-197 and 33.1-198 of the Code of Virginia.

Public comments may be submitted until November 29, 1995.

**Contact:** Steve Edwards, Transportation Engineer, Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-0121 or FAX (804) 225-4978.

VA.R. Doc. No. R96-48; Filed October 4, 1995, 10:29 a.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 regulation.

## STATE AIR POLLUTION CONTROL BOARD

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from 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 Environmental Quality will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 120-01. **Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.**

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

**Effective Date:** December 1, 1995.

### Summary:

The amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 1994. Below is a list of the federal regulations that are currently incorporated into the regulations by reference for which a new edition has been published.

1. Incorporation of two NSPS by reference into the regulations as follows:

a. Subpart RRR - Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes (40 CFR 60.700 through 40 CFR 60.708).

b. Subpart UUU - Calciners and Dryers in Mineral Industries (40 CFR 60.730 through 60.737).

2. No new NESHAP are incorporated by reference into the regulations; however, the opportunity is being taken to make minor administrative revisions.

3. Incorporation of six national emission standards for hazardous air pollutants for source categories (MACT) by reference into the regulations as follows:

a. Subpart F - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (40 CFR 63.100 through 63.106).

b. Subpart G - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 CFR 63.110 through 63.152).

c. Subpart H - Organic Hazardous Air Pollutants for Equipment Leaks (40 CFR 60.160 through 60.182).

d. Subpart I - Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (40 CFR 63.190 through 63.192).

e. Subpart L - Coke Oven Batteries (40 CFR 63.300 through 63.313).

f. Subpart M - Perchloroethylene Dry Cleaning Facilities (40 CFR 63.320 through 40 CFR 63.325).

These standards are part of a newly created Rule 6-2, which also includes various administrative provisions.

**Agency Contact:** Questions on the regulation can be referred to Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4426. Copies of the regulation may be obtained from Alma Jenkins, Office of Air Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 762-4070

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

## PART V.

### ENVIRONMENTAL PROTECTION AGENCY STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES. (RULE 5-5)

§ 120-05-0501. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR Part 60) designated in § 120-05-0502 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-05-0503. The complete text of the subparts in § 120-05-0502 incorporated herein by reference is contained in 40 CFR Part 60 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-05-0502 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (1994) in effect July 1, 1994. In making reference to the Code of Federal Regulations, 40 CFR Part 60 means Part 60 of Title 40 of the Code of Federal Regulations; 40 CFR 60.1 means § 60.1 in Part 60 of Title 40 of the Code of Federal Regulations.

§ 120-05-0502. Designated standards of performance.

Subpart A - General Provisions.

40 CFR 60.1, 40 CFR 60.2, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11, 40 CFR 60.13 through 40 CFR 60.15, 40 CFR 60.18 (applicability, definitions, notification and record keeping, performance tests, compliance,

monitoring requirements, modification, reconstruction, and general control device requirements)

*Subpart B - Not applicable.*

*Subpart C - Not applicable.*

**Subpart D - Fossil-Fuel Fired Steam Generators for which Construction is Commenced after August 17, 1971.**

40 CFR 60.40 through 40 CFR 60.46 (fossil-fuel fired steam generating units of more than 250 million Btu per hour heat input rate, and fossil-fuel fired and wood-residue fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

**Subpart Da - Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.**

40 CFR 60.40a through 40 CFR 60.49a (electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator)

**Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.**

40 CFR 60.40b through 40 CFR 60.49b (industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

**Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.**

40 CFR 60.40c through 60.48c (industrial-commercial-institutional steam generating units which have a heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour)

**Subpart E - Incinerators.**

40 CFR 60.50 through 40 CFR 60.54 (incinerator units of more than 50 tons per day charging rate)

**Subpart Ea - Municipal Waste Combustors.**

40 CFR 60.50a through 60.59a (municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

**Subpart F - Portland Cement Plants.**

40 CFR 60.60 through 40 CFR 60.64 (kilns, clinker coolers, raw mill systems, finish mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

**Subpart G - Nitric Acid Plants.**

40 CFR 60.70 through 40 CFR 60.74 (nitric acid production units)

**Subpart H - Sulfuric Acid Plants.**

40 CFR 60.80 through 40 CFR 60.85 (sulfuric acid production units)

**Subpart I - Hot Mix Asphalt Facilities.**

40 CFR 60.90 through 40 CFR 60.93 (dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems)

**Subpart J - Petroleum Refineries.**

40 CFR 60.100 through 40 CFR 60.106 (fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

**Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and Prior to May 19, 1978.**

40 CFR 60.110 through 40 CFR 60.113 (storage vessels with a capacity greater than 40,000 gallons)

**Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced after May 18, 1978, and prior to July 23, 1984.**

40 CFR 60.110a through 40 CFR 60.115a (storage vessels with a capacity greater than 40,000 gallons)

**Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.**

40 CFR 60.110b through 40 CFR 60.117b (storage vessels with capacity greater than or equal to 10,566 gallons)

**Subpart L - Secondary Lead Smelters.**

40 CFR 60.120 through 40 CFR 60.123 (pot furnaces of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)

**Subpart M - Secondary Brass and Bronze Production Plants.**

40 CFR 60.130 through 40 CFR 60.133 (reverberatory and electric furnaces of 2205 pound or greater production capacity and blast (cupola) furnaces of 550 pounds per hour or greater production capacity)

**Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced after June 11, 1973.**

40 CFR 60.140 through 40 CFR 60.144 (basic oxygen process furnaces)

**Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced after January 20, 1983.**

40 CFR 60.140a through 40 CFR 60.145a (facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs)

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## Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154 (incinerators that combust wastes containing more than 10% sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2205 pounds per day municipal sewage sludge (dry basis))

## Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166 (dryers, roasters, smelting furnaces, and copper converters)

## Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176 (roasters and sintering machines)

## Subpart R - Primary Lead Smelters

40 CFR 60.180 through 40 CFR 60.186 (sintering machines, sintering machine discharge ends, blast furnaces, dross reverberatory furnaces, electric smelting furnaces and converters)

## Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195 (potroom groups and anode bake plants)

## Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204 (reactors, filters, evaporators, and hot wells)

## Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214 (evaporators, hot wells, acid sumps, and cooling tanks)

## Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224 (reactors, granulators, dryers, coolers, screens, and mills)

## Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234 (mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate)

## Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244 (storage or curing piles, conveyors, elevators, screens and mills)

## Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254 (plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems)

## Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266 (electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

## Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276 (electric arc furnaces and dust-handling systems that produce carbon, alloy or specialty steels)

## Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a (electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that produce carbon, alloy, or specialty steels)

## Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285 (digester systems, brown stock washer systems, multiple effect evaporator systems, black liquor oxidation systems, recovery furnaces, smelt dissolving tanks, lime kilns, condensate strippers and kraft pulping operations)

## Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296 (glass melting furnaces)

## Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304 (grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers, and all grain handling operations)

## Subpart EE - Surface Coating of Metal Furniture.

40 CFR 60.310 through 40 CFR 60.316 (metal furniture surface coating operations in which organic coatings are applied)

## Subpart FF - (Reserved)

## Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335 (stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

## Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344 (each rotary lime kiln)

## Subparts II through JJ - (Reserved)

## Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374 (lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

## Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386 (each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

## Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397 (prime coat operations, guide coat operations, and top-coat operations)

## Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404 (phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

## Subpart OO - (Reserved)

## Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424 (ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

## Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435 (publication rotogravure printing presses, except proof presses)

## Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447 (pressure sensitive tape and label material coating lines)

## Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456 (surface coating operations in large appliance coating lines)

## Subpart TT - Metal Coil Surface Coating.

40 CFR 60.460 through 40 CFR 60.466 (metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

## Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.

40 CFR 60.470 through 40 CFR 60.474 (each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

## Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489 (all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

## Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496 (beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

## Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506 (total of all loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks)

## Subparts YY through ZZ - (Reserved)

## Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b (wood heaters)

## Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548 (each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

## Subpart CCC - (Reserved)

## Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

40 CFR 60.560 through 40 CFR 60.566 (For polypropylene and polyethylene manufacturing using a continuous process that emits continuously or intermittently: all equipment used in the manufacture of these polymers. For polystyrene manufacturing using a continuous process that emits continuously: each material recovery section. For poly(ethylene terephthalate) manufacturing using a continuous process that emits continuously: each polymerization reaction section; if dimethyl terephthalate is used in the process, each material recovery section is also an affected facility;



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if terephthalic acid is used in the process, each raw materials preparation section is also an affected facility. For VOC emissions from equipment leaks: each group of fugitive emissions equipment within any process unit, excluding poly(ethylene terephthalate) manufacture.)

## Subpart EEE - (Reserved)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585 (each rotogravure printing line used to print or coat flexible vinyl or urethane products)

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593 (each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH - Synthetic Fiber Production Facilities

40 CFR 60.600 through 40 CFR 60.604 (each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

40 CFR 60.610 through 40 CFR 60.618 (each air oxidation reactor not discharging its vent stream into a recovery system and each combination of an air oxidation reactor or two or more air oxidation reactors and the recovery system into which the vent streams are discharged)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625 (facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks)

Subpart KKK - Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

40 CFR 60.630 through 40 CFR 60.636 (each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648 (facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM - (Reserved)

Subpart NNN - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

40 CFR 60.660 through 40 CFR 60.668 (each distillation unit not discharging its vent stream into a recovery system, each combination of a distillation unit or of two or more units and the recovery system into which their vent streams are discharged)

Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676 (facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685 (each rotary spin wool fiberglass insulation manufacturing line)

Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.

40 CFR 60.690 through 40 CFR 60.699 (individual drain systems, oil-water separators, and aggregate facilities in petroleum refineries)

Subpart RRR - ~~(Reserved)~~ Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.

40 CFR 60.700 through CFR 60.708 (each reactor process not discharging its vent stream into a recovery system, each combination of a reactor process and the recovery system into which its vent stream is discharged, and each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged)

Subpart SSS - Magnetic Tape Coating Facilities.

40 CFR 60.710 through 40 CFR 60.718 (each coating operation and each piece of coating mix preparation equipment)

Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726 (each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

Subpart UUU - ~~(Reserved)~~ Calciners and Dryers in Mineral Industries.

40 CFR 60.730 through 60.737 (each calciner and dryer at a mineral processing plant)

Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.

40 CFR 60.740 through 40 CFR 60.748 (each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates)

Appendix A - Reference Test methods.

Method 1 - Sample and velocity traverses for stationary sources.

Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.

Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

Method 2A - Direct measurement of gas volume through pipes and small ducts.

Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.

Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

Method 4 - Determination of moisture content in stack gases.

Method 5 - Determination of particulate emissions from stationary sources.

Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

Method 5B - Determination of nonsulfuric acid particulate matter from stationary sources.

Method 5C - (Reserved)

Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

Method 5F - Determination of nonsulfate particulate matter from stationary sources.

Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

Method 5H - Determination of particulate emissions from wood heaters from a stack location.

Method 6 - Determination of sulfur dioxide emissions from stationary sources.

Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

Method 7 - Determination of nitrogen oxide emissions from stationary sources.

Method 7A - Determination of nitrogen oxide emissions from stationary sources -- ion chromatographic method.

Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

Method 7C - Determination of nitrogen oxide emissions from stationary sources -- alkaline-permanganate/colorimetric method.

Method 7D - Determination of nitrogen oxide emissions from stationary sources -- alkaline-permanganate/ion colorimetric method.

Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

Method 9 - Visual determination of the opacity of emissions from stationary sources.

Alternate Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

Method 10 - Determination of carbon monoxide emissions from stationary sources.

Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.

Method 10B - Determination of carbon monoxide emissions from stationary sources.

Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

Method 12 - Determination of inorganic lead emissions from stationary sources.

Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

Method 15A - Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

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Method 16B - Determination of total reduced sulfur emissions from stationary sources.

Method 17 - Determination of particulate emissions from stationary sources (instack filtration method).

Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates ~~and electric utility steam generators~~.

Method 20 - Determination of nitrogen oxides, sulfur dioxide, and ~~oxygen diluent~~ emissions from stationary gas turbines.

Method 21 - Determination of volatile organic compounds leaks.

Method 22 - Visual determination of fugitive emissions from material processing sources and smoke emissions from flares.

Method 23 - Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.

Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

Method 26 - Determination of hydrogen chloride emissions from stationary sources.

Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

Method 28 - Certification and auditing of wood heaters.

Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

## Appendix B - Performance specifications.

Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

Performance Specification 2 - Specifications and test procedures for sulfur dioxide and ~~nitric~~ nitrogen oxides continuous emission monitoring systems in stationary sources.

Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 4A - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring system in stationary sources.

Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

Performance Specification 7 - Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.

Appendix C - Determination of Emission Rate Change.

Appendix D - Required Emission Inventory Information

Appendix E - (Reserved)

Appendix F - Quality Assurance Procedures.

Procedure 1 - quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

Appendix G - (Not applicable)

Appendix H - (Reserved)

Appendix I - Removable label and owner's manual.

§ 120-05-0503. Word or phrase substitutions.

In all the standards designated in § 120-05-0502 substitute:

A. 1. "Owner" or "other person" for owner or operator.

B. 2. "Board" for administrator.

C. 3. "Board" for U.S. Environmental Protection Agency (except in references).

D. 4. § 120-05-03 for § 60.8.

E. 5. § 120-05-05 C for § 60.7(c).

## PART VI. ENVIRONMENTAL PROTECTION AGENCY NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS. (RULE 6-1)

§ 120-06-0101. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) designated in § 120-06-0102 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-06-0103. The complete text of the subparts in § 120-06-0102 incorporated herein by reference is contained in 40 CFR Part 61 (~~see Appendix M~~). The 40 CFR section numbers appearing under each Subpart in § 120-06-0102 identify the specific provisions of the Subpart incorporated by

reference. *The specific version of the provision adopted by reference shall be that contained in the CFR (1994) in effect July 1, 1994. In making reference to the Code of Federal Regulations, 40 CFR Part 61 means Part 61 of Title 40 of the Code of Federal Regulations; 40 CFR 61.01 means § 61.01 in Part 61 of Title 40 of the Code of Federal Regulations.*

§ 120-06-0102. Designated emission standards.

Subpart A - General Provisions.

40 CFR 61.01 through 40 CFR 61.02 and 40 CFR 61.12 through 40 CFR 61.15 (applicability, definitions, compliance, emission tests, monitoring, modification)

Subpart B - Radon Emissions from Underground Uranium Mines.

40 CFR 61.20 through 40 CFR 61.26 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart C - Beryllium.

40 CFR 61.30 through 40 CFR 61.34

Subpart D - Beryllium Rocket Motor Firing.

40 CFR 61.40 through 40 CFR 61.44

Subpart E - Mercury.

40 CFR 61.50 through 40 CFR 61.55

Subpart F - Vinyl Chloride.

40 CFR 61.60 through 40 CFR 61.71

Subpart G - (Reserved)

Subpart H - Emissions of Radionuclides Other than Radon From Department of Energy (DOE) Facilities.

40 CFR 61.90 through 40 CFR 61.97 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart I - Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H.

40 CFR 61.100 through 40 CFR 61.109 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.

40 CFR 61.110 through 40 CFR 61.112

Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.

40 CFR 61.120 through 40 CFR 61.127 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart L - Benzene Emissions From Coke By-Product Recovery Plants.

40 CFR 61.130 through 40 CFR 61.139

Subpart M - Asbestos.

40 CFR 61.140 through 40 CFR 61.157 (NOTE: Under § 40.1-51.20 of the Code of Virginia, the Virginia Department of Labor and Industry also holds authority to enforce the following: 40 CFR 61.140, Applicability; 40 CFR 61.141, Definitions; 40 CFR 145, Standard for demolition and renovation; 40 CFR 61.146, Standard for spraying; 60 CFR 148, Standard for insulating materials; 60 CFR 150, Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations except subsection (a)(4); and 40 CFR 154, Standard for active waste disposal, except subsection (d); and 40 CFR 156, Cross-reference to other asbestos regulations.)

Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

40 CFR 61.160 through 40 CFR 61.165

Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

40 CFR 61.170 through 40 CFR 61.177

Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

40 CFR 61.180 through 40 CFR 61.186

Subpart Q - Radon Emissions From Department of Energy Facilities.

40 CFR 61.190 through 40 CFR 61.193 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart R - Radon Emissions From Phosphogypsum Stacks.

40 CFR 61.200 through 40 CFR 61.205 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart S - (Reserved).

Subpart T - Radon Emissions From the Disposal of Uranium Mill Tailings.

40 CFR 61.220 through CFR 61.225 (NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart U - (Reserved).

Subpart V - Equipment Leaks (Fugitive Emission Sources).

40 CFR 61.240 through 40 CFR 61.247

Subpart W - Radon Emissions from Operating Mill Tailings.

40 CFR 61.250 through 40 CFR 61.252 (NOTE: Authority to enforce the above standard is being retained

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by EPA and it is not incorporated by reference into these regulations.)

Subpart X - (Reserved)

Subpart Y - Benzene Emissions From Benzene Storage Vessels.

40 CFR 61.270 through 40 CFR 61.277

Subparts Z-AA - (Reserved)

Subpart BB - Benzene Emissions From Benzene Transfer Operations.

40 CFR 61.300 through 40 CFR 61.306

Subparts CC-EE - (Reserved)

Subpart FF - Benzene Waste Operations.

40 CFR 61.340 through 40 CFR 61.358

Appendix A - *Not applicable.*

Appendix B - Test methods.

Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

Method 103 - Beryllium screening method.

Method 104 - Determination of beryllium emissions from stationary sources.

Method 105 - Determination of mercury in wastewater treatment plant sewage sludges.

Method 106 - Determination of vinyl chloride from stationary sources.

Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

Method 108 - Determination of particulate and gaseous arsenic emissions.

Method 108A - Determination of arsenic content in ore samples from nonferrous smelters.

Method 108B - Determination of arsenic content in ore samples from nonferrous smelters.

Method 108C - Determination of arsenic content in ore samples from nonferrous smelters.

Method 111 - Determination of polonium-210 emissions from stationary sources.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

Method 114 - Test methods for measuring radionuclide emissions from stationary sources.

(NOTE: Authority to enforce the above test methods is being retained by EPA and it is not incorporated by reference into these regulations.)

Method 115 - Monitoring for radon-222 emissions.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix C - Quality assurance procedures.

Procedure 1 - Determination of adequate chromatographic peak resolution.

Procedure 2 - Procedure for field auditing gas cylinder analysis.

Appendix D - Methods for estimating radionuclide emissions. (NOTE: Authority to enforce the above methods is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix E - Compliance procedures methods for determining compliance with Subpart I.

(NOTE: Authority to enforce the above methods is being retained by EPA and it is not incorporated by reference into these regulations.)

§ 120-06-0103. Word or phrase substitutions.

In all of the standards designated in § 120-06-0102 substitute:

- A. 1. "Owner" or "other person" for owner or operator.
- B. 2. "Board" for administrator.
- C. 3. "Board" for U.S. Environmental Protection Agency (except in references).
- D. 4. Part VIII and § 120-06-05 A for §§ 61.05(a), 61.07 and 61.09.
- E. 5. § 120-06-03 for § 61.14.

PART VI.  
ENVIRONMENTAL PROTECTION AGENCY NATIONAL  
EMISSION STANDARDS FOR HAZARDOUS AIR  
POLLUTANTS FOR SOURCE CATEGORIES.  
(RULE 6-2)

§ 120-06-0201. *General.*

*The Environmental Protection Agency (EPA) National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63) designated in § 120-06-0202 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-06-0203. The complete text of the subparts in § 120-06-0202 incorporated herein by reference is contained in 40 CFR Part 63. The 40 CFR section numbers appearing under each subpart in*

§ 120-06-0202 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (1994) in effect July 1, 1994. In making reference to the Code of Federal Regulations, 40 CFR Part 63 means Part 63 of Title 40 of the Code of Federal Regulations; 40 CFR 63.1 means § 63.1 in Part 63 of Title 40 of the Code of Federal Regulations.

§ 120-06-0202. Designated emission standards.

Subpart A - General Provisions.

40 CFR 63.1 through 63.11, 63.14 through 63.15 (applicability, definitions, units and abbreviations, prohibited activities and circumvention, construction and reconstruction, compliance with standards and maintenance requirements, performance testing requirements, monitoring requirements, notification requirements, recordkeeping and reporting requirements, control device requirements, incorporations by reference, availability of information and confidentiality)

Subpart B - Not applicable.

Subpart C - Not applicable.

Subpart D - Not applicable.

Subpart E - Not applicable.

Subpart F - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

40 CFR 63.100 through 63.106 (chemical manufacturing process units that manufacture as a primary product one or more of a listed chemical; use as a reactant or manufacture as a product, by-product, or co-product, one or more of a listed organic hazardous air pollutant; and are located at a plant site that is a major source as defined in § 112 of the federal Clean Air Act)

Subpart G - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

40 CFR 63.110 through 63.152 (all process vents, storage vessels, transfer operations, and wastewater streams within a source subject to subpart F, 40 CFR 63.100 through 63.106)

Subpart H - Organic Hazardous Air Pollutants for Equipment Leaks.

40 CFR 60.160 through 60.182 (pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or systems that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR Part 63)

Subpart I - Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

40 CFR 63.190 through 63.192 (emissions of designated organic hazardous air pollutants from processes specified in this subpart that are located at a plant site that is a major source as defined in § 112 of the federal Clean Air Act)

Subpart J - Reserved.

Subpart K - Reserved.

Subpart L - Coke Oven Batteries.

40 CFR 63.300 through 63.313 (existing by-product coke oven batteries at a coke plant, and existing nonrecovery coke oven batteries located at a coke plant)

Subpart M - Perchloroethylene Dry Cleaning Facilities.

40 CFR 63.320 through 40 CFR 63.325 (each dry cleaning facility that uses perchloroethylene)

Subpart N - Reserved.

Subpart O - Reserved.

Subpart P - Reserved.

Subpart Q - Reserved.

Subpart R - Reserved.

Subpart S - Reserved.

Subpart T - Reserved.

Subpart U - Reserved.

Subpart V - Reserved.

Subpart W - Reserved.

Subpart X - Reserved.

Subpart Y - Reserved.

Subpart Z - Reserved.

Appendix A - Test methods.

Method 301 - Field validation of pollutant measurement methods from various waste media.

Method 303 - Determination of visible emissions from by-product coke oven batteries.

Method 303A - Determination of visible emissions from nonrecovery coke oven batteries.

Method 304A - Determination of biodegradation rates of organic compounds (vent option).

Method 304B - Determination of biodegradation rates of organic compounds (scrubber option).

Method 305 - Measurement of emission potential of individual volatile organic compounds in waste.

Appendix B - Sources Defined for Early Reduction Provisions.

Appendix C - Determination of the Fraction Biodegraded ( $F_{bio}$ ) in a Biological Treatment Unit.

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§ 120-06-0203. *Word or phrase substitutions.*

*In all of the standards designated in § 120-06-0202 substitute:*

1. "Owner" or "other person" for owner or operator.
2. "Board" for administrator.
3. "Board" for U.S. Environmental Protection Agency (except in references).

## APPENDIX M. DOCUMENTS INCORPORATED BY REFERENCE.

### I. General.

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

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and non-statutory documents incorporated by reference and their availability may be found in Section II.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (1991-1994) in effect July 1, 1991-1994. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part 35.20 means Section § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this appendix any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Eighth Floor, Ninth Street Office Building Department of Environmental Quality, Eighth Floor, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

### II. Specific documents.

#### A. Code of Federal Regulations.

1. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, 1991-1994, are incorporated herein by reference.

- a. 40 CFR Part 40 - National Primary and Secondary Ambient Air Quality Standards.

(1) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(2) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(3) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(4) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(5) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(6) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(7) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(8) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(9) Appendix I - Reserved.

(10) Appendix J - Reference Method for the Determination of Particulate Matter as PM10 in the Atmosphere.

(11) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

b. 40 CFR Part 58 - Ambient Air Quality Surveillance. Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

c. 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

*The specific provisions of 40 CFR Part 60 incorporated by reference are found in Part V, Rule 5-5, Environmental Protection Agency Standards of Performance for New Stationary Sources.*

(1) ~~Subpart A - General Provisions.~~

~~(a) § 60.1 - Applicability.~~

~~(b) § 60.2 - Definitions.~~

~~(c) § 60.7 - Notification and record-keeping.~~

~~(d) § 60.8 - Performance tests.~~

~~(e) § 60.11 - Compliance with standards and maintenance requirements.~~

~~(f) § 60.13 - Monitoring requirements.~~

~~(g) § 60.14 - Modification.~~

- ~~(h) § 60.15 Reconstruction.~~
- ~~(i) § 60.18 General control device requirements.~~
- ~~(2) Subpart D Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.~~
- ~~(3) Subpart Da Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.~~
- ~~(4) Subpart Db Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.~~
- ~~(5) Subpart Dc Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.~~
- ~~(6) Subpart E Standards of Performance for incinerators.~~
- ~~(7) Subpart Ea Standards of Performance for Municipal Waste Combustors.~~
- ~~(8) Subpart F Standards of Performance for Portland Cement Plants.~~
- ~~(9) Subpart G Standards of Performance for Nitric Acid Plants.~~
- ~~(10) Subpart H Standards of Performance for Sulfuric Acid Plants.~~
- ~~(11) Subpart I Standards of Performance for Hot Mix Asphalt Facilities.~~
- ~~(12) Subpart J Standards of Performance for Petroleum Refineries.~~
- ~~(13) Subpart K Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973 and Prior to May 19, 1978.~~
- ~~(14) Subpart Ka Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.~~
- ~~(15) Subpart Kb Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.~~
- ~~(16) Subpart L Standards of Performance for Secondary Lead Smelters.~~
- ~~(17) Subpart M Standards of Performance for Secondary Brass and Bronze Production Plants.~~
- ~~(18) Subpart N Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.~~
- ~~(19) Subpart Na Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.~~
- ~~(20) Subpart O Standards of Performance for Sewage Treatment Plants.~~
- ~~(21) Subpart P Standards of Performance for Primary Copper Smelters.~~
- ~~(22) Subpart Q Standards of Performance for Primary Zinc Smelters.~~
- ~~(23) Subpart R Standards of Performance for Primary Lead Smelters.~~
- ~~(24) Subpart S Standards of Performance for Primary Aluminum Reduction Plants.~~
- ~~(25) Subpart T Standards of Performance for the Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.~~
- ~~(26) Subpart U Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.~~
- ~~(27) Subpart V Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.~~
- ~~(28) Subpart W Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.~~
- ~~(29) Subpart X Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.~~
- ~~(30) Subpart Y Standards of Performance for Coal Preparation Plants.~~
- ~~(31) Subpart Z Standards of Performance for Ferroalloy Production Facilities.~~
- ~~(32) Subpart AA Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.~~
- ~~(33) Subpart AAa Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.~~
- ~~(34) Subpart BB Standards of Performance for Kraft Pulp Mills.~~
- ~~(35) Subpart CC Standards of Performance for Glass Manufacturing Plants.~~
- ~~(36) Subpart DD Standards of Performance for Grain Elevators.~~
- ~~(37) Subpart EE Standards of Performance for Surface Coating of Metal Furniture.~~
- ~~(38) Subpart FF Reserved.~~



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- ~~(39) Subpart GG—Standards of Performance for Stationary Gas Turbines.~~
- ~~(40) Subpart HH—Standards of Performance for Lime Manufacturing Plants.~~
- ~~(41) Subpart II—Reserved.~~
- ~~(42) Subpart JJ—Reserved.~~
- ~~(43) Subpart KK—Standards of Performance for Lead-Acid Battery Manufacturing Plants.~~
- ~~(44) Subpart LL—Standards of Performance for Metallic Mineral Processing Plants.~~
- ~~(45) Subpart MM—Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations.~~
- ~~(46) Subpart NN—Standards of Performance for Phosphate Rock Plants.~~
- ~~(47) Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture.~~
- ~~(48) Subpart QQ—Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.~~
- ~~(49) Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.~~
- ~~(50) Subpart SS—Standards of Performance for Industrial Surface Coating: Large Appliances.~~
- ~~(51) Subpart TT—Standards of Performance for Metal Coil Surface Coating.~~
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- ~~(53) Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.~~
- ~~(54) Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry.~~
- ~~(55) Subpart XX—Standards of Performance for Bulk Gasoline Terminals.~~
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- ~~(57) Subpart ZZ—Reserved.~~
- ~~(58) Subpart AAA—Standards of Performance for New Residential Wood Heaters.~~
- ~~(59) Subpart BBB—Standards of Performance for Rubber Tire Manufacturing Industry.~~
- ~~(60) Subpart CCC—Reserved.~~
- ~~(61) Subpart DDD—Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.~~
- ~~(62) Subpart EEE—Reserved.~~
- ~~(63) Subpart FFF—Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.~~
- ~~(64) Subpart GGG—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.~~
- ~~(65) Subpart HHH—Standards of Performance for Synthetic Fiber Production Facilities.~~
- ~~(66) Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Processes.~~
- ~~(67) Subpart JJJ—Standards of Performance for Petroleum Dry Cleaners.~~
- ~~(68) Subpart KKK—Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.~~
- ~~(69) Subpart LLL—Standards of Performance for Onshore Natural Gas Processing: Sulfur Dioxide Emissions.~~
- ~~(70) Subpart MMM—Reserved.~~
- ~~(71) Subpart NNN—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.~~
- ~~(72) Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.~~
- ~~(73) Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.~~
- ~~(74) Subpart QQQ—Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems.~~
- ~~(75) Subpart RRR—Reserved.~~
- ~~(76) Subpart SSS—Standards of Performance for Magnetic Tape Coating Facilities.~~
- ~~(77) Subpart TTT—Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.~~
- ~~(78) Subpart UUU—Reserved.~~
- ~~(79) Subpart VVV—Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.~~
- ~~(80) Appendix A—Reference Methods.~~
- ~~(a) Method 1—Sample and velocity traverses for stationary sources.~~
- ~~(b) Method 1A—Sample and velocity traverses for stationary sources with small stacks or ducts.~~
- ~~(c) Method 2—Determination of stack gas velocity and volumetric flow rate (type S pitot tube).~~
- ~~(d) Method 2A—Direct measurement of gas volume through pipes and small ducts.~~

- (e) Method 2B — Determination of exhaust gas volume flow rate from gasoline vapor incinerators.
- (f) Method 2C — Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).
- (g) Method 2D — Measurement of gas volumetric flow rates in small pipes and ducts.
- (h) Method 3 — Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.
- (i) Method 3A — Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).
- (j) Method 4 — Determination of moisture content in stack gases.
- (k) Method 5 — Determination of particulate emissions from stationary sources.
- (l) Method 5A — Determination of particulate emissions from the asphalt processing and asphalt roofing industry.
- (m) Method 5B — Determination of nonsulfuric acid particulate matter from stationary sources.
- (n) Method 5C — Reserved.
- (o) Method 5D — Determination of particulate matter emissions from positive pressure fabric filters.
- (p) Method 5E — Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.
- (q) Method 5F — Determination of nonsulfate particulate matter from stationary sources.
- (r) Method 5G — Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.
- (s) Method 5H — Determination of particulate emissions from wood heaters from a stack location.
- (t) Method 6 — Determination of sulfur dioxide emissions from stationary sources.
- (u) Method 6A — Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.
- (v) Method 6B — Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.
- (w) Method 6C — Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).
- (x) Method 7 — Determination of nitrogen oxide emissions from stationary sources.
- (y) Method 7A — Determination of nitrogen oxide emissions from stationary sources — ion chromatographic method.
- (z) Method 7B — Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).
- (aa) Method 7C — Determination of nitrogen oxide emissions from stationary sources — alkaline-permanganate/colorimetric method.
- (bb) Method 7D — Determination of nitrogen oxide emissions from stationary sources — alkaline-permanganate/ion chromatographic method.
- (cc) Method 7E — Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).
- (dd) Method 8 — Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.
- (ee) Method 9 — Visual determination of the opacity of emissions from stationary sources.
- (ff) Alternative Method 1 — Determination of the opacity of emissions from stationary sources remotely by lidar.
- (gg) Method 10 — Determination of carbon monoxide emissions from stationary sources.
- (hh) Method 10A — Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.
- (ii) Method 10B — Determination of carbon monoxide emissions from stationary sources.
- (jj) Method 11 — Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.
- (kk) Method 12 — Determination of inorganic lead emissions from stationary sources.
- (ll) Method 13A — Determination of total fluoride emissions from stationary sources — SPADNS zirconium lake method.
- (mm) Method 13B — Determination of total fluoride emissions from stationary sources — specific ion electrode method.
- (nn) Method 14 — Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.
- (oo) Method 15 — Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.
- (pp) Method 15A — Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

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~~(qq) Method 16—Semicontinuous determination of sulfur emissions from stationary sources.~~

~~(rr) Method 16A—Determination of total reduced sulfur emissions from stationary sources (impinger technique).~~

~~(ss) Method 16B—Determination of total reduced sulfur emissions from stationary sources.~~

~~(tt) Method 17—Determination of particulate emissions from stationary sources (in-stack filtration method).~~

~~(uu) Method 18—Measurement of gaseous organic compound emissions by gas chromatography.~~

~~(vv) Method 19—Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates from electric utility steam generators.~~

~~(ww) Method 20—Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.~~

~~(xx) Method 21—Determination of volatile organic compounds leaks.~~

~~(yy) Method 22—Visual determination of fugitive emissions from material sources and smoke emissions from flares.~~

~~(zz) Method 23—Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.~~

~~(aaa) Method 24—Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.~~

~~(bbb) Method 24A—Determination of volatile matter content and density of printing inks and related coatings.~~

~~(ccc) Method 25—Determination of total gaseous nonmethane organic emissions as carbon.~~

~~(ddd) Method 25A—Determination of total gaseous organic concentration using a flame ionization analyzer.~~

~~(eee) Method 25B—Determination of total gaseous organic concentration using a nondispersive infrared analyzer.~~

~~(fff) Method 26—Determination of hydrogen chloride emissions from stationary sources.~~

~~(ggg) Method 27—Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.~~

~~(hhh) Method 28—Certification and auditing of wood heaters.~~

~~(iii) Method 28A—Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.~~

~~(81) Appendix B—Performance Specifications.~~

~~(a) Performance Specification 1—Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.~~

~~(b) Performance Specification 2—Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.~~

~~(c) Performance Specification 3—Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.~~

~~(d) Performance Specification 4—Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.~~

~~(e) Performance Specification 4A—Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.~~

~~(f) Performance Specification 5—Specifications and test procedures for TRS continuous emission monitoring systems in stationary sources.~~

~~(g) Performance Specification 6—Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.~~

~~(h) Performance Specification 7—Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.~~

~~(82) Appendix C—Determination of Emission.~~

~~(83) Appendix D—Required Emission Inventory Information.~~

~~(84) Appendix E—Reserved.~~

~~(85) Appendix F—Quality Assurance Procedures.~~

~~Procedure 1—Quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.~~

~~(86) Appendix H—Reserved.~~

~~(87) Appendix I—Removable label and owner's manual.~~

d. 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.

*The specific provisions of 40 CFR Part 61 incorporated by reference are found in Part VI, Rule 6-1, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants.*

(1) Subpart A—General Provisions.

(a) § 61.01—Applicability.

(b) § 61.02—Definitions.

- ~~(c) § 61.12 — Compliance with standards and maintenance requirements.~~
- ~~(d) § 61.13 — Emission tests and waiver of emission tests.~~
- ~~(e) § 61.14 — Monitoring requirements.~~
- ~~(f) § 61.15 — Modification.~~
- ~~(2) Subpart C — National Emission Standard for Beryllium.~~
- ~~(3) Subpart D — National Emission Standard for Beryllium Rocket Motor Firing.~~
- ~~(4) Subpart E — National Emission Standard for Mercury.~~
- ~~(5) Subpart F — National Emission Standard for Vinyl Chloride.~~
- ~~(6) Subpart G — Reserved.~~
- ~~(7) Subpart J — National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.~~
- ~~(8) Subpart L — National Emission Standard for Benzene Emissions From Coke By-Product Recovery Plants.~~
- ~~(9) Subpart M — National Emission Standard for Asbestos.~~
- ~~(10) Subpart N — National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.~~
- ~~(11) Subpart O — National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.~~
- ~~(12) Subpart P — National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.~~
- ~~(13) Subpart S — Reserved.~~
- ~~(14) Subpart U — Reserved.~~
- ~~(15) Subpart V — National Emission Standard for Equipment Leaks (Fugitive Emission Sources).~~
- ~~(16) Subpart W — National Emission Standard for Radon-222 Emissions from Licensed Uranium Mill Tailings.~~
- ~~(17) Subpart X — Reserved.~~
- ~~(18) Subpart Y — National Emission Standard for Benzene Emissions from Benzene Storage Vessels.~~
- ~~(19) Subpart Z — Reserved.~~
- ~~(20) Subpart AA — Reserved.~~
- ~~(21) Subpart BB — National Emission Standard for Benzene Emissions from Benzene Transfer Operations.~~
- ~~(22) Subpart CC — Reserved.~~
- ~~(23) Subpart DD — Reserved.~~
- ~~(24) Subpart EE — Reserved.~~
- ~~(25) Subpart FF — National Emission Standard for Benzene Waste Operations.~~
- ~~(26) Appendix B — Test Methods.~~
- ~~(a) Method 101 — Determination of particulate and gaseous mercury emissions from chlor-alkali plants — air streams.~~
- ~~(b) Method 101A — Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.~~
- ~~(c) Method 102 — Determination of particulate and gaseous mercury emissions from chlor-alkali plants — hydrogen streams.~~
- ~~(d) Method 103 — Beryllium screening method.~~
- ~~(e) Method 104 — Determination of beryllium emissions from stationary sources.~~
- ~~(f) Method 105 — Determination of mercury in wastewater treatment plant sewage sludge.~~
- ~~(g) Method 106 — Determination of vinyl chloride from stationary sources.~~
- ~~(h) Method 107 — Determination of vinyl chloride content of in-process wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.~~
- ~~(i) Method 107A — Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.~~
- ~~(j) Method 108 — Determination of particulate and gaseous arsenic emissions.~~
- ~~(k) Method 108A — Determination of arsenic content in ore samples from nonferrous samples.~~
- ~~(l) Method 108B — Determination of arsenic content in ore samples from nonferrous smelters.~~
- ~~(m) Method 108C — Determination of arsenic content in ore samples from nonferrous smelters.~~
- ~~(27) Appendix C — Quality Assurance Procedures.~~
- ~~(a) Procedure 1 — Determination of adequate chromatographic peak resolution.~~
- ~~(b) Procedure 2 — Procedure for field auditing GC analysis.~~
- e. 40 CFR Part 63 - National Emission Standards for Hazardous Air Pollutants for Source Categories.*
- The specific provisions of 40 CFR Part 63 incorporated by reference are found in Part VI, Rule 6-2, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories.*

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2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

### B. U.S. Environmental Protection Agency.

1. The documents specified below from the U.S. Environmental Protection Agency are incorporated herein by reference.

a. Guideline on Air Quality Models (revised), EPA-450/2-78-027R, OAQPS No. 1.2-080, July 1986, as amended by Supplement A, PB88150958, July 1987.

b. Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

2. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

### C. U.S. government.

1. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

### D. American Society for Testing and Materials (ASTM).

1. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

a. D323-82, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

b. D97-87, "Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1989 Annual Book of ASTM Standards.

2. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (215) 299-5400.

### E. American Petroleum Institute (API).

1. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Third Edition, 1989.

2. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

### F. American Conference of Governmental Industrial Hygienists (ACGIH).

1. The following document from the ACGIH is incorporated herein by reference: Threshold Limit Values for Chemical Substances 1991-1992 and

Physical Agents and Biological Exposure Indices (ACGIH Handbook).

2. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211-4438; phone (513) 661-7881.

### G. National Fire Prevention Association (NFPA).

1. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

a. NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1985 Edition.

b. NFPA 30, Flammable and Combustible Liquids Code, 1987 Edition.

c. NFPA 30A, Automotive and Marine Service Station Code, 1987 Edition.

2. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

VA.R. Doc. No. R96-47; Filed October 4, 1995, 2:48 p.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

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Delegate W. Taylor Murphy, Jr.  
Vice Chairman

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

October 16, 1995

Peter W. Schmidt, Director  
Department of Environmental Quality  
P.O. Box 10009  
Richmond, VA 23240-0009

RE: Federal Exemption on regulations: VR 120-05-0501 through VR 120-05-0503,  
VR 120-06-0101 through VR 120-06-0103, and VR 120-06-0201 through  
VR 120-06-0203 and Appendix M Concerning Federal Documents  
Incorporated by Reference.

Dear Mr. Schmidt:

This letter acknowledges receipt of the above-referenced regulations from the  
Department of Environmental Quality.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that  
these regulations are exempt from the operation of Article 2 of the  
Administrative Process Act since they do not differ materially from those  
required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.  
Acting Registrar of Regulations

EMM/tmg

# Final Regulations

## VIRGINIA MANUFACTURED HOUSING BOARD

Title of Regulation: [ ~~VR 449-01-02~~, 13 VAC 6-20-10 et seq. ] **Manufactured Housing Licensing and Transaction Recovery Fund Regulations.**

Statutory Authority: § 36-85.18 of the Code of Virginia.

Effective Date: January 1, 1996.

### Summary:

*The amendments to the regulations incorporate the legislative changes adopted by the 1994 General Assembly in House Bill 1172. The legislative amendments require retail manufactured home dealers and brokers located outside of the Commonwealth to be licensed by the Manufactured Housing Board if those dealers or brokers are selling homes to buyers in Virginia. House Bill 1172 amendments also add salespersons working for licensed brokers and manufacturers to the list of regulants that must be licensed and extend the coverage and protection of the recovery fund to persons other than the buyer of the home. The license fee schedule is being amended to reduce the license fees for smaller dealers and brokers as well as the renewal license fees for manufacturers. Several of the amendments, not required by the legislative action, are to clarify intent and to avoid unnecessary restrictions on regulants. Among these changes are: (i) clarifying ability of salespeople to transfer to other dealer lots under same ownership; (ii) giving the board authority to deny or revoke license for convicted felons, consistent with contractors regulations; and (iii) amending advertising regulations to delete unnecessary restrictions and providing further clarifications.*

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 Curtis L. McIver, Associate Director, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 471-7160.

13 VAC 6-20-10 et seq. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

### [ CHAPTER 20. MANUFACTURED HOUSING LICENSING AND TRANSACTION RECOVERY FUND REGULATIONS. ]

#### PART I. GENERAL.

[ § 1.1. 13 VAC 6-20-10. ] Definitions.

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

"Board" means the Virginia Manufactured Housing Board.

"Buyer" means the person who purchases at retail from a dealer or manufacturer a manufactured home for personal use as a residence or other related use.

"Claimant" means any person who has filed a verified claim under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia.

"Code" means the appropriate standards of the Virginia Uniform Statewide Building Code and the Industrialized Building and Manufactured Home Safety Regulations adopted by the Board of Housing and Community Development and administered by the Department of Housing and Community Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 for manufactured homes.

"Dealer/manufacture sales agreement" means a written contract or agreement between a manufactured housing manufacturer and a manufactured housing dealer whereby the dealer is granted the right to engage in the business of offering, selling, and servicing new manufactured homes of a particular line or make of the stated manufacturer of such line or make. The term shall include any severable part or parts of such sales agreement which separately provides for selling or servicing different lines or makes of the manufacturer.

"Defect" means any deficiency in or damage to materials or workmanship occurring in a manufactured home which has been reasonably maintained and cared for in normal use. The term also means any failure of any structural element, utility system or the inclusion of a component part of the manufactured home which fails to comply with the Code.

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

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

"Fund" or "recovery fund" means the Virginia Manufactured Housing Transaction Recovery Fund.

"HUD" means the United States Department of Housing and Urban Development.

"Licensed" means the regulant has met all applicable requirements of these regulations, paid all required fees, and been authorized by the board to manufacture or offer for sale or sell manufactured homes in accordance with these regulations.

"Manufactured home" means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Manufactured home broker" or "broker" means any person, partnership, association or corporation, resident or nonresident, who, for compensation or valuable consideration, sells or offers for sale, buys or offers to buy, negotiates the purchase or sale or exchange, or leases or

offers to lease used manufactured homes that are owned by a party other than the broker.

"*Manufactured home dealer*" or "*dealer*" means any person, *resident or nonresident*, engaged in the business of buying, selling or dealing in manufactured homes or offering or displaying manufactured homes for sale in Virginia. Any person who buys, sells, or deals in three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms "*selling*" and "*sale*" include lease-purchase transactions. The term "*manufactured home dealer*" does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.

"*Manufactured home manufacturer*" or "*manufacturer*" means any persons, resident or nonresident, who manufacture or assemble manufactured homes for sale in Virginia.

"*Manufactured home salesperson*" or "*salesperson*" means any person who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a manufactured home dealer, *broker or manufacturer* to sell or offer to sell; or to buy or offer to buy; or to negotiate the purchase, sale or exchange; or to lease or offer to lease new or used manufactured homes.

"*New manufactured home*" means any manufactured home which (i) has not been previously sold except in good faith for the purpose of resale, (ii) has not been previously occupied as a place of habitation, (iii) has not been previously used for commercial purposes such as offices or storage, and (iv) has not been titled by the Virginia Department of Motor Vehicles.

"*Person*" means any individual, natural person, firm, partnership, association, corporation, legal representative, or other recognized legal entity.

"*Regulant*" means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia to be licensed by the board.

"*Regulations*" or "*these regulations*" means the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

"*Relevant market area*" means the geographical area established in the dealer/manufacturer sales agreement and agreed to by both the dealer and the manufacturer in the agreement.

"*Responsible party*" means a manufacturer, dealer, or supplier of manufactured homes.

"*Set-up*" means the operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, transportation, positioning, blocking, leveling, supporting, anchoring, connecting utility systems, making minor adjustments, or assembling multiple or expandable units. Such operations do not include lawful transportation services performed by public utilities operating under certificates or permits issued by the State Corporation Commission.

"*Standards*" means the Federal Manufactured Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development.

"*Statement of Compliance*" means the statement that the regulant licensed by the board will comply with the Manufactured Housing Licensing and Transaction Recovery Fund Law, the regulations and the orders of the board.

"*Supplier*" means the original producers of completed components, including refrigerators, stoves, water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, and materials such as floor coverings, panelling, siding, trusses, and similar materials, which are furnished to a manufacturer or a dealer for installation in the manufactured home prior to sale to a buyer.

"*Used manufactured home*" means any manufactured home other than a new home as defined in this section.

"*Warranty*" means any written assurance of the manufacturer, dealer or supplier or any promise made by a regulant in connection with the sale of a manufactured home that becomes part of the basis of the sale. The term "*warranty*" pertains to the obligations of the regulant in relation to materials, workmanship, and fitness of a manufactured home for ordinary and reasonable use of the home for the term of the promise or assurance.

## PART II. LICENSES.

### Article 1. Manufacturers.

[ § 2-4. 13 VAC 6-20-20. ] License required; annual renewal.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale, shall apply to the board for a license. The license shall be displayed at the place of business. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed manufacturer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for the new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal



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fee and any penalty by a manufacturer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a manufacturer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

D. For licensing purposes, a manufacturer operating more than one manufacturing facility shall have each location treated as a separate entity and shall adhere to all requirements for manufacturer licensing at each location. *Multiple production lines at one site shall be considered as a single facility for licensing purposes under the following conditions:*

1. All production lines at that site are identified by the parent company with the same name, address and plant number.
2. All production lines at that site are under the same general and production management.
3. All production lines at that site are identified by the same Federal Identification Number (FIN) for tax purposes.

[ ~~§ 2.2.~~ 13 VAC 6-20-30. ] Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by [ ~~§ 7.4~~ 13 VAC 6-20-420 ] A 1.
2. Licensing fee required by [ ~~§ 2.49~~ 13 VAC 6-20-200 ] A 1.
3. Copy of the manufacturer's homeowner and installation manual(s).
4. Statement of Compliance.
5. *List of salespeople licensed in Virginia with the following biographical information for each:*

*Date of birth*

*Sex*

*Weight*

*Height*

*Eye/hair color*

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by [ ~~§ 2.49~~ 13 VAC 6-20-200 ] A 2.
2. If revised, a copy of the revised homeowner and installation manual(s).
3. Statement of Compliance.

4. *Updated list of salespeople employed.*

[ ~~§ 2.3.~~ 13 VAC 6-20-40. ] Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

Article 2.  
Dealers.

[ ~~§ 2.4.~~ 13 VAC 6-20-50. ] License required; annual renewal.

A. Any person *located in or outside of the Commonwealth* buying or selling or offering or displaying manufactured homes for sale in Virginia and meeting the definition of a dealer in [ ~~§ 1.4~~ 13 VAC 6-20-10 ] shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed dealer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a dealer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a dealer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

D. For licensing purposes, a dealer operating more than one retail location shall have each location treated as a separate entity and shall adhere to all requirements for dealer licensing at each location.

E. Each dealer licensed under these regulations shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the dealer is licensed under these regulations.

[ ~~§ 2-5.~~ 13 VAC 6-20-60. ] Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by [ ~~§ 7-1~~ 13 VAC 6-20-420 ] A 2.
2. Licensing fee required by [ ~~§ 2-19~~ 13 VAC 6-20-200 ] A 3.
3. Statement of Compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.
6. List of salespeople employed with the following biographical information for each:

Date of birth

Sex

Weight

Height

Eye/hair color

7. Name of the owner, principal, manager, agent or other person designated as the holder of the dealer's license for the specific location and the names of other partners or principals in the dealership.

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by [ ~~§ 2-19~~ 13 VAC 6-20-200 ] A 4.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Updated list of salespeople employed.
5. Any changes of officers or directors of the company or corporation.
6. A copy of the dealer's current certificate of registration from the Department of Motor Vehicles.

D. Any change in the form of ownership of the dealer or any changes (deletions or additions) in the partners or principals of the dealer shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery

fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s).

The board shall be notified immediately by the dealer of any change in the operating name of the dealer. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the dealer of any change in the location of the dealer. The dealer shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

[ ~~§ 2-6.~~ 13 VAC 6-20-70. ] Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the dealer to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

[ ~~§ 2-7.~~ 13 VAC 6-20-80. ] Dealer responsibility for inspections; other items.

A. The dealer shall inspect every new manufactured home unit upon delivery from a manufacturer. If a dealer becomes aware of a noncompliance or an imminent safety hazard, as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations, in a manufactured home, the dealer shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer. No dealer shall sell a new manufactured home if he becomes aware that it contains a noncompliance or an imminent safety hazard.

B. The dealer shall inspect every new manufactured home unit prior to selling to determine that all items of furniture, appliances, fixtures and devices are not damaged and are in place and operable.

C. A dealer shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

D. If the dealer provides for the installation of any manufactured home he sells, the dealer shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

E. On each home sold by the dealer, the dealer shall collect the applicable title fees and title tax for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

Article 3.

Brokers.

[ ~~§ 2-8.~~ 13 VAC 6-20-90. ] License required; annual renewal.

A. Any person located in or outside of the Commonwealth buying or selling, negotiating the purchase or sale or exchange of, or leasing used manufactured homes and meeting the definition of broker in [ ~~§ 1-1~~ 13 VAC 6-20-10 ] shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

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B. Each licensed broker shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a broker, the board may review an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a broker in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under the regulations.

D. For licensing purposes, a broker operating more than one business location shall have each location treated as a separate entity and shall adhere to all requirements for broker licensing at each location.

E. Each broker licensed under these regulations shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the broker is licensed under these regulations.

[ ~~§-2-9.~~ 13 VAC 6-20-100. ] Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by [ ~~§-7-1~~ 13 VAC 6-20-420 ] A 3.
2. Licensing fee required by [ ~~§-2-19~~ 13 VAC 6-20-200 ] A 5.
3. Statement of Compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.

6. Name of the owner, principal, manager, agent or other person designated as the holder of the broker's license for the specific location and the names of the partners or principals in the broker's firm.

7. List of salespeople employed with the following biographical information for each:

*Date of birth*

*Sex*

*Weight*

*Height*

*Eye/hair color*

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by [ ~~§-2-19~~ 13 VAC 6-20-200 ] A 6.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Any changes of officers or directors of the company or corporation.
5. A copy of the broker's current certificate of registration from the Department of Motor Vehicles.
6. Updated list of salespeople employed.

D. Any change in the form of ownership of the broker or any changes (deletions or additions) in the partners or principals of the broker shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s).

The board shall be notified immediately by the broker of any change in the operating name of the broker. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the broker of any change in location of the broker. The broker shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

[ ~~§-2-10.~~ 13 VAC 6-20-110. ] Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the broker to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

[ ~~§ 2-11.~~ 13 VAC 6-20-120. ] Broker responsibility for inspections; other items.

A. The broker shall inspect every used manufactured home unit prior to completion of sale. No broker shall sell a used manufactured home, if he becomes aware that it contains an imminent safety hazard as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations.

Exception: A broker may sell a used manufactured home in which he is aware of an imminent safety hazard if the buyer is advised of the imminent safety hazard in writing by the broker and is further advised that building permits may be required from the local building official for repair of the imminent safety hazard.

B. A broker shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

C. If the broker provides for the installation of any manufactured home he sells, the broker shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

D. On each home sold by the broker, the broker shall collect the applicable title tax and title fees for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

#### Article 4. Salespeople.

[ ~~§ 2-12.~~ 13 VAC 6-20-130. ] License required; annual renewal.

A. Any person employed by a dealer, *broker or manufacturer* buying or selling or negotiating the purchase, sale or exchange of new or used manufactured homes and meeting the definition of a salesperson in [ ~~§ 1-4~~ 13 VAC 6-20-10 ] shall apply to the board for a license. The salesperson's license shall be displayed in the ~~dealer's company's business~~ office in public view. The license shall be issued for a term of one year from the date of issuance. ~~A separate salesperson's license shall be required for each dealer location at which the salesperson works.~~ A salesperson shall be allowed to engage in business as a licensed salesperson after applying for a license, but prior to receiving the license back from the board.

B. Each licensed salesperson shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one

year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a salesperson, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a salesperson in Virginia after expiration of the license and prior to application for renewal or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

*D. When employed by a dealer, broker or manufacturer having more than one licensed retail location or business office, a licensed salesperson may transfer or be temporarily assigned from one location to the other as long as he is working for the same company under the same ownership. Such transfer or assignment shall not require an additional license or Transaction Recovery Fund assessment. If a salesperson works for more than one company or at locations with different owners, he shall be licensed separately for each and pay a separate Transaction Recovery Fund assessment for each such license.*

[ ~~§ 2-13.~~ 13 VAC 6-20-140. ] Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be supplied by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by [ ~~§ 7-4~~ 13 VAC 6-20-420 ] A 4.
2. Licensing fee required by [ ~~§ 2-19~~ 13 VAC 6-20-200 ] A 7.
3. Statement of Compliance.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by [ ~~§ 2-19~~ 13 VAC 6-20-200 ] A 8.
2. Statement of Compliance.

[ ~~§ 2-14.~~ 13 VAC 6-20-150. ] Termination of employment; notification to department.

Whenever the salesperson's employment ~~with a dealer~~ is terminated, the salesperson shall immediately send his license to the department. The license shall be marked "Employment terminated on Date" with the date given that the salesperson stopped working for the dealer, *broker or manufacturer*. The dealer, *broker or manufacturer* also shall notify the department of the salesperson's termination of employment no later than the tenth day of the month following the month of termination.

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## Article 5. Special License.

~~[§ 2-15. 13 VAC 6-20-160.]~~ Special license; applications; fees.

A. The board may approve applications from regulants for special licenses, not to exceed 10 days in duration, for a temporary place of business operated or proposed by the regulant. The temporary location shall not be contiguous to other premises for which a license is issued, except that contiguous locations may be licensed for dealer and manufacturer product shows.

B. The application for special licenses shall be submitted on forms supplied by the department. All information required with the application shall be furnished by the applicant for the board's review. Applications shall be submitted to the board at least 30 days prior to the requested effective date of the special license.

C. The application shall be accompanied by the required fee in [ ~~§ 2-19 13 VAC 6-20-200~~ ] B.

## Article 6. Violations and Hearings.

[ ~~§ 2-16. 13 VAC 6-20-170.~~ ] Prohibited conduct; grounds for denying, suspending or revoking license.

A. The following acts by regulants are prohibited and may be considered by the board as grounds for action against the regulant:

1. Engaging in business as a manufactured home manufacturer, dealer or broker without first obtaining a license from the board.
2. Engaging in business as a manufactured home salesperson without first applying to the board for a license.
3. Making a material misstatement in an application for license.
4. Failing to pay a required assessment to the Transaction Recovery Fund.
5. Failing to comply with the warranty service obligations and claims procedures required by these regulations.
6. Failing to comply with the set-up and tie-down requirements of the Code.
7. Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home.
8. Using unfair methods of competition or unfair or deceptive commercial acts or practices.
9. Failing to comply with the advertising provisions in Part IV of these regulations.
10. Defrauding any buyer to the buyer's damage, and any other person in the conduct of the regulant's business.
11. Employing an unlicensed salesperson.

12. Knowingly offering for sale a manufactured home produced by a manufacturer which is not licensed as a manufacturer under these regulations.

13. Knowingly selling a manufactured home to a dealer who is not licensed as a dealer under these regulations.

14. Failing to appear before the board upon due notice.

15. Failing to comply with orders issued by the board pursuant to these regulations.

16. Failing to renew a license and continuing to engage in business as a manufacturer, dealer, broker or salesperson after the expiration of any license.

17. A salesperson selling, exchanging or offering to sell or exchange a manufactured home for any dealer or broker other than the licensed dealer or broker employing the salesperson.

18. A salesperson offering, transferring or assigning any negotiated sale or exchange of a manufactured home to another dealer, broker, *manufacturer* or salesperson.

19. Failing to comply with the Statement of Compliance.

20. Failing to notify the board of a change of location or address of the business office.

21. Failing to comply with any provisions of these regulations.

*22. Failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.*

B. The board may deny, suspend, revoke or refuse to renew the license of a regulant because of, but not limited to, one or more of the following grounds:

1. Having had a license previously denied, revoked or suspended under these regulations.
2. Having a license denied, suspended or revoked by a similar licensing entity in another state.
3. Engaging in conduct in another state which would have been a violation of these regulations if the actions were committed in Virginia.
4. Failing to obtain a required certification of registration from the Department of Motor Vehicles, failing to renew the annual certificate of registration, or having the certificate of registration suspended or revoked by the Department of Motor Vehicles.
5. *Having been convicted or found guilty in any jurisdiction of a felony.*

[ ~~§ 2-17. 13 VAC 6-20-180.~~ ] Penalties; notice to regulant.

A. The board shall have the power to deny, suspend, revoke or refuse to renew the license of a regulant found to be engaging in prohibited conduct or otherwise failing to comply with these regulations or orders of the board.

B. The board shall have the authority to levy assessments in addition to or instead of denying, suspending, revoking or

refusing to renew a regulant's license. Such assessments shall include the following:

1. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a manufacturer.
2. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a dealer or broker.
3. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a salesperson.

C. The board shall notify the regulant, in writing, of any complaint directed against him. The notice shall include the time and place of a conference or hearing on the complaint. No penalties shall be imposed by the board until after the conference or hearing.

[ ~~§ 2-18~~ 13 VAC 6-20-190. ] Conference; hearing; service of notice.

A. The board, or department acting on the board's behalf, shall send notice of the conference or hearing to the regulant at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant, as shown on the license or other record of information in possession of the board.

B. The conference or hearing shall be conducted by the board according to the applicable provision of the Administrative Process Act and shall be open to the public. The regulant or applicant shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

C. After the conference or hearing has been completed, if the board determines that the regulant or applicant has engaged in prohibited conduct, or is in violation of these regulations or orders of the board, or otherwise determines that it has grounds to impose any penalties under [ ~~§ 2-17~~ 13 VAC 6-20-180 ], the board shall immediately notify the regulant or applicant in writing, by certified mail, of the action imposed by the board. The department shall be responsible for carrying out the board's decision. The department shall also notify the Department of Motor Vehicles of the suspension or revocation of any dealer's or broker's license under these regulations.

D. The decision of the board shall be final if no appeal is made. An appeal from the decision of the board may be filed with a court in accordance with the Administrative Process Act.

## Article 7. License Fees.

[ ~~§ 2-19~~ 13 VAC 6-20-200. ] Fee schedules.

A. The following fees are set by the board for annual licenses and renewals issued in accordance with these regulations.

1. The manufacturer's original license fee shall be \$600.
2. The manufacturer's renewal license fee shall be \$600 \$500.
3. The dealer's original license fee shall be ~~\$500~~ \$150 to be submitted with the application for licensure plus

*\$10 per home sold by the dealer to be submitted at the completion of the sale.*

4. The dealer's renewal license fee shall be ~~\$500~~ \$100 to be submitted with the application for renewal plus \$10 per home sold by the dealer to be submitted at the completion of the sale.

5. The broker's original license fee shall be ~~\$500~~ \$150 to be submitted with the application for licensure plus \$10 per home sold by the broker to be submitted at the completion of the sale.

6. The broker's renewal license fee shall be ~~\$500~~ \$100 to be submitted with the application for renewal plus \$10 per home sold by the broker to be submitted at the completion of the sale.

7. The salesperson's original license fee shall be \$50.

8. The salesperson's renewal license fee shall be \$50.

~~The license fees listed in this subsection shall be paid by the applicant either in full at the time of application for licensure or one-half of the fee at the time of application and the remaining half of the fee six months after the date of issue of the license.~~

B. The following fees apply to special licenses issued by the board in accordance with Article 5 of this part of these regulations:

1. Manufacturer's special license fee shall be \$25.
2. Dealer's special license fee shall be \$25.
3. Broker's special license fee shall be \$25.
4. Salesperson's special license fee shall be \$10.

## PART III. DEALER/MANUFACTURER SALES AGREEMENTS.

[ ~~§ 3-1~~ 13 VAC 6-20-210. ] Filing of dealer/manufacture sales agreements; contents.

A. Each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer/manufacture sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. The department shall review the form for terms inconsistent with the requirements of these regulations. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board.

B. The sales agreement between the manufacturer and the dealer shall not include terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of these regulations.

C. The manufacturer shall include in any sales agreement with a dealer the following language or words to that effect:

"If any provision herein contravenes the laws or regulations of Virginia, or denies access to the procedures, hearings, or remedies provided by the laws or regulations of Virginia, such

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provision shall be deemed to be modified to conform to those laws and regulations, and all other terms and provisions of the agreement shall remain in full force."

[ ~~§ 3.2.~~ 13 VAC 6-20-220. ] Coercion of dealer by manufacturer prohibited.

A. A manufacturer shall not coerce or attempt to coerce any dealer or prospective dealer to sell, assign, or transfer any sales contract obtained by the dealer for any manufactured home produced by the manufacturer, to a specified finance company or class of finance companies or to any other specified persons by any of the following:

1. By any statement, suggestion, promise or threat that the manufacturer will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.
2. By any act that will benefit or injure the dealer.
3. By any contract, or any express or implied offer of contract, made directly or indirectly to the dealer, for handling the manufactured home on the condition that the dealer sell, assign, or transfer his sales contract on the manufactured home to a specified finance company or class of finance companies or to any other specified persons.
4. By any express or implied statement or representation made directly or indirectly that the dealer is under any obligation to sell, assign, or transfer any of his sales contracts because of any relationship or affiliation between the manufacturer and the finance company or persons.

B. A manufacturer shall not coerce or attempt to coerce any dealer to accept delivery of any manufactured home or homes, parts or accessories which have not been ordered by the dealer.

C. A manufacturer shall not coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, or do any other act unfair to the dealer, by threatening to cancel any sales agreement existing between the manufacturer and the dealer.

D. A manufacturer shall not coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

E. A manufacturer shall not require or otherwise coerce a dealer to underutilize a dealer's facilities.

[ ~~§ 3.3.~~ 13 VAC 6-20-230. ] Grant, transfer, succession to and cancellation of dealer/manufacture sales agreements: delivery of homes, parts, accessories.

A. Prior to granting an additional dealer/manufacture sales agreement for a particular line of manufactured home in a relevant market area in which a dealer or dealers are already located, a manufacturer shall notify, in writing, all other dealers in the line of homes in that relevant market area. Any dealer in the same line of homes in the relevant marketing area may request a conference or hearing before the board within 30 days of receipt of the manufacturer's notice of intention to establish the additional

dealer/manufacture sales agreement. The additional sales agreement may be established at the proposed site if, after the conference or hearing, the board determines that there is reasonable evidence that after the grant of the new sales agreement, the market will support all of the dealers in that line of homes in the relevant market area. Establishing a dealer/manufacture sales agreement in a relevant market area to replace a dealer that has ceased operation shall constitute the establishment of a new dealer/manufacture sales agreement subject to the terms of this section.

## EXCEPTIONS:

1. The relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 25 miles from any other dealer in the same line of homes.
2. The relocation of an existing dealer within that dealer's relevant market area if the relocation site will be further away from all other dealers of the same line of homes in that relevant market area than the relocating dealer's current site.
3. The relocation of an existing dealer within two miles of that dealer's current site.

B. A dealer shall give written notice to the manufacturer at least 90 days prior to the sale, assignment, or transfer of the dealer/manufacture sales agreement. The notice shall include the identity, financial ability, and qualifications of the proposed transferee. The sale or transfer of the sales agreement or business shall not involve a relocation of the sales agreement without the manufacturer's consent. The manufacturer shall not prevent or refuse to approve the sale or transfer of the ownership of a dealer by the sale of the business, stock transfer, or otherwise, or the sale, transfer, or assignment of a dealer/manufacture sales agreement or a change in the executive management or principal operator of the dealership, unless the manufacturer provides written notice to the dealer of its objections and the reasons therefor at least 30 days prior to the proposed effective date of the sale, transfer, assignment, or change. The dealer shall have 30 days from receipt of the manufacturer's objection to file a written request for a conference or hearing by the board. At the conference or hearing, the manufacturer and the dealer shall be allowed to present their reasons for and objections to the sale or transfer. The board shall determine whether the manufacturer's objection to the sale, assignment, transfer or change of the dealership is reasonable or unreasonable. The sale, transfer, assignment or change of the dealer/manufacture sales agreement shall be allowed if the board determines the objection is unreasonable.

C. A dealer shall be allowed to designate a member of his family as a successor to the dealer/manufacture sales agreement in the event of the death or incapacity of the dealer by providing written notice to the manufacturer of the identity, financial ability, and qualifications of the member of the family designated as successor. The manufacturer shall have the right to prevent or refuse to honor the succession to the sales agreement by notifying the family member in writing of its objections and of the person's right to request a conference or hearing on the matter before the board. The dealer shall have 30 days from receipt of the manufacturer's

notice to file a written request to the board for a conference or hearing. At the conference or hearing, the dealer and manufacturer shall be allowed to present their reasons for and objections to the succession. The board shall determine if the manufacturer's objection to the succession is reasonable. The designated succession shall be allowed if the board determines the manufacturer's objection is unreasonable.

D. A dealer/manufacturer sales agreement may be cancelled or terminated at any time by mutual consent.

E. A manufacturer may terminate, cancel, or refuse to renew the sales agreement of a dealer with good cause. At least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the sales agreement the manufacturer shall give written notice of his intentions to the dealer and the board, setting forth the specific grounds for the action. Within the 60-day period, the dealer may request, in writing, a conference or hearing before the board to determine if there is good cause for the termination, cancellation, or nonrenewal of the sales agreement. When the dealer has requested a board conference or hearing, the sales agreement in question shall continue in effect until the board issues a finding of good cause for the action.

If a manufacturer neither advises a dealer that it does not intend to renew a sales agreement nor takes any action to renew a sales agreement beyond its expiration date, the sales agreement in question shall continue in effect on the terms last agreed to by the parties. A manufacturer may provide written notice of termination, cancellation or nonrenewal to a dealer not less than 15 days prior to the effective date of such termination, cancellation or nonrenewal when the grounds for such action are any of the following:

1. Insolvency of the dealer or filing of any petition by or against the dealer, under any bankruptcy or receivership law, leading to liquidation or which is intended to lead to liquidation of the dealer's business.
2. Failure of the dealer to conduct its customary sales and service operations during its established business hours for 10 consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the dealer.
3. Revocation of any license which the dealer is required to have to operate a dealership.
4. Conviction of the dealer or any principal of the dealer of a felony, during the term of the sales agreement.

F. The change or discontinuance of a marketing or distribution system of a particular line of manufactured homes by a manufacturer, while the name identification of the home is continued in substantial form by the same or different manufacturer, may be considered to be a sales agreement termination, cancellation, or nonrenewal. A manufacturer shall provide continued parts and service support to a dealer for a discontinued line of homes for at least five years from the date of such discontinuance.

[ ~~§ 3.4.~~ 13 VAC 6-20-240. ] Dealer/manufacturer sales agreement warranties.

Any warranty agreements or contracts included in the sales agreement shall comply with the warranty and service requirements of Part V of [ ~~these regulations~~ *this chapter* ].

[ ~~§ 3.5.~~ 13 VAC 6-20-250. ] Operation of dealership by manufacturer.

A manufacturer shall not own, operate or control a dealership in the Commonwealth except under the following conditions:

1. A manufacturer may operate a dealership for a temporary period, not be exceed one year, during the transition from one owner or operator to another;
2. A manufacturer may own or control a dealership while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
3. A manufacturer may own, operate, or control a dealership if the board determines, after a conference or hearing at the request of any party, that there is no dealer independent of the manufacturer available in the relevant market area to own and operate the dealer/manufacturer sales agreement in a manner consistent with the public interest.

[ ~~§ 3.6.~~ 13 VAC 6-20-260. ] Conferences, hearings and other remedies.

A. In every case of a conference or hearing before the board authorized by this part of the regulations, the board shall give reasonable notice of each conference or hearing to all interested parties. The board's decision shall be binding on the parties, subject to the rights of judicial review and appeal. Conferences or hearings before the board under this part shall commence within 90 days of the request for the conference or hearing. The board's decision shall be rendered within 60 days from the conclusion of the conference or hearing.

B. The board shall initiate investigations, conduct conferences or hearings, and determine the rights of parties under this part whenever they are provided sufficient information indicating a possible violation of this part or these regulations.

C. For purposes of any matter brought to the board under [ ~~§ 3.3~~ 13 VAC 6-20-230 ] in which the board is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the board shall consider:

1. The volume of the affected dealer's business in the relevant market area;
2. The nature and extent of the dealer's investment in its business;
3. The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;
4. The effect of the proposed action on the community;
5. The extent and quality of the dealer's service under warranties in Part V of these regulations.



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6. The dealer's performance under the terms of its dealer/manufacturer sales agreement;
7. Other economic and geographical factors reasonably associated with the proposed action; and
8. The recommendations, if any, of the department personnel requested to investigate the matter.

## PART IV. ADVERTISING.

### [ ~~§ 4.1.~~ 13 VAC 6-20-270. ] Prohibited practices.

For the purposes of this part and these regulations, the following regulated advertising practices by manufacturers, dealers, brokers, or salespersons are prohibited and shall be considered by the board to be unfair methods of competition or unfair or deceptive commercial acts or practices:

1. Advertising a manufactured home as a "new manufactured home" when the home does not meet all of the requirements for the definition of a new manufactured home in [ ~~§ 1.1~~ 13 VAC 6-20-10 ].
2. Advertising a used manufactured home by misleading or confusing terms rather than "used" or such other term that is clearly understood to mean that the home is used. Once a title has been issued to a purchaser by the Department of Motor Vehicles, the home is considered as a used home and must be advertised as such.
3. Advertising finance charges or other interest rates when there are costs to buy down the charges or rates which are passed on to the buyer, in whole or in part.
4. Advertising terms, conditions and disclosures which are not stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but the disclaimer shall not contradict or change the meaning of the advertised statement.
5. Advertising a "sale" when the expiration date is not clearly and conspicuously stated.

[ ~~6.~~ Advertising "list price" in terms other than the manufacturer's suggested retail price for the new home or the dealer's own usual and customary price for the home, whichever is applicable. ]

[ ~~7.~~ 6. ] Advertising which uses terms such as "at cost," "below cost," or "dollars off cost and ~~direct from manufacturer.~~" Terms such as "invoice price" or "dollars over invoice" may be used, provided the invoice referred to is the manufacturer's [ *original* ] factory invoice which is available for customer inspection upon request.

[ ~~8.~~ Advertising specific price or credit terms when the manufactured home is not clearly identified as to year and model. ]

[ ~~9.~~ 7. ] Advertising a policy to match or better a competitor's price when the terms of the offer are not specific [ , and ] verifiable [ and reasonable ]. Any such advertisement shall fully disclose, as a part of the ad, any material or significant conditions which must be met

or the evidence the buyer must present to take advantage of the offer.

[ ~~10.~~ 8. ] Advertising which includes "dealer rebates" or "manufacturer's rebate."

[ ~~11.~~ 9. ] Advertising any "free" or "at no cost" (or other words to that effect) offers of equipment or accessories in a negotiated sale. No equipment or accessory shall be described as "free" or "at cost" if its cost or any part of its cost is included in the price of the home, or if the home can be purchased for a lesser price without accepting the free offer, or if a purchase is required in order to receive the free offer.

[ ~~12.~~ 10. ] Advertising which is determined to be "bait advertising" such as advertising homes, equipment, accessories or prices which are not available at the dealer *dealer's business location* , or advertising homes of a specific price but having available for sale only homes equipped with dealer added cost options which increase the selling price above the advertised price. If any home is available only by order, then that shall be clearly and conspicuously disclosed in the advertisement.

[ ~~13.~~ 11. ] Advertising as "repossessed" any manufactured home which has not been previously sold, titled and then taken back from the buyer. Proof of repossession shall be provided by the advertiser upon request.

[ ~~14.~~ 12. ] Advertising special dealer arrangements<sup>3</sup> such as [ ~~"big volume buying power,"~~ ] "manufacturer's outlet," "factory authorized outlet," [ and ] "factory wholesale outlet [ ~~"and direct from the manufacturer."~~ ] Any term that gives the buyer the impression the dealer has a special arrangement with the manufacturer compared to similarly situated dealers is misleading and shall be prohibited. *The term "factory authorized dealer" shall be an acceptable term for advertising purposes.*

[ ~~15.~~ 13. ] Advertising the length of a manufactured home as including the towing assembly or hitch.

[ ~~16.~~ 14. ] Advertising in any newspaper, periodical or sign which omits the name of the firm from the advertisement.

### [ ~~§ 4.2.~~ 13 VAC 6-20-280. ] Records retention.

Advertisers shall maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement. For the purposes of this section, the expiration date of the advertisement shall be the last date the advertisement runs or the expiration date of the advertised sale, whichever is later.

### [ ~~§ 4.3.~~ 13 VAC 6-20-290. ] Violations; penalties.

A. The first violation of any regulated advertising practice may, at the discretion of the board, be addressed by a written warning to the regulant, *by certified mail*, advising the regulant of the prohibited conduct and the possible actions by the board if such conduct is continued or repeated.

B. Any violation of regulated advertising practices in this part may be considered as prohibited conduct under [ ~~§ 2.16 of these regulations~~ 13 VAC 6-20-170 ] and subject to the board's actions contained therein.

[ ~~§ 4.4.~~ 13 VAC 6-20-300. ] Conferences or hearings.

Conferences or hearings on any complaint or notice of violation of advertising practices contained in this part shall be conducted according to the procedures established in [ ~~§ 2.18 of these regulations~~ 13 VAC 6-20-190 ].

## PART V.

### WARRANTY, SERVICE AND ALTERATIONS.

[ ~~§ 5.1.~~ 13 VAC 6-20-310. ] Warranties; provisions.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale shall issue with each new home a warranty to the buyer, in writing, setting forth the following terms:

1. That all structural elements; plumbing systems; heating, cooling (if any), and fuel burning systems; electrical systems; and any other components included by the manufacturer are manufactured and installed free from defect.

2. That the manufacturer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, in instances of defects which become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the manufacturer at the manufacturer's business address.

3. That the manufacturer shall take such actions deemed necessary as ordered by the board under these regulations.

B. Each dealer *located in or outside of the Commonwealth selling or delivering manufactured homes to buyers in the Commonwealth* shall issue with each manufactured home a warranty to the buyer, in writing, setting forth the following terms:

1. That any modifications or alterations made to the home by the dealer or authorized by the dealer are free from defects. Alterations or modifications made by the dealer, without written permission of the manufacturer, shall relieve the manufacturer of the warranty requirements of subsection A of this section for the item altered or modified and any damage resulting from the alteration or modification.

2. That set-up operations performed by the dealer or by persons under contract to the dealer on the manufactured home are completed in compliance with the applicable Code requirements for the installation of manufactured homes.

3. That during the course of transportation and set-up operations performed by the dealer or by persons under contract to the dealer, ~~any defects do not occur to which~~

*may occur with the manufactured home will be corrected properly.*

4. That the dealer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, if such defects become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the dealer at the dealer's place of business.

5. That the dealer shall take such actions deemed necessary as ordered by the board under these regulations.

C. Any warranties generally offered by suppliers in the ordinary sale of their products to consumers shall be extended to buyers of manufactured homes. The warranty by the manufacturer of the home shall remain in effect notwithstanding the existence of the suppliers' warranty.

D. The regulant's warranty shall be in addition to, and not in detraction of, all other rights and privileges which the buyer may have under any other law or regulation. The regulant shall not require the buyer to waive his rights under this part and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

[ ~~§ 5.2.~~ 13 VAC 6-20-320. ] Duration of warranties.

All warranties provided by regulants as required by [ ~~§ 5.1~~ 13 VAC 6-20-310 ] shall be for a period of not less than 12 months, measured from the date of delivery of the home to the buyer. The date of delivery shall be the date on which all terms or conditions of the sales contract agreed to or required of the regulant have been completed.

[ ~~§ 5.3.~~ 13 VAC 6-20-330. ] Presenting warranty claims.

To invoke a regulant's warranty under [ ~~§ 5.1~~ 13 VAC 6-20-310 ], the buyer shall notify the regulant within a reasonable time after discovering the defect and not later than 90 days after the expiration of the stated term of the warranty. The regulant shall make a record of the name and address of each claimant and the date, substance, and disposition of each claim about the defect. The regulant may request that a warranty claim be made in writing; however, the regulant shall record any claim received as noted above and shall not delay service pending receipt of the written claim.

[ ~~§ 5.4.~~ 13 VAC 6-20-340. ] Service agreements; determination of responsible party.

A. If a service agreement exists between or among the manufacturer, the dealer, and the supplier to provide warranty services on a manufactured home, the service agreement shall specify which of the regulants shall be the responsible party for remedying defects reported in the home. All service agreements shall be in writing. No service agreement shall relieve a regulant, determined by the board to be the responsible party for remedying the defect, of the responsibility for performing warranty service; however, any regulant accepting the responsibility to perform the warranty service obligations of other regulants under the service agreement shall be responsible to both the buyer and the other regulant to perform adequate warranty service.

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B. If there is no warranty or service agreement between or among the regulants, the board shall have the authority to designate the responsible party for each defect given in the claim. The board may use reports and recommendations from the department staff investigating consumer complaints under the applicable provisions of the Code or may request staff to make a specific on-site inspection to determine the responsible party for remedying the defect.

C. If a warranty claim is made to a regulant that is not the responsible party for remedying the defect, that regulant shall immediately notify the claimant, in writing of that fact, and shall also notify, in writing, the regulant that is the responsible party for the defect, forwarding to the responsible party all available information about the claimant and the substance of the warranty claim.

D. If a defect is the responsibility of more than one regulant, each regulant shall be deemed to be a responsible party for the defect. A responsible party shall not fail to remedy defects because other regulants may also have joint responsibility for the defect or defects; however, nothing in these regulations shall prevent a responsible party from obtaining compensation by way of contribution or subrogation from another responsible party in accordance with any other provision of law or contracts between the regulants.

E. If a regulant corrects a defect under a warranty claim and the board determines that the regulant is not the responsible party, then that regulant shall be entitled to reasonable compensation for the warranty service performed. The compensation shall be from the responsible party for the defect.

F. It shall be a violation of this part for a regulant to coerce or require a nonresponsible party to perform warranty service under these regulations. Any regulant or responsible party may file a complaint to the board if warranty service obligations under these regulations are not being completed or enforced.

[ § 5.5. 13 VAC 6-20-350. ] Warranty service; time limits; rejection of claim.

A. Any defect which is determined to be an imminent safety hazard as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations to life and health shall be remedied within three days of receipt of the written notice of the warranty claim. Defects which may be considered as imminent safety hazards to life and health include, but are not limited to, any of the following:

1. Inadequate heating in freezing weather.
2. Failure of sanitary facilities.
3. Electrical shock hazards.
4. Leaking gas.
5. Major structural failure.

The board may suspend this three-day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural disasters.

B. All other defects shall be remedied within 45 days of receipt of the written notice of the warranty claim unless a bona fide reason exists for not remedying the defect within the time period. If the responsible party has a bona fide reason for not meeting the 45-day time period, he shall respond to the claimant in writing, with a copy to the board, explaining the reason or reasons and stating what further action is contemplated regarding the warranty service.

C. Department staff handling consumer complaints under the Code shall also review the complaints for warranty service obligations under this part, and shall make initial determinations of defects and imminent safety hazards to life and health as defined by the Code. Any disagreements between department staff and regulants or responsible parties regarding these determinations shall be resolved by the board. If a regulant or responsible party disputes the determination of an imminent safety hazard to life or health by the staff and asks for a ruling by the board, the three-day time period for remedying the hazard shall not be enforced unless the board agrees to the determination. If the board determines that the defect is an imminent safety hazard, it shall immediately notify the responsible party of the determination. The responsible party shall have three days from receipt of this notice to remedy the hazard.

D. Within the time limits specified in subsections A and B of this section, the responsible party shall either resolve the claim or determine that it is not justified. Whenever a regulant determines that a claim for warranty service is not justified, in whole or in part, he shall immediately notify the claimant in writing that the claim or a part of the claim is rejected. This notice shall explain to the claimant why the claim or specific parts of the claim are rejected and that the claimant is entitled to complain or file an appeal to the board. The notice shall provide the claimant with the complete address of the board.

[ ~~§ 5.6.~~ 13 VAC 6-20-360. ] Records; available to board.

The board or the board's representative shall be authorized to inspect the pertinent service records of a manufacturer, dealer, supplier, or broker relating to a written warranty claim or complaint made to the board regarding that manufacturer, dealer, supplier, or broker. Such inspection shall be allowed by the regulant during reasonable business hours. Upon request by the board, every regulant shall send to the board within 10 days a true copy of any and all documents or records pertinent to the claim for service or complaint.

[ ~~§ 5.7.~~ 13 VAC 6-20-370. ] Alterations; by dealer; by owner.

A. Unless authorized by these regulations or by the manufacturer, a dealer shall not make any alterations or modifications to a manufactured home after shipment from the manufacturer's facility. If a dealer performs an unauthorized alteration or modification in or to a manufactured home, the dealer then shall bear primary warranty responsibility for the altered or modified item(s). If the manufacturer remedies or is required by the board to remedy any warranty claim on the altered or modified item(s), then that manufacturer shall be entitled to recover damages in the amount of his costs, including attorney's fees, from the dealer responsible for the alteration or modification.

B. Unless authorized by the manufacturer, the owner or person(s) working for the owner shall not make alterations or modifications to a manufactured home after shipment from the manufacturer's facility. Any unauthorized alteration or modification made by the owner or person(s) working for the owner shall relieve the manufacturer of the responsibility to remedy any defects caused by such alteration or modification. All manufacturers shall display clearly and conspicuously on the face of their warranty to the buyer a statement explaining that the owner shall be responsible for remedying any defects caused by unauthorized alterations or modifications done by the owner or person(s) working for the owner. The statement shall also include a warning specifying any alterations or modifications which should be performed only by qualified personnel in order to preserve their warranty protection.

[ ~~§ 5.8.~~ 13 VAC 6-20-380. ] Qualifications of personnel performing alterations.

All persons responsible for performing alterations under this part shall be deemed "qualified personnel" only when approved or certified by the manufacturer of the home.

## PART VI. MISCELLANEOUS PROVISIONS.

[ ~~§ 6.1.~~ 13 VAC 6-20-390. ] Set-up requirements; effect on insurance policies.

A. Manufactured homes shall be set up in accordance with the Code.

B. In the event that a manufactured home is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicated the home was not set up in the manner required by this section, the insurer issuing the home owner's insurance policy on the home shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the manufactured home was not properly set up.

[ ~~§ 6.2.~~ 13 VAC 6-20-400. ] Limitation on damages retained by dealer; disclosure to buyer.

A. If a buyer fails to accept delivery of a manufactured home, the dealer may retain actual damages *from the buyer's deposit* according to the following terms:

1. If the manufactured home is in the dealer's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be \$500.
2. If the manufactured home is a single section unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$1,000.
3. If the manufactured home is a multi-section home (two or more sections) and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$5,000.

B. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer by the dealer, as listed in subsection A of this section,

for failure to take delivery of the manufactured home as purchased.

[ ~~§ 6.3.~~ 13 VAC 6-20-410. ] Other remedies not excluded.

Nothing in these regulations, nor any decision by the board, shall limit any right or remedy available to the buyer through common law or under any other statute.

## PART VII. TRANSACTION RECOVERY FUND.

[ ~~§ 7.1.~~ 13 VAC 6-20-420. ] Recovery fund established; assessments.

A. In accordance with § 36-85.31 of the Code of Virginia, the board shall establish a Manufactured Housing Transaction Recovery Fund. Any manufacturer, dealer, broker or salesperson licensed by the board under these regulations to operate in the Commonwealth of Virginia shall pay an initial assessment fee of the following amount into the fund:

1. Manufacturer -- \$4,000 for each separate manufacturing facility payable in one installment or \$4,400 payable at \$2,200 per year with the second payment due one year after initial licensing.
2. Dealer -- \$500 per retail location.
3. Broker -- \$500 per sales office.
4. Salesperson -- \$50 per individual.

B. After the initial assessments have been paid, the board shall review the balance in the fund. In accordance with § 36-85.31 of the Code of Virginia, the minimum balance of the fund shall be \$250,000. If the initial assessments fail to achieve this minimum balance, or if future payments from the fund deplete the fund below this minimum balance, the board shall set and collect reassessment fees to achieve and maintain this minimum balance. Before setting any reassessments, the board shall notify all regulants at least 30 days prior to any meeting to set reassessment fees, advising the regulants of the purpose of the meeting and the regulants' opportunity to provide comments and suggestions prior to and at the meeting. Failure to pay any reassessment fees assessed by the board shall result in suspension of the regulant's license until such time as the regulant pays the reassessment fee.

C. All initial assessments and reassessments collected by the board under these regulations shall be deposited in an interest earning, special fund account by the State Treasurer in accordance with § 36-85.31 of the Code of Virginia. The board shall make appropriations from the fund in accordance with the express purposes set forth in Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia and these regulations. Interest earned on the deposits of the fund shall accrue to the fund or may be used by the board to provide educational programs about manufactured homes to consumers.

[ ~~§ 7.2.~~ 13 VAC 6-20-430. ] Filing claims; investigations; conference or hearing on claim.

A. Any ~~buyer of a manufactured home person~~ who suffers any loss or damage by an act of a regulant that constitutes a

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violation of this law or these regulations shall have the right to file a claim for recovery from the fund. The department shall provide forms for filing claims. As a minimum, the following information shall be furnished with the claim:

1. The names and addresses of the regulants involved in the claim.
2. The identification of the home including the serial number, HUD label number(s), and model designations.
3. A complete explanation of the issues or actions which constitute the basis for the claim, along with copies of pertinent documents.
4. The name, address and telephone number of the claimant and the location of the home if different from the claimant's address.

B. Upon receipt of a claim, the board shall review the claim and may conduct, or cause to be conducted, an on-site inspection of the home. All regulants involved in a claim shall be notified of any on-site inspections by the board or the department under these regulations and shall be requested to have a representative present during the inspection. The person(s) conducting the inspection for the board or the department shall prepare a written report of the findings of the inspection, citing any defects or violations of the Code or these regulations with a reference to the specific section of the Code or regulation which serves as the basis for the violation, and identifying the regulant responsible for the defect or violation. Copies of this report shall be provided to the regulants, the claimant, and the board.

C. The board shall hold a conference or hearing on a claim for damages. The board, or the department acting on the board's behalf, shall send written notice of the conference or hearing to all involved regulants, stating the purpose of the conference or hearing and the time and place of the conference or hearing. The notice shall be sent to the regulant(s) at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant(s), as shown on the license or other record or information in possession of the board. The conference or hearing shall be conducted by the board according to the applicable provisions of the Administrative Process Act and shall be open to the public. The regulant(s) shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

D. After the conference or hearing, if the board finds that the *buyer person* has suffered a loss or damages due to the acts of a regulant that constitute a violation of these regulations, the board shall determine the amount of damages to be awarded to the claimant. The amount of damages awarded by the board shall be limited to actual compensatory damages and shall not include attorney's fees for representation before the board. The board shall order the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. The board's written order shall be sent by certified mail to the regulant responsible for paying the awarded amount. Within 30 days of receipt of the board's decision, the responsible regulant shall pay the awarded amount to the claimant, unless an appeal is pending.

[ §-7.3. 13 VAC 6-20-440. ] Appeals of the board's decision.

Appeals of the decision of the board shall be to a circuit court with jurisdiction in the Commonwealth. The appeal shall be filed by the regulant within 30 days of the date of the board's order, and shall stay the board's order for payment of the awarded amount. Neither the regulant nor the board shall be required to pay damages to the claimant until such time as the final order of the court is issued. In accordance with § 36-85.35 of the Code of Virginia, the court may award reasonable attorney's fees and court costs to be paid by the recovery fund.

[ §-7.4. 13 VAC 6-20-450. ] Payment of damages; limitations; conditions.

A. If a regulant has not paid the awarded amount within 30 days as provided in [ §-7.2 13 VAC 6-20-430 ] or filed an appeal to the circuit court as provided in [ §-7.3 13 VAC 6-20-440 ], the board shall, upon request of the claimant pay the awarded amount to the claimant from the recovery fund under the following conditions:

1. The maximum claim of one claimant against the fund because of a single violation by one regulant shall be limited to \$20,000;
2. The fund balance is sufficient to pay the awarded amount;
3. The claimant has assigned the board all rights and claims against the regulant; and
4. The claimant agrees to subrogate to the board all rights of the claimant to the extent of payment.

B. The aggregate amount of claims paid from the fund for violations by any one regulant during any license period shall be as follows:

1. For a manufacturer -- \$75,000.
2. For a dealer -- \$35,000.
3. For a broker -- \$35,000.
4. For a salesperson -- \$25,000.

If the board has reason to believe there may be additional claims against the fund from other transactions by the same regulant, the board may withhold any payments, involving that regulant, from the fund for a period of not more than one year from the date the board approved the original claimant's award. After this one-year period, if the aggregate of claims against the same regulant exceeds the limitations of this section, the aggregate amount shall be prorated by the board among the claimants and paid from the fund in proportion to the amounts of their awards remaining unpaid.

[ §-7.5. 13 VAC 6-20-460. ] Revocation of license.

Upon payment to a claimant from the fund, the board shall immediately revoke the license of the regulant whose conduct resulted in the payment from the fund. Any regulant whose license is revoked under this section shall not be eligible to apply for a new license or renewal license until he has repaid the fund the full amount of the payments from the fund on his amount, plus interest, calculated at the rate of interest the

recovery fund was earning at the time of the payment from the fund.

[ ~~§ 7-6.~~ 13 VAC 6-20-470. ] Other disciplinary action not voided.

The board may take other disciplinary actions against any regulant for any violation of Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia, or these regulations. Full repayment of the amount paid from the fund for the regulant's actions shall not nullify, modify or prohibit the affect of any disciplinary proceeding by the board against that regulant for any violations.

VA.R. Doc. No. R96-45; Filed October 2, 1995, 4:09 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from 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: State Plan Under Title XIX of the Social Security Act.

**12 VAC 30-10-140. Amount, Duration and Scope of Services: Categorically Needy.**

**12 VAC 30-50-20. Amount, Duration and Scope of Services Provided Medically Needy Groups: All (Attachment 3.1-B).**

**VR 460-03-3.1100. [ 12 VAC 30-50-95 through 12 VAC 30-50-310] Narrative for the Amount, Duration and Scope of Services.**

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

Effective Date: November 29, 1995.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

Summary:

*The purpose of this action is to amend the Plan for Medical Assistance concerning the expanded scope of services which nurse-midwives are authorized to provide and the coverage of family and pediatric nurse practitioner services to the medically needy. The sections of the state plan affected by this action are Amount, Duration, and Scope of Services (VR 460-01-19) [12 VAC 30-10-140]; Attachment 3.1-B, Amount, Duration, and Scope of Services for the Medically Needy (VR 460-02-3.1200) [12 VAC 30-50-20]; and Supplement 1 to Attachment 3.1-A&B, Narrative for the Amount,*

*Duration, and Scope of Services (VR 460-03-3.1100) [12 VAC 30-50-100 et seq.].*

*Previously, nurse-midwife services were covered to the extent nurse-midwives are authorized to practice under state law, but only for services provided during the maternity cycle. Section 13605 of OBRA 93 expanded the scope of nurse-midwife services to include all nurse-midwife services authorized under state law, regardless of whether they are performed in managing the care of mothers and babies throughout the maternity cycle. The changes instituted in this regulatory package reflect this federal mandate.*

*The requirement to specify whether family and pediatric nurse practitioner services are provided for the medically needy is specified in 42 CFR 441.22. The Commonwealth has been providing these services, but until now, has not been required to include this policy in the state plan. The Commonwealth does not intend to change this policy, and is simply complying with HCFA's requirement to specify its policy.*

**12 VAC 30-10-140. Amount, Duration and Scope of Services: Categorically Needy.**

Medicaid is provided in accordance with the requirements of 42 CFR Part 440, Subpart B and § 1902(a), 1902(e), 1905(a), 1905(p), 1915, 1920, and 1925 of the Act.

Services for the categorically needy are described below and in 12 VAC 30-50-10. These services include:

(i) 1. Each item or service listed in § 1905(a)(1) through (5) and (21) of the Act, *is provided* as defined in 42 CFR Part 440, Subpart A, or, for EPSDT services, § 1905(r) and 42 CFR Part 411, Subpart B.

(ii) 2. Nurse-midwife services listed in § 1905(a)(17) of the Act, ~~as defined in 42 CFR 440.165~~ are provided ~~for the categorically needy~~ to the extent that nurse-midwives are authorized to practice under state law or regulation *and without regard to whether the services are furnished in the area of management of the care of mothers and babies throughout the maternity cycle.* Nurse-midwives are permitted to enter into independent provider arrangements *agreements* with the Medicaid agency without regard to whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

(iii) 3. Pregnancy-related, including family planning service, and postpartum services for a 60-day period (beginning on the day pregnancy ends) and any remaining days in the month in which the 60th day falls are provided to women who, while pregnant, were eligible for, applied for, and received medical assistance on the day the pregnancy ends.

(iv) 4. Services for medical conditions that may complicate the pregnancy (other than pregnancy-related or postpartum services) are provided to pregnant women.

(v) 5. Services related to pregnancy (including prenatal, delivery, postpartum, and family planning services) and

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to other conditions that may complicate pregnancy are the same services provided to poverty level pregnant women eligible under the provision of § 1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX) of the Act.

(vi) 6. Home health services are provided to individuals entitled to nursing facility services as indicated in 12 VAC 30-10-220.

(vii) 7. Inpatient services that are being furnished to infants and children described in § 1902(l)(1)(B) through (D), or § 1905(n)(2) of the Act, on the date the infant or child attains the maximum age for coverage under the approved state plan will continue until the end of the stay for which the inpatient services are furnished.

(viii) 8. Respiratory care services are not provided to ventilator dependent individuals as indicated in 12 VAC 30-10-300.

(ix) 9. Services are provided to families eligible under § 1925 of the Act as indicated in 12 VAC 30-10-350.

(x) 10. Home and community care for functionally disabled elderly individuals is not covered.

12 VAC 30-50-10 identifies the medical and remedial services provided to the categorically needy, specifies all limitations on the amount, duration, and scope of those service, and lists the additional coverage (that is in excess of established service limits) for pregnancy-related services and services for conditions that may complicate the pregnancy.

## 12 VAC 30-50-20. Amount, Duration and Scope of Services Provided Medically Needy Groups: All (Attachment 3.1-B).

The following ambulatory services are provided.

- Physicians Services
- Outpatient Hospital Services
- Clinic Services
- Laboratory and X-Ray Services
- EPSDT Services
- Family Planning Services
- Optometrist Services
- Home Health Services
- Dental Services for those under age 21
- Physical Therapy and Related Services
- Prescribed Drugs
- Eyeglass Services
- Nurse Midwives
- Outpatient Rehabilitation
- Extended Services to Pregnant Women

1. Inpatient hospital services other than those provided in an institution for mental diseases.

Provided:       No limitations

With limitations\*

2. a. Outpatient hospital services.

Provided:       No limitations

With limitations\*

b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

Provided:       No limitations

With limitations\*

c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with § 423f of the State Medicaid Manual (HCFA Pub.45-4).

Provided:       No limitations

With limitations\*

3. Other laboratory and x-ray services.

Provided:       No limitations

With limitations\*

4. a. Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older).

Provided:       No limitations

With limitations\*

b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

Provided:       No limitations

With limitations\*

c. Family planning services and supplies for individuals of childbearing age.

Provided:       No limitations

With limitations\*

5. a. Physicians' services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility, or elsewhere.

Provided:       No limitations

With limitations\*

b. Medical and surgical services furnished by a dentist (in accordance with § 1905(a)(5)(B) of the Act).

Provided:       No limitations

With limitations\*

6. Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law.

a. Podiatrists' Services

- Provided:    No limitations  
 With limitations\*
- b. Optometrists' Services  
 Provided:    No limitations  
 With limitations\*
- c. Chiropractors' Services  
 Provided:    No Limitations  
 With Limitations\*
- d. Other Practitioners' Services  
 Provided:    No limitations  
 With limitations\*
7. Home Health Services
- a. Intermittent or part-time nursing service provided by home health agency or by a registered nurse when no home health agency exists in the area.  
 Provided:    No limitations  
 With limitations\*
- b. Home health aide services provided by a home health agency.  
 Provided:    No limitations  
 With limitations\*
- c. Medical supplies, equipment, and appliances suitable for use in the home.  
 Provided:    No limitations  
 With limitations\*
- d. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.  
 Provided:    No limitations  
 With limitations\*
8. Private duty nursing services.  
 Provided:    No Limitations  
 With Limitations\*
9. Clinic services.  
 Provided:    No limitations  
 With limitations\*
10. Dental services.  
 Provided:    No limitations  
 With limitations\*
11. Physical therapy and related services.  
a. Physical therapy.  
 Provided:    No limitations
- With limitations\*
- b. Occupational therapy.  
 Provided:    No limitations  
 With limitations\*
- c. Services for individuals with speech, hearing, and language disorders provided by or under supervision of a speech pathologist or audiologist.  
 Provided:    No limitations  
 With limitations\*
12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.  
a. Prescribed drugs.  
 Provided:    No limitations  
 With limitations\*
- b. Dentures.  
 Provided:    No Limitations  
 With Limitations\*
- c. Prosthetic devices.  
 Provided:    No limitations  
 With limitations\*
- d. Eyeglasses.  
 Provided:    No limitations  
 With limitations\*
13. Other diagnostic, screening, preventive, and rehabilitative services. i.e., other than those provided elsewhere in this plan.  
a. Diagnostic services.  
 Provided:    No Limitations  
 With Limitations\*
- b. Screening services.  
 Provided:    No Limitations  
 With Limitations\*
- c. Preventive services.  
 Provided:    No Limitations  
 With Limitations\*
- d. Rehabilitative services.  
 Provided:    No Limitations  
 With Limitations\*
14. Services for individuals age 65 or older in institutions for mental diseases.  
a. Inpatient hospital services.



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- Provided:  No Limitations  
 With Limitations\*
- b. Skilled nursing facility services.  
 Provided:  No Limitations  
 With Limitations\*
- c. Intermediate care facility services.  
 Provided:  No Limitations  
 With Limitations\*
15. a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined in accordance with §§ 1905(a)(4)(A) of the Act, to be in need of such care.  
 Provided:  No Limitations  
 With Limitations\*
- b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.  
 Provided:  No Limitations  
 With Limitations\*
16. Inpatient psychiatric facility services for individuals under 22 years of age.  
 Provided:  No Limitations  
 With Limitations\*
17. Nurse-midwife services.  
 Provided:  No Limitations  
 With Limitations\*
18. Hospice care (in accordance with § 1905(o) of the Act).  
 Provided:  No Limitations  
 With Limitations\*
19. a. Case management services as defined in, and to the group specified in, 12 VAC 30-50-95 through 12 VAC 30-50-310 (in accordance with § 1905(a)(19) or § 1915(g) of the Act).  
 Provided:  With limitations  
 Not provided
- b. Special tuberculosis (TB) related services under § 1902(z)(2)(F) of the Act.  
 Provided:  With Limitations\*  
 Not provided
20. Extended services for pregnant women.  
a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.  
 Provided:  No Limitations

With Limitations\*

Provided+:  Additional coverage<sup>++</sup>

See Supplement 3.

b. Services for any other medical conditions that may complicate pregnancy.

Provided:  No Limitations

With Limitations\*

Provided+:  Additional coverage<sup>++</sup>

Not provided

~~21. Ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider (in accordance with § 1920 of the Act).~~

~~Provided:  With limitations\*~~

~~Not provided  No limitations~~

21. Certified pediatric or family nurse practitioners' services.

Provided:  With limitations\*

Not provided

22. Respiratory care services (in accordance with § 1902(e)(9)(A) through (C) of the Act).

Provided:  With Limitations

Not provided  No Limitations

23. Ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider (in accordance with § 1920 of the Act).

Provided:  With Limitations

Not provided  No Limitations

23-24. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary.

a. Transportation

Provided:  No Limitations

With Limitations

b. Services of Christian Science nurses.

Provided:  No Limitations

With Limitations

c. Care and services provided in Christian Science sanatoria.

Provided:  No Limitations

With Limitations

d. Skilled nursing facility services for patient under 21 years of age.

Provided:  No Limitations

- With Limitations
- e. Emergency hospital services.
  - Provided:  No Limitations
  - With Limitations

- f. Personal care services in a recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.
  - Provided:  No Limitations
  - With Limitations

~~24. Private health insurance premiums, coinsurance and deductibles when cost-effective (pursuant to P.L. 101-508 §4402).~~

25. Home and community care for functionally disabled elderly individuals, as defined, described and limited in 12 VAC 30-50-400 through 12 VAC 30-50-460 and Appendices A through G of 12 VAC 30-50-400 through 12 VAC 30-50-460.

- Provided:  No Limitations

26. *Personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are (A) authorized for the individual by a physician in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, and (C) furnished in a home.*

- Provided:  State approved (not physician) service plan allowed
- Services outside the home also allowed*
- Limitation described on Attachment
- Not provided:

~~27. Private health insurance premiums, coinsurance and deductibles when cost-effective (pursuant to P.L. 101-508 § 4402).~~

**12 VAC 30-50-95 through 12 VAC 30-50-310. Narrative for the Amount, Duration, and Scope of Services.**

*12 VAC 30-50-95. General.*

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

~~§ 1.~~ *12 VAC 30-50-100. Inpatient hospital services other than those provided in an institution for mental diseases.*

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital

Activities) diagnostic/procedure limits. For admissions under 8 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 7 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the Medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied. EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

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### G. Repealed.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow transplantation and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the transplant hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre- and post-hospitalization for the transplant procedure or pretransplant evaluation. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3-1 E 12 VAC 30-50-530.

J. The department may exempt portions or all of the utilization review documentation requirements of subsections A, D, E, F as it pertains to recipients under age 21, G, or H in writing for specific hospitals from time to time as part of their ongoing hospital utilization review performance evaluation. These exemptions are based on utilization review performance and review edit criteria which determine an individual hospital's review status as specified in the hospital provider manual. In compliance with federal regulations at 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed, shall be subject to medical documentation requirements.

K. Hospitals qualifying for an exemption of all documentation requirements except as described in subsection J above shall be granted "delegated review status" and shall, while the exemption remains in effect, not be required to submit medical documentation to support pending claims on a prepayment hospital utilization review basis to the extent allowed by federal or state law or regulation. The following audit conditions apply to delegated review status for hospitals:

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.

2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.

3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and B of the Code of Virginia the full amount of any initial overpayment identified during such audit.

4. The hospital may appeal adverse medical necessity and overpayment decisions pursuant to the current administrative process for appeals of post-payment review decisions.

5. The department may, at its option, depending on the utilization review performance determined by an audit based on criteria set forth in the hospital provider manual, remove a hospital from delegated review status and reapply certain or all prepayment utilization review documentation requirements.

§- 12 VAC 30-50-110. Outpatient hospital and rural health clinic services.

#### 2a. A. Outpatient hospital services.

A. 1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

1. a. Are furnished to outpatients;

2. b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

3. c. Are furnished by an institution that:

a. (1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

b. (2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

B. 2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

C. 3. Repealed.

~~2b~~ B. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

The same service limitations apply to rural health clinics as to all other services.

~~2c~~ C. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with § 4231 of the State Medicaid Manual (HCFA Pub. 45-4).

The same service limitations apply to FQHCs as to all other services.

~~§ 3~~ 12 VAC 30-50-120. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

~~§ 4~~ 12 VAC 30-50-130. Skilled nursing facility services, EPSDT and family planning.

4a. A. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

A. 1. Payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

B. 2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

C. 3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

D. 4. Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, early and periodic screening, diagnostic, and treatment services means the following services: screening services, vision services, dental services, hearing services, and such other necessary health care, diagnostic services, treatment, and other measures described in the Social Security Act § 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services and which are medically necessary, whether or not such services are covered under the state plan and notwithstanding the limitations, applicable to

recipients ages 21 and over, provided for by the Act § 1905(a).

~~4c~~ C. Family planning services and supplies for individuals of child-bearing age.

A. 1. Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

B. 2. Family planning services shall be defined as those services which delay or prevent pregnancy. Coverage of such services shall not include services to treat infertility nor services to promote fertility.

~~§ 5~~ 12 VAC 30-50-140. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. 1. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

2. Psychiatric services can be provided by psychiatrists, clinical psychologists licensed by the State Board of Medicine, psychologists clinical licensed by the Board of Psychology, or by a licensed clinical social worker under the direct supervision of a psychiatrist, licensed clinical psychologist or a licensed psychologist clinical.

3. Psychological and psychiatric services shall be medically prescribed treatment which is directly and specifically related to an active written plan designed and signature-dated by either a psychiatrist or a clinical psychologist licensed by the Board of Medicine, a psychologist clinical licensed by the Board of Psychology, or a licensed clinical social worker under the direct supervision of a licensed clinical psychologist, a licensed psychologist clinical, or a psychiatrist.

4. Psychological or psychiatric services shall be considered appropriate when an individual meets the following criteria:

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1. a. Requires treatment in order to sustain behavioral or emotional gains or to restore cognitive functional levels which have been impaired;
  2. b. Exhibits deficits in peer relations, dealing with authority; is hyperactive; has poor impulse control; is clinically depressed or demonstrates other dysfunctional clinical symptoms having an adverse impact on attention and concentration, ability to learn, or ability to participate in employment, educational, or social activities;
  3. c. Is at risk for developing or requires treatment for maladaptive coping strategies; and
  4. d. Presents a reduction in individual adaptive and coping mechanisms or demonstrates extreme increase in personal distress.
5. Psychological or psychiatric services may be provided in an office or a mental health clinic.
- E. Any procedure considered experimental is not covered.
- F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.
- G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program. **EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE:** Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.
- H. Repealed.
- I. Repealed.
- J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.
- K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational

require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the transplant hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre- and post-hospitalization for the transplant procedure or pretransplant evaluation. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3-1 E 12 VAC 30-50-530.

~~§-6. 12 VAC 30-50-150.~~ Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.
2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.
3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometrists' services. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services: are not provided.

D. Other practitioners' services; psychological services, psychotherapy. Limits and requirements for covered services are found under Psychiatric Services ( see §-5 12 VAC 30-50-140 D).

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine and psychologists clinical licensed by the Board of Psychology. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing by clinical psychologists licensed by the State Board of Medicine, by psychologists clinical licensed by the Board of Psychology, and by a licensed clinical social worker under the direct supervision of a psychologist or psychiatrist are covered.

**§-7. 12 VAC 30-50-160. Home health services.**

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts. Home health services shall be provided in accordance with guidelines found in the Virginia Medicaid Home Health Manual.

B. Nursing services provided by a home health agency.

1. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

2. Patients may receive up to 32 visits by a licensed nurse annually. Limits are per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services. Payment shall not be made for additional service unless authorized by DMAS.

C. Home health aide services provided by a home health agency.

1. Home health aides must function under the supervision of a registered nurse.

2. Home health aides must meet the certification requirements specified in 42 CFR 484.36.

3. For home health aide services, patients may receive up to 32 visits annually. Limits shall be per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medically necessary supplies, equipment, and appliances are covered for Medicaid recipients who meet home health criteria. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu

of purchase. All medical supplies, equipment, and appliances shall be provided in accordance with guidelines found in the Virginia Medicaid DME and Supplies Manual.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, respiratory equipment and oxygen, and ostomy supplies, as authorized by the agency.

3. Supplies, equipment, or appliances that are not covered include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners.

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office.

c. Furniture or appliances not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales).

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface); mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience (i.e., electric wheelchair plus a manual chair); cleansing wipes.

e. Prosthesis, except for artificial arms, legs, and their supportive devices which must be preauthorized by the DMAS central office (effective July 1, 1989).

f. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and nonlegend drugs).

g. Orthotics, including braces, splints, and supports.

h. Home or vehicle modifications.

i. Items not suitable for or used primarily in the home setting (i.e., car seats, equipment to be used while at school, etc.).

j. Equipment that the primary function is vocationally or educationally related (i.e., computers, environmental control devices, speech devices, etc.).

4. For coverage of blood glucose meters for pregnant women, refer to Supplement 3 to Attachments 3.1-A and B 12 VAC 30-50-500.

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5. Durable medical equipment, supplies, and appliances must be ordered by a physician and be medically necessary to treat a health care condition. The physician shall complete a written certificate of medical necessity for all durable medical equipment, supplies, and appliances based on an assessment of the patient's needs. The medical and supply provider shall keep a copy of the certificate of medical necessity. The certificate of medical necessity shall be signed and dated by the physician.

6. The medical equipment and supply vendor must provide the equipment and supplies as prescribed by the physician on the certificate of medical necessity. Orders shall not be changed unless the vendor obtains a new certificate of medical necessity prior to ordering or providing the equipment or supplies to the patient.

7. Medicaid shall not provide reimbursement to the medical equipment and supply vendor for services provided prior to the date prescribed by the physician or prior to the date of the delivery or when services are not provided in accordance with published policies and procedures. If reimbursement is denied for one of these reasons, the medical equipment and supply vendor may not bill the Medicaid recipient for the service that was provided.

8. Only supplies, equipment, and appliances that are considered medically necessary shall be covered. All of the following must be met to be considered medically necessary. The supplies, equipment, or appliance must be:

- a. A reasonable and necessary part of the recipient's treatment plan;
- b. Consistent with the symptoms, diagnosis, or medical condition of the illness or injury under treatment;
- c. Not furnished for the convenience of the recipient, the family, the attending practitioner, or other practitioner or supplier;
- d. Necessary and consistent with generally accepted professional medical standards (i.e., not experimental or investigational);
- e. Established as safe and effective for the recipient's treatment protocol; and
- f. Furnished at the most appropriate level which is suitable for use in the recipient's home environment.

9. Coverage of enteral nutrition (EN) and total parenteral nutrition (TPN) which do not include a legend drug shall be limited to when the nutritional supplement is the sole source form of nutrition, is administered orally or through a nasogastric or gastrostomy tube, and is necessary to treat a medical condition. Coverage of EN and TPN shall not include the provision of routine infant formulae.

E. Physical therapy, occupational therapy, or speech/language pathology services and audiology services provided by a home health agency or physical rehabilitation facility.

1. Service covered only as part of a physician's plan of care.

2. Patients may receive up to 24 visits for each rehabilitative therapy service ordered annually without authorization. Limits shall apply per recipient regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services.

F. The following services are not covered under the home health services program:

1. Medical social services;
2. Services or items which would not be paid for if provided to an inpatient of a hospital, such as private-duty nursing services, or items of comfort which have no medical necessity, such as television;
3. Community food service delivery arrangements;
4. Domestic or housekeeping services which are unrelated to patient care and which materially increase the time spent on a visit;
5. Custodial care which is patient care that primarily requires protective services rather than definitive medical and skilled nursing care; and
6. Services related to cosmetic surgery.

~~§-8. 12 VAC 30-50-170. Private duty nursing services.~~

*Private duty nursing services are not provided.*

~~§-9. 12 VAC 30-50-180. Clinic services.~~

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

~~§-10. 12 VAC 30-50-190. Dental services.~~

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; dental sealants; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. The following services are also covered through preauthorization: medically necessary full banded orthodontics, for handicapping malocclusions, minor tooth guidance or repositioning appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges. The following service is not covered: routine bases under restorations.

D. The state agency may place appropriate limits on a service based on medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray -- two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§-11. 12 VAC 30-50-200. Physical therapy and related services.

A. Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services. These services shall be prescribed by a physician and be part of a written physician's order/plan of care. Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements. Services shall be provided according to guidelines found in the Virginia Medicaid Rehabilitation Manual.

11a. B. Physical therapy.

A. 1. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services. A local school division may only provide these services to children entitled to services under Public Law 94-142.

B. 2. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy service rendered to patients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

11b. C. Occupational therapy.

A. 1. Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services. A local school division may only provide these services to children entitled to services under Public Law 94-142.

B. 2. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

11c. D. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist).

A. 1. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services. A local school division may only provide these services to children entitled to services under Public Law 94-142.

B. 2. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

11d. E. Authorization for outpatient rehabilitation services.

A. 1. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, school divisions, or home health agencies shall include authorization for up to 24 visits by each ordered rehabilitative service annually. The provider shall maintain documentation to justify the need for services.

B. 2. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized. Documentation for medical justification must include physician orders/plans of care signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made



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for additional service unless the extended provision of services has been authorized by DMAS.

C. 3. Covered outpatient rehabilitative services for acute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. "Acute conditions" shall be defined as conditions which are expected to be of brief duration (less than 12 months) and in which progress toward established goals is likely to occur frequently.

D. 4. Covered outpatient rehabilitation services for long-term, nonacute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. "Nonacute conditions" shall be defined as those conditions which are of long duration (greater than 12 months) and in which progress toward established goals is likely to occur slowly.

E. 5. Payment shall not be made for reimbursement requests submitted more than 12 months after the termination of services.

41e. F. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology:

A. 1. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. 2. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the physician's order/plan of care, and indicate the frequency and duration for services. Physician orders/plans of care must be personally signed and dated prior to the initiation of rehabilitative services. The certifying physician may use a signature stamp, in lieu of writing his full name, but the stamp must, at minimum, be initialed and dated at the time of the initialing within 21 days of the order.

C. 3. Services shall be furnished under a written plan of treatment and must be established, signed and dated (as specified in this section), and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

D. 4. A physician recertification shall be required periodically and must be signed and dated (as specified in this section) by the physician who reviews the plan of treatment. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed. Certification and recertification must be signed and dated (as specified in this section) prior to the beginning of rehabilitation services.

E. 5. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record

as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. 6. Physical therapy, occupational therapy and speech-language services are to be considered for termination regardless of the preauthorized visits or services when any of the following conditions are met:

1. a. No further potential for improvement is demonstrated. The patient has reached his maximum progress and a safe and effective maintenance program has been developed.

2. b. There is limited motivation on the part of the individual or caregiver.

3. c. The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.

4. d. Progress toward an established goal or goals cannot be achieved within a reasonable period of time.

5. e. The established goal serves no purpose to increase meaningful functional or cognitive capabilities.

6. f. The service can be provided by someone other than a skilled rehabilitation professional.

§-12. 12 VAC 30-50-210. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

42a. A. Prescribed drugs.

A. 1. Drugs for which Federal Financial Participation is not available, pursuant to the requirements of § 1927 of the Social Security Act (OBRA '90 § 4401), shall not be covered except for over-the-counter drugs when prescribed for nursing facility residents.

B. 2. The following prescribed, nonlegend drugs/drug devices shall be covered: (i) insulin, (ii) syringes, (iii) needles, (iv) diabetic test strips for clients under 21 years of age, (v) family planning supplies, and (vi) those prescribed to nursing home residents.

C. 3. Legend drugs are covered, with the exception of anorexiant drugs prescribed for weight loss and the drugs for classes of drugs identified in Supplement 5.

D. 4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, and in compliance with the provision of § 4401 of the Omnibus Reconciliation Act of 1990, § 1927(e) of the Social Security Act as amended by OBRA 90, and pursuant to the authority provided for under § 32.1-325 A of the Code of Virginia, prescriptions for Medicaid recipients for multiple source drugs subject to 42 CFR § 447.332 shall be filled with generic drug products unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

E. 5. New drugs shall be covered in accordance with the Social Security Act § 1927(d) (OBRA 90 § 4401).

F. 6. The number of refills shall be limited pursuant to § 54.1-3411 of the Drug Control Act.

## G. 7. Drug prior authorization.

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

"Board" means the Board for Medical Assistance Services.

"Committee" means the Medicaid Prior Authorization Advisory Committee.

"Department" means the Department of Medical Assistance Services.

"Director" means the Director of Medical Assistance Services.

"Drug" shall have the same meaning, unless the context otherwise dictates or the Board otherwise provides by regulation, as provided in the Drug Control Act (§ 54.1-3400 et seq.).

2. b. Medicaid Prior Authorization Advisory Committee; membership. The Medicaid Prior Authorization Committee shall consist of 10 members to be appointed by the board. Five members shall be physicians, at least three of whom shall care for a significant number of Medicaid patients; four shall be pharmacists, two of whom shall be community pharmacists; and one shall be a Medicaid recipient.

a. (1) A quorum for action by the committee shall consist of six members.

b. (2) The members shall serve at the pleasure of the board; vacancies shall be filled in the same manner as the original appointment.

c. (3) The board shall consider nominations made by the Medical Society of Virginia, the Old Dominion Medical Society and the Virginia Pharmaceutical Association when making appointments to the committee.

d. (4) The committee shall elect its own officers, establish its own procedural rules, and meet as needed or as called by the board, the director, or any two members of the committee. The department shall provide appropriate staffing to the committee.

### 3. c. Duties of the committee.

a. (1) The committee shall make recommendations to the board regarding drugs or categories of drugs to be subject to prior authorization, prior authorization requirements for prescription drug coverage and any subsequent amendments to or revisions of the prior authorization requirements. The board may accept or reject the recommendations in whole or in part, and may amend or add to the recommendations, except that the board may not add to the recommendation of drugs and categories of drugs to be subject to prior authorization.

b. (2) In formulating its recommendations to the board, the committee shall not be deemed to be formulating regulations for the purposes of the Administrative Process Act (§ 9-6.14:1 et seq.). The committee shall, however, conduct public hearings prior to making recommendations to the board. The committee shall give 30 days written notice by mail of the time and place of its hearings and meetings to any manufacturer whose product is being reviewed by the committee and to those manufacturers who request of the committee in writing that they be informed of such hearings and meetings. These persons shall be afforded a reasonable opportunity to be heard and present information. The committee shall give 30 days notice of such public hearings to the public by publishing its intention to conduct hearings and meetings in the Calendar of Events of The Virginia Register of Regulations and a newspaper of general circulation located in Richmond.

c. (3) In acting on the recommendations of the committee, the board shall conduct further proceedings under the Administrative Process Act.

### 4. d. Prior authorization of prescription drug products, coverage.

a. (1) The committee shall review prescription drug products to recommend prior authorization under the state plan. This review may be initiated by the director, the committee itself, or by written request of the board. The committee shall complete its recommendations to the board within no more than six months from receipt of any such request.

b. (2) Coverage for any drug requiring prior authorization shall not be approved unless a prescribing physician obtains prior approval of the use in accordance with regulations promulgated by the board and procedures established by the department.

c. (3) In formulating its recommendations to the board, the committee shall consider the potential impact on patient care and the potential fiscal impact of prior authorization on pharmacy, physician, hospitalization and outpatient costs. Any proposed regulation making a drug or category of drugs subject to prior authorization shall be accompanied by a statement of the estimated impact of this action on pharmacy, physician, hospitalization and outpatient costs.

d. (4) The committee shall not review any drug for which it has recommended or the board has required prior authorization within the previous 12 months, unless new or previously unavailable relevant and objective information is presented.

e. (5) Confidential proprietary information identified as such by a manufacturer or supplier in writing in advance and furnished to the committee or the board according to this subsection shall not be subject to the disclosure requirements of the Virginia

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Freedom of Information Act (§ 2.1-340 et seq.). The board shall establish by regulation the means by which such confidential proprietary information shall be protected.

5. e. Immunity. The members of the committee and the board and the staff of the department shall be immune, individually and jointly, from civil liability for any act, decision, or omission done or made in performance of their duties pursuant to this subsection while serving as a member of such board, committee, or staff provided that such act, decision, or omission is not done or made in bad faith or with malicious intent.

6. f. Annual report to joint commission. The committee shall report annually to the Joint Commission on Health Care regarding its recommendations for prior authorization of drug products.

42b. B. Dentures. Dentures are provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

42c. C. Prosthetic devices.

A. 1. Prosthetics services shall mean the replacement of missing arms and legs. Nothing in this regulation shall be construed to refer to orthotic services or devices.

B. 2. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.

42d. D. Eyeglasses. Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

§—13. 12 VAC 30-50-220. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

43a. A. Diagnostic services: are not provided.

43b. B. Screening services. Screening mammograms for the female recipient population aged 35 and over shall be covered, consistent with the guidelines published by the American Cancer Society.

43c. C. Preventive services: are not provided.

43d. D. Rehabilitative services.

A. 1. Intensive physical rehabilitation.

4. a. Medicaid covers intensive inpatient rehabilitation services as defined in subdivision A-4 D 1 d in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements

to be excluded from the Medicare Prospective Payment System.

2. b. Medicaid covers intensive outpatient physical rehabilitation services as defined in subdivision A-4 D 1 d in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs).

3. c. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A 12 VAC 30-70-10 through 12 VAC 30-70-130.

4. d. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech-language pathology, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of physical medicine and rehabilitation.

5. e. Nothing in this regulation is intended to preclude DMAS from negotiating individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special intensive rehabilitation needs.

6. f. For continued intensive rehabilitation services, the patient must demonstrate an ability to actively participate in goal-related therapeutic interventions developed by the interdisciplinary team. This shall be evidenced by regular attendance in planned activities and demonstrated progress toward the established goals.

7. g. Intensive rehabilitation services shall be considered for termination regardless of the preauthorized length of stay when any of the following conditions are met:

a. (1) No further potential for improvement is demonstrated. The patient has reached his maximum progress and a safe and effective maintenance program has been developed.

b. (2) There is limited motivation on the part of the individual or caregiver.

e. (3) The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.

d. (4) Progress toward an established goal or goals cannot be achieved within a reasonable period of time.

e. (5) The established goal serves no purpose to increase meaningful functional or cognitive capabilities.

f. (6) The service can be provided by someone other than a skilled rehabilitation professional.

B. 2. Community mental health services. Definitions. The following words and terms, when used in these regulations, shall have the following meanings unless the context clearly indicates otherwise:

"Code" means the Code of Virginia.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DMHMRSAS" means Department of Mental Health, Mental Retardation and Substance Abuse Services consistent with Chapter 1 (§ 37.1-39 et seq.) of Title 37.1 of the Code of Virginia.

4. a. Mental health services. The following services, with their definitions, shall be covered:

a. (1) Intensive in-home services for children and adolescents under age 21 shall be time-limited interventions provided typically but not solely in the residence of an individual who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a disorder diagnosable under the Diagnostic and Statistical Manual of Mental Disorders-III-R (DSM-III-R). These services provide crisis treatment; individual and family counseling; life (e.g., counseling to assist parents to understand and practice proper child nutrition, child health care, personal hygiene, and financial management, etc.), parenting (e.g., counseling to assist parents to understand and practice proper nurturing and discipline, and behavior management, etc.), and communication skills (e.g., counseling to assist parents to understand and practice appropriate problem-solving, anger management, and interpersonal interaction, etc.); case management activities and coordination with other required services; and 24-hour emergency response. These services shall be limited annually to 26 weeks.

b. (2) Therapeutic day treatment for children and adolescents shall be provided in sessions of two or more hours per day, to groups of seriously emotionally disturbed children and adolescents or children at risk of serious emotional disturbance in order to provide therapeutic interventions. Day treatment programs, limited annually to 780 units, provide evaluation, medication education and management, opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g., problem solving, anger management, community responsibility, increased impulse control and appropriate peer relations, etc.), and individual, group and family counseling.

e. (3) Day treatment/partial hospitalization services for adults shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These

services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial and psychoeducational treatment modalities designed for individuals with serious mental disorders who require coordinated, intensive, comprehensive, and multidisciplinary treatment.

d. (4) Psychosocial rehabilitation for adults shall be provided in sessions of two or more consecutive hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, medication education, psychoeducation, opportunities to learn and use independent living skills and to enhance social and interpersonal skills, family support, and education within a supportive and normalizing program structure and environment.

e. (5) Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute mental dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities, limited annually to 180 hours, shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual or the family unit or both, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include, but are not limited to, office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization.

2. b. Mental retardation services/related conditions. Day health and rehabilitation services shall be covered for persons with MR or related conditions and the following definitions shall apply:

Day health and rehabilitation services (limited to 780 units per year) shall provide individualized activities, supports, training, supervision, and transportation based on a written physician's order/plan of care to eligible persons for two or more hours per day scheduled multiple times per week. These services are intended to improve the recipient's condition or to maintain an optimal level of functioning, as well as to ameliorate the recipient's disabilities or deficits by reducing the degree of impairment or dependency. Therapeutic consultation to service providers, family, and friends of the client around implementation of the physician's order/plan of care may be included as part of the services provided by the day health and rehabilitation program. The provider shall be licensed by DMHMRSAS as a Day Support Program. Specific components of day health and rehabilitation services include the following as needed:

(1) Self-care and hygiene skills;

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- (2) Eating and toilet training skills;
- (3) Task learning skills;
- (4) Community resource utilization skills (e.g., training in time, telephone, basic computations with money, warning sign recognition, and personal identifications, etc.);
- (5) Environmental and behavior skills (e.g., training in punctuality, self-discipline, care of personal belongings and respect for property and in wearing proper clothing for the weather, etc.);
- (6) Medication management;
- (7) Travel and related training to and from the training sites and service and support activities;
- (8) Skills related to the above areas, as appropriate that will enhance or retain the recipient's functioning.

§ 14. 12 VAC 30-50-230. Services for individuals age 65 or older in institutions for mental diseases.

~~14a. A. Inpatient hospital services are provided, with no limitations.~~

~~14b. B. Skilled nursing facility services are provided, with no limitations.~~

~~14c. C. Intermediate care facility services are provided, with no limitations.~~

§ 15. 12 VAC 30-50-240. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

~~15a. A. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care are provided, with no limitations.~~

~~15b. B. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions are provided, with no limitations.~~

§ 16. 12 VAC 30-50-250. Inpatient psychiatric facility services for individuals under 22 years of age.

*Inpatient psychiatric facility services for individuals under 22 years of age are not provided.*

§ 17. 12 VAC 30-50-260. Nurse-midwife services.

Covered services for ~~the nurse midwife midwives~~ are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., ~~maternity cycle Social Security Act~~.

§ 18. 12 VAC 30-50-270. Hospice care (in accordance with § 1905 (o) of the Act).

A. Covered hospice services shall be defined as those services allowed under the provisions of Medicare law and regulations as they relate to hospice benefits and as specified in the Code of Federal Regulations, Title 42, Part 418.

B. Categories of care. As described for Medicare and applicable to Medicaid, hospice services shall entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.
2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered or licensed practical nurse must provide care for more than half of the period of the care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of eight hours of care per day must be provided to qualify as continuous home care.
3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. Respite care is limited to not more than five consecutive days.
4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

C. Covered services.

1. As required under Medicare and applicable to Medicaid, the hospice itself shall provide all or substantially all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).
2. Other services applicable for the terminal illness that shall be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech-language pathology services.
3. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.
4. To be covered, a certification that the individual is terminally ill shall have been completed by the physician and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services shall be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.
5. All services shall be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

a. Nursing care. Nursing care shall be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

b. Medical social services. Medical social services shall be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

c. Physician services. Physician services shall be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team shall be a licensed doctor of medicine or osteopathy.

d. Counseling services. Counseling services shall be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

e. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

f. Durable medical equipment and supplies. Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

g. Drugs and biologicals. Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

h. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health

aide and homemaker services must be provided under the general supervision of a registered nurse.

i. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

D. Eligible groups. To be eligible for hospice coverage under Medicare or Medicaid, the recipient must have a life expectancy of six months or less, have knowledge of the illness and life expectancy, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician if the individual has an attending physician. For the initial 90-day period, if the hospice cannot obtain written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

2. For any subsequent 90-day or 30-day period or a subsequent extension period during the individual's lifetime, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his life expectancy is six months or less and the signature(s) of the physician(s). The hospice must maintain the certification statements.

~~§ 19. 12 VAC 30-50-280.~~ Case management services for high-risk pregnant women and children up to age 1, as defined in ~~Supplement 2 to Attachment 3.1-A 12 VAC 30-50-400 through 12 VAC 30-50-460~~ in accordance with § 1915(g)(1) of the Act.

*Case management services for high-risk pregnant women and children up to age 1 are provided, with limitations. See Supplement 2 12 VAC 30-50-400 through 12 VAC 30-50-460 for details.*

~~§ 20. 12 VAC 30-50-290.~~ Extended services to pregnant women.

20a- A. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

20b- B. Services for any other medical conditions that may complicate pregnancy.

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The same limitations on all covered services apply to this group as to all other recipient groups.

~~§ 21. 12 VAC 30-50-300.~~ Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

~~21a. A. Transportation.~~ Transportation services are provided to Virginia Medicaid recipients to ensure that they have necessary access to and from providers of all medical services. Both emergency and nonemergency services are covered. The single state agency may enter into contracts with friends of recipients, nonprofit private agencies, and public carriers to provide transportation to Medicaid recipients.

~~21b. B. Services of Christian Science nurses.~~ *are* not provided.

~~21c. C. Care and services provided in Christian Science sanatoria.~~ *are* provided, *with* no limitations.

~~21d. D. Skilled nursing facility services for patients under 21 years of age.~~ *are* provided, *with* no limitations.

~~21e. E. Emergency hospital services.~~ *are* provided, *with* no limitations.

~~21f. F. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.~~ *are* not provided.

~~§ 22. 12 VAC 30-50-310.~~ Emergency services for aliens.

A. No payment shall be made for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

B. Emergency services are defined as: emergency treatment of accidental injury or medical condition (including emergency labor and delivery) manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical/surgical attention could reasonably be expected to result in:

1. Placing the patient's health in serious jeopardy;
2. Serious impairment of bodily functions; or
3. Serious dysfunction of any bodily organ or part.

C. Medicaid eligibility and reimbursement is conditional upon review of necessary documentation supporting the need for emergency services. Services and inpatient lengths of stay cannot exceed the limits established for other Medicaid recipients.

D. Claims for conditions which do not meet emergency criteria for treatment in an emergency room or for acute care hospital admissions for intensity of service or severity of illness will be denied reimbursement by the Department of Medical Assistance Services.

VA.R. Doc. No. R96-33; Filed September 27, 1995, 10:50 a.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

October 2, 1995

Robert C. Metcalf, Director  
Department of Medical Assistance Services  
600 E. Broad St., Suite 1300  
Richmond, Virginia 23219

RE: Federal Exemption on regulation: VR 460-01-19, VR 460-02-3.1200, and  
VR 460-03-3.1100. Amount, Duration and Scope of Services (Nurse  
-Midwives)

Dear Mr. Metcalf:

This letter acknowledges receipt of the above-referenced regulations from the  
Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that  
these regulations are exempt from the operation of Article 2 of the  
Administrative Process Act since they do not differ materially from those  
required by federal law.

Sincerely,

*E. M. Miller/jc*

E. M. Miller  
Acting Registrar of Regulations

EMM/tmg



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# Final Regulations

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## BOARD OF SOCIAL WORK

Title of Regulation: [ ~~VR-620-04-2~~, 18 VAC 140-20-10 et seq. ] Regulations Governing the Practice of Social Work.

Statutory Authority: §§ 54.1-2400 and 54.1-3700 et seq. of the Code of Virginia.

Effective Date: November 29, 1995.

Summary:

*Amendments to regulations of the Board of Social Work were made to eliminate unnecessary and duplicative regulations, to comply with statutory requirements for a process and criteria for licensure by endorsement, to clarify and specify standards of ethical and professional practice, to amend requirements for renewal of an expired license to make it less burdensome and costly, and to establish a specific fee for reinstatement of a license after a disciplinary action by the board.*

*The following substantive changes are made to the proposed regulation following its June 12, 1995, publication in the Virginia Register:*

- *Reinstatement of the experience requirement as a prerequisite for examination for licensure in 18 VAC 140-20-40 D, and removal of associated proposed wording in 18 VAC 140-20-70 C.*
- *Clarification of the items required for a completed application packet outlined in 18 VAC 140-20-40 D 2.*
- *Clarification of supervisory responsibility in 18 VAC 140-20-50 C 2 c and C 2 d and in 18 VAC 140-20-60 D 2 c and D 2 d.*
- *Removal of the requirement for annual evaluation of trainees by their supervisors in 18 VAC 140-20-50 C 2 f and 18 VAC 140-20-60 D 2 f, as most trainees are in exempt work settings and not required to register their supervisors.*
- *Elimination of the proposed wording in 18 VAC 140-20-50 D and 18 VAC 140-20-60 E as this wording is redundant with § 54.1-111 A 8 of the Code of Virginia.*

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 Arnice Covington, Board of Social Work, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9914.

18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work.

[ CHAPTER 20.  
REGULATIONS GOVERNING THE PRACTICE OF SOCIAL  
WORK. ]

PART I.  
GENERAL PROVISIONS.

[ ~~§ 1.1~~, 18 VAC 140-20-10. ] Definitions.

~~The following~~ *In addition to those defined in § 54.1-3700 of the Code of Virginia, words and terms, when used in [ these regulations this chapter ] , shall have the following meanings, unless the context clearly indicates otherwise:*

*"Accredited school of social work" means a school of social work accredited by the Council on Social Work Education.*

*"Applicant" means a person who has submitted a completed application for licensure as a social worker with the appropriate fees.*

*"Board" means the Virginia Board of Social Work.*

*"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 the required examinations.*

*"Clinical course of study" means graduate course work which includes courses in human behavior and social environment, social policy, research, clinical practice with individuals, families, groups and a clinical practicum which focuses on diagnostic, prevention and treatment services.*

*"Exemption from requirements of licensure" is defined in § 54.1-3701 of the Code of Virginia.*

*"Exempt practice" is that which meets the conditions of exemption from the requirements of licensure as defined in § 54.1-3701 of the Code of Virginia.*

*"Nonexempt practice" is that which does not meet the conditions of exemption from the requirements of licensure as defined in § 54.1-3701 of the Code of Virginia.*

*"Supervision" means the relationship between a supervisor and supervisee which is designed to promote the development of responsibility and skill in the provision of social work services. Supervision is the inspection, critical evaluation, and direction over the services of the supervisee. Supervision shall include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.*

~~§ 1.2. Public participation guidelines.~~

~~A. Mailing list.~~

~~The Board of Social Work will maintain a list of persons and organizations who will be mailed the following documents as they become available.~~

~~1. "Notice of intent" to promulgate regulations.~~

~~2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulations.~~

~~3. Final regulation adopted.~~



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~~3.~~ 2. Submit [ *in one package the following items* ] to the board [ *office* ], not less than 90 days prior to the date of the written examination:

a. A completed [ *notarized* ] application [ ~~on forms provided by the board~~ ];

b. Documentation, on the appropriate forms, of the successful completion of the [ *supervised experience education* ] requirements of [ ~~§ 2.2 18 VAC 140-20-50~~ ] or [ ~~§ 2.3 18 VAC 140-20-60 along with documentation of the supervisor's out-of-state license where applicable~~ ]; [ *and* ]

c. The application fee prescribed in § 1.3 [ ~~1.2 of these regulations. 18 VAC 140-20-30;~~ ]

[ *d. Official transcript or transcripts in the original sealed envelope submitted from the appropriate institutions of higher education directly to the applicant; and*

*e. Documentation of applicant's out-of-state licensure where applicable.* ]

[ ~~§ 2.2. 18 VAC 140-20-50.~~ ] Education and experience requirements for licensed clinical social worker.

A. Education. The applicant shall hold a minimum of a master's degree from an accredited school of social work, ~~documented as prescribed in § 2.1 D-2.~~ Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council of Social Work Education.

1. The degree program shall have included a graduate clinical course of study; or

2. The applicant shall provide documentation of having completed specialized experience, coursework or training acceptable to the board as equivalent to a clinical course of study.

B. Experience. The applicant shall have had two years of full-time post-master's degree experience in the delivery of clinical services or the equivalent in part-time experience. The post-master's degree experience, whether full- or part-time, shall be under supervision satisfactory to the board as prescribed in these regulations.

1. Full-time experience in the delivery of clinical services is defined as a total *minimum* of 3,000 hours of work experience acquired in no less than two years.

a. Of these 3,000 hours, *trainees shall average no less than 15 hours per week shall be spent in face-to-face client contact, for a total minimum of 1,380 hours in the two-year period.*

b. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

2. Part-time equivalent experience in the delivery of clinical services for a total of 3,000 hours of work experience.

a. Of the 3,000 hours, 1,380 hours shall be spent in face-to-face client contact.

b. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

3. Supervision and experience obtained prior to the effective date of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

4. An individual who does not become a candidate for licensure after four years of supervised training in a nonexempt ~~setting practice~~ shall submit evidence to the board showing why the training should be allowed to continue.

C. Supervision requirements for applicants in nonexempt ~~settings practices.~~

1. An individual who proposes to obtain supervised post-graduate experience in a nonexempt ~~setting practice~~ in Virginia shall, prior to the onset of such supervision:

a. Be registered on a form provided by the board and completed by the supervisor and the supervised individual; and

b. Pay the registration-of-supervision fee prescribed by the board.

2. The supervisor providing supervision under subdivision 1 of this subsection shall be:

a. ~~Be a licensed clinical social worker with at least five years post-MSW post-Master of Social Work (MSW) clinical experience, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed clinical social worker with at least five years post-MSW clinical experience constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to licensed clinical social worker supervision; and.~~

b. Be responsible for the ~~clinical casework~~ activities of the prospective applicant [ *as set forth in subdivision 2 c and 2 d of this subsection* ] once the supervisory arrangement is accepted.

~~3. The experience shall include at least 100 hours of face-to-face supervision during the two-year period. A minimum of one hour of individual face-to-face supervision per week shall be provided for the two years.~~

~~4. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.~~

~~D. The licensed clinical social worker acting as supervisor shall:~~

~~1. c. [ Be knowledgeable about Review and approve ] the diagnostic assessment and treatment plan [ for of a representative sample of the ] clients assigned to the~~

applicant ~~[ and during the course of supervision. The sample should be representative of the variables of gender, age, diagnosis, length of treatment and treatment method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. The supervisor ]~~ shall be available to the applicant on a regularly scheduled basis for supervision. ~~[ The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision; ]~~

2. d. Provide supervision only for those ~~[ casework ]~~ activities for which the ~~[ applicant has had appropriate education. supervisor has determined the applicant is competent to provide to clients; ]~~

3. e. Provide supervision only for those activities for which the supervisor is qualified.

4. f. ~~[ Provide, to the board, on an annual basis, documentation of the supervisee's direct client contact and supervisory hours for which the supervisor was responsible. ]~~ The supervisor shall evaluate the supervisee's knowledge in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of ~~eminent~~ imminent danger, and implementing a professional and ethical relationship with clients.

5. g. Provide documentation, *at the time of application for licensure*, on forms provided by the board, that the supervisee is at least minimally competent in the areas listed in subdivision 4 2 f of this subsection before the supervisee will be eligible to take the written examination.

3. *The experience shall include at least 100 hours of face-to-face supervision during the period of supervision. A minimum of one hour of individual face-to-face supervision per week shall be provided for the period of supervision.*

4. *Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.*

~~[ D. Failure to comply with the above requirements may result in disciplinary action against the supervisor. ]~~

[ E. D. ] Documentation of supervised experience. At the time of application for licensure, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.

1. Applicants for licensure who have worked full time for a minimum of two years in the delivery of clinical social work services need document only their full-time employment provided the experience requirement has been met.

2. Applicants for licensure who have worked part time in the delivery of clinical services will need to document the experience as prescribed in ~~[ § 2-2-B-2 subdivision B 2 of this section ]~~.

3. Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised.

4. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

[ F. E. ] Supervision requirements for applicants in exempt ~~settings practices~~. Individuals may obtain the required supervision and experience without registration of supervision provided such experience:

1. Is obtained in an exempt setting *practice*.

2. Meets all other requirements of the board for supervised experience as set forth in these regulations.

[ ~~§ 2-3. 18 VAC 140-20-60.~~ ] Education and experience requirements for licensed social worker.

A. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work, ~~documented as prescribed in § 2.1-D-2~~. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

B. Experience - master's degree applicants. Master's degree applicants are not required to have professional experience in the field.

C. Experience - bachelor's degree applicants. Bachelor's degree applicants shall have had two years of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board.

1. Full-time experience in casework management and supportive services is defined as a *total minimum* of 3,000 hours of work experience acquired in no less than two years.

2. Part-time equivalent experience in casework management and supportive services is defined as at least 3,000 hours of work experience acquired in no less than four years.

D. Supervision requirement for bachelor's degree applicant in nonexempt *settings practices*.

1. An individual who proposes to obtain supervised post-bachelor's degree experience in Virginia shall, prior to the onset of such experience ~~and annually thereafter for each succeeding year of such experience supervision~~:

a. Be registered on a form provided by the board and completed by the supervisor and supervised individual; and

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b. Pay the annual registration-of-supervision fee as prescribed by the board.

2. The supervisor providing supervision shall be:

a. Be a licensed social worker with a master's degree, or a licensed clinical social worker, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed social worker with a master's degree or a licensed clinical social worker constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to supervision listed above; and

b. Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board. ;

~~3. Supervision and experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.~~

~~4. The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.~~

~~5. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.~~

~~E. The individual acting as supervisor shall:~~

~~1. c. [ Be knowledgeable about Review and approve ] the diagnostic assessment and treatment plan [ of a representative sample ] of cases assigned to the applicant [ and during the course of supervision. The sample should be representative of the variables of gender, age, diagnosis, length of treatment and treatment method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. The supervisor ] shall be available to the applicant on a regularly scheduled basis for supervision. [ ; . The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision; ]~~

~~2. d. Provide supervision only for those [ casework management and support services ] activities for which the [ applicant has had appropriate education. supervisor has determined the applicant is competent to provide clients; ]~~

~~3. e. Provide supervision only for those activities for which the supervisor is qualified. ; and~~

~~4. f. [ Provide to the board, on an annual basis, documentation of the supervisee's social work practice and supervisory hours for which the supervisor was responsible. ] The supervisor shall evaluate the supervisee in the areas of professional ethics and professional competency.~~

3. Supervision and experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

4. The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.

5. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

~~[ E. Failure to comply with the above requirements may result in disciplinary action against the supervisor. ]~~

~~[ F. E. ] Documentation of supervised experience.~~

1. At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.

2. Applicants whose former supervisor is deceased or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation, or partnership in which the applicant was supervised.

3. The affidavit shall specify dates of employment, job responsibilities, the supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

~~[ G. F. ] Supervision requirements for applicant in exempt setting practice. Individuals may obtain the required supervised experience without registration of supervision provided such experience:~~

~~1. Is obtained in an exempt setting practice.~~

~~2. Meets all other requirements of the board for supervised experience as set forth in these regulations.~~

## PART III. EXAMINATIONS.

~~[ § 3.1. 18 VAC 140-20-70. ] General examination requirements.~~

A. The board may waive the written examination if the applicant has been certified or licensed in another jurisdiction by standards and procedures equivalent to those of the board.

B. An applicant for licensure by the board as a social worker or clinical social worker shall pass a written examination at times prescribed by the board.

~~[ C. The written examination may be taken upon completion of academic training pursuant to requirements of § 2.1 D. ]~~

~~G. Examination schedules. [ D. C. ] A written examination shall be administered at least twice each year. The board may schedule such additional examinations as it deems necessary.~~

1. The executive director of the board shall notify all candidates in writing of the time and place of the examinations for which they have been approved to sit, and of the fees for these examinations.

2. The candidate shall submit the applicable fees following the instructions under [ ~~§ 1-3 1-2-B~~ 18 VAC 140-20-30 B ].

[ ~~§ 3-2~~ 18 VAC 140-20-80. ] Written examination.

A. The written examination comprises an examination consisting of standardized multiple-choice questions. These questions may cover all or some of the following areas: human growth and development, social work practice with individuals, families, couples and groups, supervision, social policy, administration, social work research, community organization and planning, and ethical principles of social work practice in addition to other areas deemed relevant to the board.

B. The board will establish passing scores on the written examination.

## PART IV.

### ADDITIONAL DOCUMENTATION OF COMPETENCE.

[ ~~§ 4-1~~ 18 VAC 140-20-90. ] Candidates who took and failed an oral examination.

Candidates who have previously taken and failed an oral examination administered by the Board of Social Work shall reapply and submit the appropriate form from their supervisor stating that the candidate meets the minimum competency levels in the six skill areas as follows:

1. Skill in the application of an identified theory base.
2. Skill in the application of a differential diagnosis.
3. Skill in establishing and monitoring a treatment plan.
4. Skill in the development and appropriate use of the professional relationship.
5. Skill in assessing the client for risk of eminent danger and taking appropriate and necessary action to protect the safety of the client, the public, and the social worker when necessary.
6. Skill in implementing a professional and ethical relationship with clients.

## PART V.

### LICENSURE RENEWAL; REINSTATEMENT.

[ ~~§ 5-1~~ 18 VAC 140-20-100. ] Biennial renewal of licensure.

A. All licensees shall renew their licenses on or before June 30 of each odd-numbered year and pay the renewal fee prescribed by the board.

B. Failure to receive a renewal notice from the board shall not relieve the licensee from the renewal requirement.

[ ~~§ 5-2~~ 18 VAC 140-20-110. ] Late Renewal of expired license.

A. A social worker or clinical social worker whose license has expired may renew that license within four years after its expiration date by:

1. Providing evidence of having met all applicable requirements.
2. Paying: ~~a. the penalty for late renewal fee prescribed by the board; and b. The renewal fee prescribed by the board for each renewal period during which the license was expired. and the biennial license fee as prescribed in [ ~~§ 1-2~~ 18 VAC 140-20-30 ].~~

[ ~~B. A social worker or clinical social worker who fails to renew the license for four years or more and who wishes to resume practice shall reapply on forms provided by the board, submit evidence satisfactory to the board that he is prepared to resume practice in a competent manner, and pay fees prescribed in 18 VAC 40-20-30. ]~~

[ ~~§ 5-3. Reinstatement. 18 VAC 140-20-120. Repealed.~~

~~B. A social worker or clinical social worker who fails to renew the license for four years or more and who wishes to resume practice shall reapply ] and be reexamined for licensure. [ on forms provided by the board, submit evidence satisfactory to the board that he is prepared to resume practice in a competent manner, and pay the fees prescribed in ~~§ 1-2 A~~ ]~~

[ ~~§ 5-4~~ 18 VAC 140-20-130. ] Renewal of registration for associate social workers and registered social workers.

The registration of every associate social worker and registered social worker with the former Virginia Board of Registration of Social Workers under former § 54-775.4 of the Code of Virginia shall expire on June 30 of each odd-numbered year.

1. Each registrant shall return the completed application before the expiration date, accompanied by the payment of the renewal fee prescribed by the board.
2. Failure to receive the renewal notice shall not relieve the registrant from the renewal requirement.

## PART VI. COMMITTEES.

[ ~~§ 6-1~~ 18 VAC 140-20-140. ] Examining and advisory committees.

The board may establish advisory and examining committees to assist it in carrying out statutory responsibilities.

1. The committees may assist in evaluating the professional qualifications of applicants and candidates for licensure and renewal of licenses and in other matters the board deems necessary.
2. The committees may assist in the evaluation of the mental or emotional competency, or both, of any licensee or applicant for licensure when such competence is an issue before the board.

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## PART VII. STANDARDS OF PRACTICE.

[ § 7-1. 18 VAC 140-20-150. ] Professional conduct.

Persons whose activities are regulated by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Be able to justify all service rendered to clients as necessary for diagnostic or therapeutic purposes.
3. Practice only within the competency areas for which they are qualified by ~~training~~ education or experience, or both.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Ensure that clients are aware of fees and billing arrangements before rendering services.
7. Keep confidential their counseling relationships with clients *and disclose client records to others only with written consent of the client*, with the following exceptions: (i) when the client is a danger to self or others; and (ii) ~~when the social worker is under court order to disclose information or (ii) as required by law.~~
- ~~8. Disclose therapy records to others only with the written consent of the client.~~
- ~~9. 8.~~ When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.
- ~~10. 9.~~ Not engage in dual relationships with clients, *former clients, supervisees, and supervisors* that might compromise the client's, *former client's, or supervisee's* well-being or , impair the social worker's or supervisor's objectivity and professional judgment ~~(to include or increase the risk of exploitation. This includes, but is not limited to, such activities as counseling close friends, sexual partners, employees or relatives, and engaging in sexual intimacies with a client): business relationships with clients. Engaging in sexual intimacies with current clients or supervisees is prohibited.~~
- ~~11. 10.~~ Maintain clinical records on each client. The record shall include identifying information to substantiate diagnosis and treatment plan, client progress, and termination. The clinical record shall be preserved for at least five years post termination.
11. Ensure that clients have provided informed consent to treatment.

[ § 7-2. 18 VAC 140-20-160. ] Grounds for denial, revocation, suspension, or denial of renewal of license.

Action by the board to deny, revoke, suspend or decline to renew a license shall be in accordance with the following:

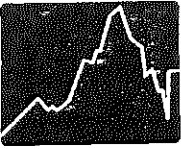
1. Conviction of a felony or of a misdemeanor involving moral turpitude;
2. Procurement of license by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of continuing education in one or more of the following categories as a demonstration of effort to maintain minimum competence to engage in practice:
  - a. Academic social work courses taken for credit or audited.
  - b. Continuing education offered by accredited social work education programs, other accredited educational programs, and other providers, including professional associations, agencies and private entrepreneurs:
    - (1) Seminars, institutes, workshops, or mini-courses oriented to the enhancement of social work practice, values, skills and knowledge; and
    - (2) Cross-disciplinary offering from medicine, law, and the behavioral sciences if they are clearly related to the enhancement of social work practice, values, skills and knowledge.
  - c. Planned self-directed study in collaboration with other professionals;
    - (1) Independent study in a social work curriculum area or a closely related field. Examples include a planned reading program, individual supervision or consultation; and
    - (2) The content and plan of instruction developed by the licensee.
  - d. Publication of books, papers, or presentations given for the first time at a professional meeting;
  - e. Other professional activities, including:
    - (1) Preparation for the first time of an academic social work course, in-service training workshop or seminar, or other professional seminar; and
    - (2) Research not resulting in publication.
  - f. Social work-related academic courses such as mental health, health and social work research, psychology, human growth and development, and child and family development.
4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;
5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of [ § 7-1 18 VAC 140-20-150], standards of practice;

- 6. Performing functions outside the board-licensed area of competency;
- 7. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of these regulations.

[ ~~§-7.3~~ 18 VAC 140-20-170. ] Reinstatement following disciplinary action.

Any person whose license has been suspended, revoked, or denied renewal by the board under the provisions of [ ~~§-7.2~~ 18 VAC 140-20-160 ] may *shall*, in order to be eligible for reinstatement, (i) submit a new application to the board for a license, (ii) pay the appropriate application ~~reinstatement~~ fee, and (iii) submit any other credentials as prescribed by the board. ~~After a hearing, the board may, at its discretion, may, after a hearing, grant the reinstatement.~~

~~The applicant for reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.~~



**COMMONWEALTH OF VIRGINIA**

**BOARD OF SOCIAL WORK**

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

**REGISTRATION OF SUPERVISION  
POST-GRADUATE DEGREE SUPERVISED EXPERIENCE**

**FEES:** \$25.00 Initial Registration (one supervisor)  
\$25.00 Each Additional Registration  
Make all checks payable to THE TREASURER OF VIRGINIA - Registration fees are NON-REFUNDABLE

THIS FORM IS TO BE COMPLETED BY THE TRAINEE AND THE SUPERVISOR

TO BE COMPLETED BY TRAINEE (Please type or print):

CHECK ONE: <input type="checkbox"/> Initial Registration			<input type="checkbox"/> Add Supervisor	<input type="checkbox"/> Change Supervisor
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 Telephone Number	
Business Name and Address			Business Telephone Number	

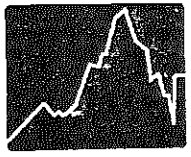
**EDUCATION:** List in chronological order the name and location of each graduate school or other institution where graduate course work has been completed. GRADUATE TRANSCRIPTS MUST BE SUBMITTED DIRECTLY TO THE BOARD OFFICE FROM THE GRADUATE INSTITUTION(S) PRIOR TO APPROVAL OF SUPERVISION.

Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			



**FIELD INSTRUCTION:** List in chronological order the field instruction you have received.

Agency or Organization	Dates (Month/Year)		Hours Per Week	Duties
	From	To		



**COMMONWEALTH OF VIRGINIA**

**BOARD OF SOCIAL WORK**

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

**VERIFICATION OF CLINICAL SUPERVISION**

**TO BE COMPLETED BY SUPERVISOR (Please type or print):**

Name (Last, First, M.I., Suffix, Maiden Name) \_\_\_\_\_

Business Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Professional License*	License Number	Initial Licensure Date	Licensure Expiration Date

State: \_\_\_\_\_ \*(If supervisor is not licensed in Virginia, submit copy of valid license.)

Do you have five years post-MSW clinical experience?      Yes [  ]      No [  ]

**SUPERVISION TO BE PROVIDED** - Provide detailed information of supervision to be given. For example: assess counseling skills; review treatment plans; monitor assessments, case records and statistics; supervise family interventions and family groups; monitor discharge planning; case follow-up; crisis intervention and referrals; provide case management and maintenance of case records.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE SUPERVISION BEGINS: Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

Indicate whether setting is exempt \_\_\_\_\_ OR non-exempt \_\_\_\_\_

**DECLARATION OF SUPERVISOR:**

I am the trainee's direct supervisor \_\_\_\_\_ OR off-site supervisor \_\_\_\_\_ (check one only please)

As supervisor, I assume responsibility for the clinical activities of the individual while under my supervision.

\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Date

This form is to be completed by the supervisor when supervision is completed and applicant seeks verification of supervised clinical experience toward licensure as a clinical social worker.

Applicant's Name: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_

Supervisor's Business Address: \_\_\_\_\_

If supervision has not been previously registered, please fill out the following section.

Type of License: \_\_\_\_\_ License Number: \_\_\_\_\_ State of License \_\_\_\_\_

Dates the applicant was under your supervision:

From: \_\_\_\_\_ To: \_\_\_\_\_  
(month/day/year) (month/day/year)

a. Number of hours per week of individual, face-to-face clinical supervision: \_\_\_\_\_

b. Total number of hours of individual, face-to-face clinical supervision: \_\_\_\_\_

**SERVICES RENDERED BY THE APPLICANT UNDER YOUR SUPERVISION:** Include population of clients, assessments used, and counseling techniques used. For example: assessments and intake interviews; developed treatment plans; provided individual, group and family counseling; crisis intervention; conduct discharge; referral and follow-up services; maintenance of case records.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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**SUPERVISION PROVIDED TO APPLICANT:** Provide detailed information. For example: assess counseling skills; review treatment plans; monitor assessments; case records; supervise family interventions and family groups; monitor discharge planning, crisis intervention and referrals; maintenance of case records; discuss ethical relationships with clients and ethical issues.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**EVALUATION OF APPLICANT:** To complete the supervision requirements, applicants must demonstrate minimum competency in the areas listed below. Please check your evaluation of the applicant in each area listed below.

1. Application of an Identified Theory Base

Applicant was able to demonstrate skill in the application of an identified theory base, and was able to comprehend the concepts of major feature of the approach. Yes [ ] No [ ]

2. Application of a Different Diagnosis

Applicant was able to demonstrate skill in the application of a differential diagnosis and was able to apply client symptoms and behaviors in formulating a diagnosis. Yes [ ] No [ ]

3. Establishing and Monitoring a Treatment Plan

Applicant was able to demonstrate skill in establishing and monitoring a treatment plan, and was able to apply the components of the treatment plan to the diagnostic assessment. Yes [ ] No [ ]

4. Development and Appropriate Use of the Professional Relationship

Applicant was able to demonstrate skill in the development and appropriate use of the professional relationship, and was able to apply the necessary skills to develop a professional relationship in the phases of the treatment process. Yes [ ] No [ ]

5. Assessing the Client for Risk of Imminent Danger and Taking Appropriate and Necessary Action to Protect the Safety of the Client, Others, the Public, and the Social Worker When Necessary

Applicant was able to demonstrate skill in assessing the client for risk of imminent danger and taking appropriate and necessary action to protect the safety of the client, others, the public, and the social worker when necessary. Applicant was able to apply the criteria for actual or potential risk of a client or professional practice situation and provide the appropriate steps to be taken. Yes [ ] No [ ]

6. Implementing a Professional and Ethical Relationship with Clients

Applicant was able to demonstrate skill in implementing a professional and ethical relationship with clients, and was able to apply the appropriate professional and ethical responsibilities in relation to a client situation. Yes [ ] No [ ]

7. Case Management and Record Keeping

Applicant maintains appropriate clinical records and client data, and understands the circumstances under which various records can be released. Yes [ ] No [ ]

8. Professional Identity and Ethics

Applicant uses supervision and shows continuing development of clinical skills. Yes [ ] No [ ]

Applicant demonstrates knowledge of strengths and limitations of a clinical social worker and the distinctive contributions of other mental health and health professionals. Yes [ ] No [ ]

Applicant makes appropriate referrals to other health providers and resources in the community. Yes [ ] No [ ]

Applicant knows and understands the laws related to life-threatening situations, child abuse, elder abuse, physical abuse, etc. Yes [ ] No [ ]

Applicant understands and has discussed the ethics of confidentiality and other legal and ethical issues. Yes [ ] No [ ]

In your opinion has the applicant demonstrated competency in clinical social work practice sufficient for licensing and the independent practice as a clinical social worker?

\_\_\_\_\_

\_\_\_\_\_

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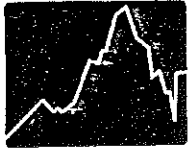
\_\_\_\_\_

**DECLARATION OF SUPERVISOR:**

I declare that, to the best of my knowledge, the foregoing is true and correct.

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date



COMMONWEALTH OF VIRGINIA

BOARD OF SOCIAL WORK

Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662-9914

CLINICAL SOCIAL WORKER  
 LICENSURE APPLICATION

I hereby make application for licensure to practice as a Clinical Social Worker in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the amount of \$65.00 made payable to the Treasurer of Virginia. The application fee is non-refundable.

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 no less than 90 days prior to the date of the written examination.				
I. 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 Telephone Number	
Business Name and Address (if different from above)			Business Telephone Number	
LICENSURE/CERTIFICATION - List all the states in which you now hold or have ever held an occupational license or certificate to practice as a social worker in order of attainment.				
STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE	
COMPETENCIES - 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. (Use additional paper, if necessary.)				
Client Population		Skills to be Used		

ANSWER THE FOLLOWING QUESTIONS:

	YES	NO
1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where: _____	[ ]	[ ]
2. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary): _____	[ ]	[ ]
3. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) If yes, explain in detail: _____	[ ]	[ ]
4. In the last twelve (12) months, have you been unable to practice social work by reason of excessive use of alcohol, drugs, chemicals or any other type of material or as a result of any mental or physical condition? If yes, please provide a letter of explanation.	[ ]	[ ]
5. 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.	[ ]	[ ]

II. EDUCATION:

1. List in chronological order the name and location of each school or other institution, beyond high school, that you have attended.

Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

2. List in chronological order the field instruction you have had.

Institution	Dates (Mo./Yr.)		Hours per Week	Duties (Types of learning experiences as related to specialty area of practice)
	From	To		

**III. SUPERVISED CLINICAL SOCIAL WORK EXPERIENCE**  
 Indicate below person(s) designated as your supervisor(s) for clinical social work supervised experience, to whom verification form(s) will be sent.

Supervisor's Name		
Institution or Business Name and Address		
Supervisor's Professional License	License Number	State Where Licensed
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision
Description of Supervision		
Description of Applicant's Professional Work During the Supervision		

Supervisor's Name		
Institution or Business Name and Address		
Supervisor's Professional License	License Number	State Where Licensed
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision
Description of Supervision		
Description of Applicant's Professional Work During the Supervision		

Supervisor's Name		
Institution or Business Name and Address		
Supervisor's Professional License	License Number	State Where Licensed
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision
Description of Supervision		
Description of Applicant's Professional Work During the Supervision		

**IV. PROFESSIONAL EMPLOYMENT EXPERIENCE**  
 List in chronological order the entire professional employment experience you have had after receiving your master's degree in Clinical Social Work. List present position first and date back to your master's degree.

Dates of Employment		Employer	Address	Hours Per Week	Supervisor	Duties
From	To					

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
(To be completed before a notary public).

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Name \_\_\_\_\_ being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a clinical social worker in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

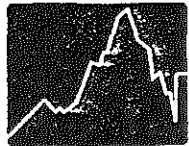
\_\_\_\_\_  
Signature of Applicant

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

My commission expires on \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

SEAL



COMMONWEALTH OF VIRGINIA

BOARD OF SOCIAL WORK

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

LICENSURE VERIFICATION OF APPLICANT

TO BE COMPLETED BY VIRGINIA APPLICANT

Name: \_\_\_\_\_ License Number: \_\_\_\_\_  
Address: \_\_\_\_\_

TO BE COMPLETED BY STATE BOARD OF SOCIAL WORK

Please complete this form and return it directly to the Virginia Board of Social Work at the above address. Thank you.

Title of License: \_\_\_\_\_ License Number: \_\_\_\_\_

Issue Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

By Examination \_\_\_\_\_ By Endorsement \_\_\_\_\_ By Waiver \_\_\_\_\_ By Reciprocity \_\_\_\_\_

Type of Examination: AASSWB (ASI) \_\_\_\_\_ PES \_\_\_\_\_ Other \_\_\_\_\_

Date of Examination: \_\_\_\_\_

Cut-Off Score \_\_\_\_\_ Applicant's Score \_\_\_\_\_

Has the license ever been surrendered, suspended, or revoked? [ ] Yes [ ] No

If yes, please give full particulars on a separate sheet.

Certification by the authorized Licensure Official of the State Board of \_\_\_\_\_

State of \_\_\_\_\_ I certify that the information is correct.

\_\_\_\_\_  
Authorized Licensure Official

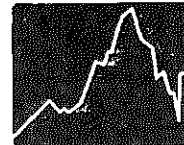
\_\_\_\_\_  
Title

\_\_\_\_\_  
Jurisdiction/State

\_\_\_\_\_  
Date

SEAL

rev. 6/95



COMMONWEALTH OF VIRGINIA

BOARD OF SOCIAL WORK

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

VERIFICATION OF CASEWORK MANAGEMENT AND SUPPORTIVE SERVICES

This form is to be completed by the supervisor when supervision is completed and applicant seeks verification of supervised casework management and supportive services experience toward licensure as a social worker.

Applicant's Name: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_

Supervisor's Business Address: \_\_\_\_\_

Type of License: \_\_\_\_\_ License Number: \_\_\_\_\_ State of License \_\_\_\_\_

Dates the applicant was employed: \_\_\_\_\_ Dates the applicant was under your supervision: \_\_\_\_\_

From: \_\_\_\_\_ To: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_  
(month/day/year) (month/day/year) (month/day/year) (month/day/year)

Total number of hours applicant worked per week: \_\_\_\_\_

a. Number of hours per week of individual, face-to-face clinical supervision: \_\_\_\_\_

b. Total number of hours of individual, face-to-face clinical supervision: \_\_\_\_\_

DUTIES PERFORMED BY THE APPLICANT UNDER YOUR SUPERVISION:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

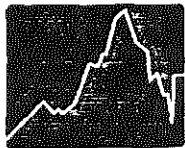
SUPERVISION PROVIDED TO APPLICANT:

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing is true and correct.

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

rev. 6/95



**COMMONWEALTH OF VIRGINIA**

**BOARD OF SOCIAL WORK**

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

**SOCIAL WORKER  
LICENSURE APPLICATION**

I hereby make application for licensure to practice as a Social Worker in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the amount of \$65.00 made payable to the Treasurer of Virginia. The application fee is non-refundable.

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 no less than 90 days prior to the date of the written examination.				
I. 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 Telephone Number	
Business Name and Address (if different from above)			Business Telephone Number	
LICENSURE/CERTIFICATION - List all the states in which you now hold or have ever held an occupational license or certificate to practice as a social worker in order of attainment.				
STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE	
STANDARDS OF PRACTICE - Your practice is limited 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		Skills to be Used		

**ANSWER THE FOLLOWING QUESTIONS:**

	YES	NO
1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where: _____	[ ]	[ ]
2. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary): _____	[ ]	[ ]
3. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) If yes, explain in detail: _____	[ ]	[ ]
4. In the last twelve (12) months, have you been unable to practice social work by reason of excessive use of alcohol, drugs, chemicals or any other type of material or as a result of any mental or physical condition? If yes, please provide a letter of explanation.	[ ]	[ ]
5. 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.	[ ]	[ ]

**II. EDUCATION:**

1. State in chronological order the name and location of each school or other institution, beyond high school, that you have attended.

Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

2. List in chronological order the field instruction you have had.

Institution	Dates (Mo./Yr.)		Hours per Week	Duties (Types of learning experiences as related to specialty area of practice)
	From	To		

**IV. PROFESSIONAL EMPLOYMENT EXPERIENCE**  
 List in chronological order the entire professional employment experience you have had after receiving your undergraduate degree (if you are a B.S.W. applicant) or your graduate degree (if you are an M.S.W. applicant).

Dates of Employment		Employer	Address	Hours Per Week	Supervisor	Duties
From	To					

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
(To be completed before a notary public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Name \_\_\_\_\_, being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a social worker in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

\_\_\_\_\_  
Signature of Applicant

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires on \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

SEAL

**III. SUPERVISED SOCIAL WORK EXPERIENCE** (To be completed by Bachelor of Social Work applicants only)  
 Indicate below person(s) designated as your supervisor(s) for social work supervised experience, to whom verification form(s) will be sent.

Supervisor's Name \_\_\_\_\_

Institution or Business Name and Address \_\_\_\_\_

Supervisor's Professional License	License Number	State Where Licensed
-----------------------------------	----------------	----------------------

Dates Applicant was Supervised From: _____ To: _____	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision
--	-------------------------------------	--------------------------------------

Description of Supervision \_\_\_\_\_

Description of Applicant's Professional Work During the Supervision \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Institution or Business Name and Address \_\_\_\_\_

Supervisor's Professional License	License Number	State Where Licensed
-----------------------------------	----------------	----------------------

Dates Applicant was Supervised From: _____ To: _____	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision
--	-------------------------------------	--------------------------------------

Description of Supervision \_\_\_\_\_

Description of Applicant's Professional Work During the Supervision \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Institution or Business Name and Address \_\_\_\_\_

Supervisor's Professional License	License Number	State Where Licensed
-----------------------------------	----------------	----------------------

Dates Applicant was Supervised From: _____ To: _____	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision
--	-------------------------------------	--------------------------------------

Description of Supervision \_\_\_\_\_

Description of Applicant's Professional Work During the Supervision \_\_\_\_\_

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

### RENEWAL NOTICE AND APPLICATION

card of  
telephone  
TYPE OF RENEWAL

CURRENT EXPIRATION	RENEWAL PERIOD FROM	TO
CURRENT AMOUNT DUE \$	PAY ONLY IF AFTER	

NUMBER: \_\_\_\_\_

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

INSTRUCTIONS

1. Complete item 1 below if you do not wish to renew.
2. Make any **ADDITIONAL** changes on this application when renewing.
3. Make any **ADDITIONAL** changes on this application. **ADD** include a copy of your license or certificate if you are renewing a license or certificate.
4. Note any amount of current amount on all enclosures.
5. Return this application in the enclosed envelope.

Check here if you do not wish to renew, and sign below.

Signature \_\_\_\_\_

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

### RENEWAL NOTICE AND APPLICATION

card of  
telephone  
TYPE OF RENEWAL

CURRENT EXPIRATION	RENEWAL PERIOD FROM	TO
CURRENT AMOUNT DUE \$	PAY ONLY IF AFTER	

NUMBER: \_\_\_\_\_

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

INSTRUCTIONS

1. Complete item 1 below if you do not wish to renew.
2. Make any **ADDITIONAL** changes on this application when renewing.
3. Make any **ADDITIONAL** changes on this application. **ADD** include a copy of your license or certificate if you are renewing a license or certificate.
4. Note any amount of current amount on all enclosures.
5. Return this application in the enclosed envelope.

Check here if you do not wish to renew, and sign below.

Signature \_\_\_\_\_

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

### RENEWAL NOTICE AND APPLICATION

card of  
telephone  
TYPE OF RENEWAL

CURRENT EXPIRATION	RENEWAL PERIOD FROM	TO
CURRENT AMOUNT DUE \$	PAY ONLY IF AFTER	

NUMBER: \_\_\_\_\_

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

INSTRUCTIONS

1. Complete item 1 below if you do not wish to renew.
2. Make any **ADDITIONAL** changes on this application when renewing.
3. Make any **ADDITIONAL** changes on this application. **ADD** include a copy of your license or certificate if you are renewing a license or certificate.
4. Note any amount of current amount on all enclosures.
5. Return this application in the enclosed envelope.

Check here if you do not wish to renew, and sign below.

Signature \_\_\_\_\_



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# EMERGENCY REGULATIONS

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## BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

Title of Regulation: VR 137-01-03. Lead-based Paint Activities Regulations.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Effective Dates: October 1, 1995, through September 30, 1996.

Preamble:

*The Board for Asbestos Licensing and Lead Certification (Board) intends to promulgate emergency regulations as provided for in § 9-6.14:4.1 (C) 5 of the Code of Virginia regarding lead-based paint activities.*

*Pursuant to the Administrative Process Act, the Board is required to promulgate these regulations in order to initiate the regulation of lead-based paint activities in Virginia in response to an Act of the 1995 Session of the Virginia General Assembly. The Board's statutory mandate is found in § 54.1-501 of the Code of Virginia.*

*These emergency regulations will remain in effect for no more than one year. The anticipated effective date of the emergency regulations is September 1, 1995. Regulations which have undergone the normal Administrative Process Act review and comment will become effective on or about September 1, 1996.*

Approved:

/s/ Jack E. Kotvas  
Acting Director  
Department of Professional and Occupational Regulation  
Date: August 3, 1995

/s/ Robert T. Skunda  
Secretary of Commerce and Trade  
Date: September 28, 1995

/s/ George Allen  
Governor  
Date: September 28, 1995

Filed With:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: September 29, 1995

Statement that the Emergency Regulation is Necessary and the Reason for the Emergency Regulation

The Acts 1995, cc. 543 and 585 (which are identical), signed by Governor Allen on March 24, 1995, require that the first set of regulations of the Virginia Board for Asbestos Licensing and Lead Certification to establish procedures and requirements pursuant to subdivision 7 of § 54.1-501 of the Code of Virginia be finally adopted no later than October 1, 1995.

October 1, 1995, follows March 24, 1995, by fewer than 280 days.

Subdivision C 4 of § 9-6.14:4.1 of the Code of Virginia provides no exemption for the Virginia Lead-based Paint Activities Regulations.

VR 137-01-03. Lead-based Paint Activities Regulations.

PART I.  
SCOPE.

§ 1.1. Scope.

*These regulations contain procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and standards for performing such activities. These regulations are applicable to all individuals and firms who are engaged in lead-based paint activities as defined in § 2.1 of these regulations, except persons who perform these activities within residences which they own, unless the residence is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being conducted.*

PART II.  
GENERAL.

§ 2.1. Definitions.

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

*"Abatement" means any set of measures designed to eliminate lead-based paint hazards in accordance with standards proposed by the United States Environmental Protection Agency under Title IV of TSCA. Such term includes:*

*A. The removal of lead-based paint and lead-contaminated dust, the containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil.*

*B. All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures. Abatement shall be presumed for projects:*

*1. For which there is a written contract stating that a firm will be conducting activities in or to a dwelling unit that will eliminate lead-based paint hazards.*

*2. Involving the elimination of lead-based paint or lead contaminated soil.*

*3. Involving the elimination of lead-based paint or lead-contaminated soil and conducted by firms or individuals who, through their company name, promotional literature, or otherwise advertise or hold themselves out to be a certified firm.*

*C. Abatement shall include activities where an inspection has determined that lead-based paint is present and that sanding, scraping or abrading of lead contaminated surfaces is likely to occur.*

D. Abatement does not include renovation and remodeling, or landscaping activities whose primary intent is not to permanently eliminate lead-based paint hazards, but is instead to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction in lead-based paint hazards.

"Accredited training program" means a course of instruction which has been approved by the department to provide training for individuals pertinent to lead-based paint activities.

"Applicant" means any person, as defined by § 54.1-500 of the Code of Virginia, who has applied for but not been granted an interim certification, a certification or an accredited training program by the Department.

"Area" means a portion of a unit such as a room, closet, pantry, hall, or portion of a room (such as the dining area of a kitchen/dining room).

"Available" means reachable by telephone, either directly or through a pager or answering service, at all times when abatement activities are being conducted and able to be present at the work site in no more than 2 hours.

"Board" means the Virginia Board for Asbestos Licensing and Lead Certification.

"Certified contractor" means a firm which has been issued an authorization by the department permitting the firm to enter into contracts to perform abatement activities.

"Certified inspector/risk assessor for target housing and public buildings" means an individual who has been issued a certification by the department to perform inspections and risk assessments for target housing and public buildings.

"Certified inspector technician for target housing and public buildings" means an individual who has been issued a certification by the department to perform inspections in target housing and public buildings.

"Certified lead worker for commercial buildings and superstructures" means an individual who has been issued a certification by the department to perform deleading, lead removal, and demolition activities under the supervision of a certified supervisor on commercial buildings and superstructures.

"Certified lead worker for target housing and public buildings" means an individual who has been issued a certification by the department to perform deleading, lead removal, and demolition activities under the supervision of a certified supervisor on target housing and public buildings.

"Certified planner/project designer for target housing and public buildings" means an individual who has been issued a certification by the department to plan and design abatement projects in target housing and public buildings.

"Certified supervisor for commercial buildings and superstructures" means an individual who has been issued a certification by the department to supervise lead-based paint abatement; to identify the presence of lead-based paint; and to design abatement projects on commercial and superstructures.

"Certified supervisor for target housing and public buildings" means an individual who has been issued a certification by the department to supervise lead-based paint abatement projects on target housing and public buildings, and to design abatement projects involving fewer than 10 units on target housing and public buildings.

"Commercial building" means any building used primarily for commercial or industrial activity, which is generally not open to the public, or occupied or visited by children, including but not limited to, warehouses, factories, storage facilities, aircraft hangers, garages, and wholesale distribution facilities.

"Common area" means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

"Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling which are distinguished from each other by form, function, and location. These include, but are not limited to interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplace, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim, including sashes, window heads, jambs, sills, and stools, built-in cabinets, columns, beams, bathroom vanities, counter tops and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, facias, rake boards, corner-boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills, casings, sashes and wells, and air conditioners.

"Course test blue print" means written documentation of the proportion of course test questions devoted to each major topic in the course curriculum.

"Deleading" means activities conducted by a person who offers to eliminate lead-based paint or lead-based paint hazards or to plan such activities in commercial buildings, bridges, or other structures or superstructures.

"Demolition" means the act of pulling down or destroying any building or structure.

"Department" means the Department of Professional and Occupational Regulation or any successor agency.

"Deteriorated paint" means paint which is cracking, flaking, chipping, or peeling from a building component.

"Discipline" means one of the specific types or categories of lead-based paint activity enumerated in these regulations for which individuals must become certified by the department. For example, "lead worker in commercial buildings and superstructures" is a discipline.

"Distinct painting history" means the record of application, over time, of paint or other surface coatings to a component of a building structure.

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"Encapsulation" means a process that makes lead-based paint inaccessible, by providing a barrier between the lead-based paint and the environment, with this barrier being formed using a liquid applied coating or an adhesively bonded material, and when the primary means of attachment is by the bonding of the product to the surface either by itself or through the use of an adhesive. This excludes painting unless abrasive surface preparation is preformed.

"EPA" means the United States Environmental Protection Agency.

"Firm" means any company, partnership, corporation, sole proprietorship, association, or other business entity.

"Hands-on assessment" means an evaluation which tests the trainees' ability to perform specified work practices and procedures satisfactorily.

"Hazardous waste" means any waste as defined in 40 CFR 261.3.

"Historical records" means documentation which identifies the material make-up (including brand, color type, lead content) and dates of application of paint and other surface coatings used in target housing, public and commercial buildings, and superstructures.

"HUD" means the United States Department of Housing and Urban Development.

"Individual" means a single human being, not a firm or other group or organization.

"Initial course" or "initial training program" means the course of instruction established by these regulations to prepare an individual for certification in a single discipline.

"Inspection" means a surface-by-surface investigation for the presence of lead-based paint conducted by a certified inspector technician or inspector/risk assessor according to the procedures in these regulations.

"Interim certification" means an authorization issued by the department to an individual who has applied to the department and been found qualified but has not passed the required examination.

"Interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"Lead-containing substance" means any coating, paint, plaster or surface encapsulation material containing more than 0.5 percent lead by weight of dry film or more than one milligram of lead per square centimeter of dry film, or other materials meeting standards that are consistent with applicable federal regulations. (NOTE: OSHA regulations may have a different standard.)

"Lead-based paint activities" means (1) in the case of target housing, risk assessment, inspection, planning, project designing and abatement; and (2) in the case of any public

building constructed before 1978, commercial building, bridge, or other structure or superstructure, identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

"Lead-contaminated soil" means bare soil on residential or child-occupied real property that contains lead at or in excess of, the levels determined to be hazardous.

"Living area" means areas of a target housing unit most often frequented by children under the age of 6, including, but not limited to living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

"OSHA" means the U.S. Department of Labor, Occupational Safety and Health Administration.

"Personal protection equipment (PPE)" means specialized clothing and equipment, including but not limited to, respirators, masks and gloves, designed to protect workers against chemical and physical hazards.

"Principal instructor" means the individual who has the primary responsibility for organizing and delivering a particular course.

"Public building" means any building constructed prior to 1978, except target housing, which is generally open to the public or occupied or visited by children, including but not limited to, schools, daycare centers, museums, airport terminals, hospitals, stores, restaurants, office buildings, convention centers, and government buildings.

"Recognized laboratory" means any environmental laboratory recognized by the EPA as being capable of performing an analysis for lead compounds in paint, soil, and dust.

"Regulant" means any person, as defined by § 54.1-500 of the Code of Virginia, who is issued a certification under these regulations.

"Refresher course" or "refresher training program" means the course of instruction established by these regulations which must be periodically completed to maintain an individual's certification in a single discipline.

"Residential dwelling" means (1) a single-family dwelling, including attached structures such as porches and stoops; or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more individuals.

"Risk assessment" means an on-site investigation conducted by a certified inspector/risk assessor according to the procedures in these regulations to determine the existence, nature, severity and location of lead-based paint hazards, and the provision to the property owner/occupant of a report explaining the results of the investigation and providing options for reducing lead-based paint hazards with a rationale for those options.

"Room" means an enclosed or semi-enclosed living space within a unit or dwelling unit.

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"Student T-test" means a statistical analysis used to determine if the difference between pre- and post-abatement soil lead levels are significantly different from each other.

"Superstructure" means a large steel or other industrial structure, including but not limited to, bridges or water towers which may contain lead-based paint.

"Target housing" means any housing constructed prior to 1978 except for housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

"Training curriculum" means an established set of course topics that provide specialized knowledge and skills that must be taught in an accredited training program for a particular discipline.

"Training hour" means the number of hours spent in training activities in an accredited training program, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.

"Training manager" means the individual responsible for administering a training program and monitoring the performance of the principal instructors, work practice instructors, and guest instructors.

"Train-the-trainer" course means a 40-hour (or longer) course of study which provides instruction in the planning and teaching of adult education courses.

"TSCA" means the federal Toxic Substances Control Act.

"Unit" means a room or connected group of rooms used or intended to be used by a single tenant or owner.

"Visual inspection for clearance testing" means the visual examination of the abatement site following an abatement action for evidence that the abatement has been successfully completed, as indicated by the absence of visible residue, dust and debris.

"Visual inspection for risk assessment" means the visual examination of a unit to locate the existence of deteriorating paint.

"Window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed.

"Window stool" means the flat, horizontal molding fitted over the window sill, on the window interior, between jambs, which comes in contact with the bottom of the rail of the lower operating sash and the window sill.

"Window well" means the portion of the horizontal window sill that receives the window sash when the window is closed, often located between the storm window and the interior window sash.

"Work practice instructor" means the individual(s) who is responsible for teaching particular skills in a specific course.

## § 2.2. Certification required.

A. It shall be unlawful for any person, as defined by § 54.1-500 of the Code of Virginia, to engage or offer to engage in any lead-based paint activities as defined in § 2.1 of these regulations, without first possessing a valid certification issued by the department.

B. All certifications must be specific for the discipline being performed.

C. The department shall issue a certification as a lead abatement firm, supervisor, worker, inspector technician, inspector/risk assessor or planner/project designer to any person who applies and meets the qualifications specified in these regulations.

## § 2.3. Accreditation required.

A. It shall be unlawful for any person, as defined by § 54.1-500 of the Code of Virginia, to provide training or offer to provide training for any discipline of lead-based paint activity without first possessing an interim approval or an approval from the department as an accredited training program.

B. Accredited training programs shall offer and provide only training for the disciplines for which they are approved.

C. The department shall approve an accredited training program for any firm which applies and meets the qualifications specified in these regulations.

## PART III.

### APPLICATION AND RENEWAL REQUIREMENTS.

#### § 3.1. General.

A. Individuals and firms desiring to be issued a certification shall apply on forms supplied by the department. All requests for applications should be directed to:

Assistant Director  
Virginia Board for Asbestos Licensing and Lead Certification  
Virginia Department of Professional & Occupational Regulation  
3600 West Broad Street  
Richmond, Virginia 23230-4917

B. Individual applicants shall be at least eighteen (18) years of age.

C. The application shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; fees shall not be refunded.

D. The applicant shall disclose the following information about himself, in the case of an individual, or about the firm and every member of the responsible management of the firm, in the case of a firm:

1. A conviction in any jurisdiction of any felony.
2. A conviction in any jurisdiction of any misdemeanor involving lying, cheating and stealing, or of any misdemeanor for activities carried out while engaged in the practice of environmental remediation.

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3. Any disciplinary action taken in another jurisdiction in connection with the applicant's environmental remediation practice, including but not limited to, monetary penalties, fines, suspension, revocation or surrender of a license in connection with a disciplinary action.

4. Any current or previously held certifications issued by Virginia or any other jurisdiction.

The board may deny any application for certification or accredited training program when any of the parties listed above has been convicted of any offense listed above or been the subject of any disciplinary action listed above. Any plea of *nolo contendere* shall be considered a conviction for the purposes of this subsection. The record of a conviction or a disciplinary action authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted or disciplined shall be admissible as *prima facie* evidence of such conviction or discipline.

E. Incomplete applications shall be returned without action by the department. Application fees pay the department's costs to evaluate applications and shall not be refunded.

F. The applicant shall disclose his physical address. A post office box shall not be acceptable.

G. The receipt of an application and the deposit of fees in no way indicates approval by the department.

§ 3.2. Entry requirements for lead worker and planner/project designer.

Each applicant for lead worker and planner/project designer in target housing and public buildings and lead worker in commercial buildings and superstructures shall submit a completed application and a certification issued by a department-approved accredited training program documenting successful completion of all training as required in Part IV of these regulations.

§ 3.3. Entry requirements for lead supervisor, inspector technician and inspector/risk assessor.

Each applicant for lead supervisor, inspector technician and inspector/risk assessor in target housing and public buildings and lead supervisor in commercial buildings and superstructures shall submit a completed application and documentation verifying experience and education as required in Part IV of these regulations in the following manner:

1. Education requirements shall be verified by the applicant's educational institution through an official transcript.

2. Experience requirements shall be verified as meeting the work experience requirements of these regulations through a letter describing the tasks performed signed by the employer or employers where the experience was obtained; a letter of reference from individuals with competent knowledge of the applicant's experience; copies of inspection reports prepared by the applicant; or a copy of a certification issued by another jurisdiction whose experience requirements are substantially equivalent to those required by these regulations.

3. Lead-specific training courses shall be verified through a certificate issued by a department-accredited training program.

4. Other forms of verification may be considered when it is impossible to obtain the above required documents. In no case shall a diploma be accepted for verification of education.

§ 3.4. Entry requirements for certified contractors.

Each applicant for certified contractor shall have all occupational and professional licenses as required by Virginia statute and local ordinance to transact the business of a lead abatement contractor and shall meet the requirements established by Part V of these regulations.

§ 3.5. Entry requirements for accredited training programs.

Lead training providers shall have all occupational or professional licenses as required by state statute and local ordinance to transact the business of a training provider and shall meet the requirements of Parts VI, VII and VIII of these regulations.

§ 3.6. Expiration.

A. Interim certifications shall expire six months after the date of completion of the department approved initial or refresher accredited training program required by Part IV of these regulations and shall not be renewable.

B. The board may extend the expiration date of interim certifications for up to an additional six months if the required examination is not available.

C. Individual certifications shall expire 12 months from the last day of the month wherein the initial training program or refresher training program required by Part IV of these regulations was completed, regardless of the date on which the application for individual certification was received or the date the certification was issued by the department. In no case shall an individual certification expire later than the last day of the month which is 36 months after the date the initial training program or most recent refresher training program was completed.

D. Contractor certifications shall expire 12 months from the last day of the month wherein issued.

E. Accredited training program approval shall expire 24 months from the last day of the month wherein granted interim approval or approval by the department.

§ 3.7. Refresher training and individual certification renewal.

A. Regulants desiring to maintain an individual certification shall satisfactorily complete the refresher training program established by these regulations and assure that the department receives documentation of satisfactory completion no later than 36 months after the date of completion of the initial training program or refresher training program established by Part IV of these regulations and not less often than once each 36 months thereafter.

B. The department shall renew an individual certification for an additional 12 months upon receipt of a renewal application and fee in compliance with § 3.10 of these

regulations, provided that the regulant has complied with subsection A above. In no case shall an individual certification expire later than the last day of the month which is 36 months after the initial training program or most recent refresher training program was completed.

## § 3.8. Certified contractor renewal.

The department shall renew a contractor certification for an additional 12 months upon receipt of a renewal application and the renewal fee in compliance with § 3.10 of these regulations.

## § 3.9. Accredited training program renewal.

A. Accredited training programs desiring to maintain their approval shall cause the department to receive the statement provided for in § 6.7(A) of these regulations no later than 36 months after the date of initial approval and not less often than once each 36 months thereafter.

B. The department shall renew an accredited training program for an additional 24 months or until the date on which the statement provided for in § 6.7(A) of these regulations is due, whichever is soonest, upon receipt of a renewal application and fee in compliance with § 3.10 of these regulations.

C. When an accredited training program is renewed for less than 24 months because the statement provided for in § 6.7(A) of these regulations has not been received, the department shall issue an accredited training program authorization valid for the remainder of the 24-month renewal period upon receipt of the statement provided for in § 6.7(A) of these regulations.

## § 3.10. Renewal application.

A. The department shall mail a renewal notice to the regulant at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the regulant of the obligation to renew.

B. Prior to the expiration date shown on the certification, each regulant desiring to renew the certification shall return to the department the renewal notice and the renewal fee. Documentation of refresher training programs for individuals and of the statement required in § 6.7(A) of these regulations for accredited training programs shall be sent to the department under separate cover.

C. Should the regulant fail to receive the renewal notice, a copy of the current certification or accredited training program may be substituted for the renewal notice and mailed with the required fee to the department.

D. Interim certification shall not be renewable.

E. If the renewal fee is not received by the Department within thirty (30) days after the expiration date printed on the certification or accredited training program approval, a late renewal fee shall be required in addition to the renewal fee.

F. Any regulant who fails to renew his certification within six months after the expiration date on the certification shall not be permitted to renew and shall apply as a new applicant.

## § 3.11. Change of address or name.

Each regulant shall notify the Department, in writing, of any change of address or name. This notification shall be sent to the Department within thirty (30) days of such relocation or name change.

## § 3.12. Fees.

A. The fee for an initial or a renewal worker, supervisor, inspector technician, inspector/risk assessor, or planner/project designer certification shall be \$35.

B. The renewal fee for an individual certification not renewed within thirty (30) days after the expiration date on the certification shall be \$70.

C. The fee for an initial or a renewal of a certified contractor certification shall be \$50.

D. The renewal fee for a certified contractor not renewed within 30 days after the expiration date shall be \$100.

E. The application fee for an accredited training program shall be \$400 for each eight (8) hours of course duration required by § 7.6 of these regulations.

F. The application fee for an accredited refresher program shall be \$400.

G. The renewal fee for an accredited training program shall be \$100.

H. Fees for an accredited training program shall not be imposed on any State, local government, or nonprofit training program.

I. The examination fee shall consist of the administration expenses of the department ensuing from the board's examination procedures and contract charges. Examination service contracts shall be established through competitive negotiations in compliance with the Virginia Public Procurement Act. The current examination shall not exceed a cost of \$75 to the candidate.

J. Applicants who submit a dishonored check will be charged a \$25 service fee in addition to the required application fee.

## PART IV. INDIVIDUAL CERTIFICATION REQUIREMENTS.

### § 4.1. Certified lead worker for target housing, superstructures and public and commercial buildings.

A. Applicants for lead worker certification in target housing, steel structures and public and commercial buildings shall provide evidence of:

1. Successful completion of a department approved initial lead worker course; or
2. Successful completion of a lead worker training course between October 1, 1990, and January 1, 1996, that is equivalent to a department-approved lead worker course and successful completion of a department-approved lead worker refresher course.

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B. The following lead worker course shall be deemed equivalent if completed between October 1, 1990, and January 1, 1996:

1. Courses given by an EPA Model Training Institution.
2. Courses that were at least two days in length and covered the required topics outlined in the EPA proposed lead regulations.
3. The mandatory 8-hour OSHA training for lead and 200 hours of lead abatement work experience.
4. Courses given by the Steel Structures and Painting Counsel (SSPC).

§ 4.2. Certified planner/project designer for target housing and public buildings.

A. Applicants for planner/project designer certification in target housing and public buildings shall provide evidence of:

1. Successful completion of a department-approved initial lead planner/project designer course; or
2. Successful completion of a lead planner/project designer training course between October 1, 1990, and January 1, 1996, that is equivalent to a department-approved lead planner/project designer course and successful completion of a department-approved lead planner/project designer refresher course for target housing and public buildings.

B. Equivalency shall be determined on a case-by-case basis.

§ 4.3. Interim certified supervisor for target housing, superstructures and public and commercial buildings.

A. Applicants for interim supervisor certification for target housing, steel structures and public and commercial buildings shall provide evidence of:

1. One year experience as a lead abatement worker or two years experience in a related field or in the building trades; and
2. Successful completion of a department-approved initial lead supervisor course; or
3. Successful completion of a lead supervisor training course between October 1, 1990, and January 1, 1996, that is equivalent to a department-approved lead supervisor course or verification of on-the-job training equivalent, and successful completion of a department-approved lead supervisor refresher course.

B. The following lead supervisor courses shall be deemed equivalent if completed between October 1, 1990, and January 1, 1996:

1. Courses given by an EPA Model Training Institution.
2. Courses that were at least two days in length and covered the required topics outlined in the EPA proposed lead regulations.
3. The mandatory 8-hour OSHA training for lead and 200 hours of lead abatement work experience.

4. Courses given by the Steel Structures and Painting Counsel (SSPC).

§ 4.4. Certified supervisor for target housing, steel structures and public and commercial buildings.

Applicants shall comply with § 4.3 of these regulations and shall pass a department-approved certification examination for supervisor in target housing and public buildings before the expiration of their interim certification.

§ 4.5. Interim certified inspector technician for target housing and public buildings.

A. Applicants for interim inspector technician certification in target housing and public buildings shall provide evidence of:

1. Successful completion of a department-approved initial lead inspector technician course; or
2. Successful completion of a lead inspector technician course between October 1, 1990, and January 1, 1996, that is equivalent to a department-approved inspector technician course, and successful completion of a department-approved lead inspector technician refresher course.

B. The following shall be deemed equivalent if completed between October 1, 1990, and January 1, 1996:

1. Courses given by an EPA Model Training Institution.
2. Lead inspector training courses that were at least three days in length and covered the necessary topics outlined in the EPA proposed lead regulations.

§ 4.6. Certified inspector technician for target housing and public buildings.

Applicants shall comply with § 4.5 of these regulations and shall pass a department-approved certification examination for inspector technician for target housing and public buildings before the expiration of their interim certification.

§ 4.7. Interim certified inspector/risk assessor for target housing and public buildings.

A. Applicants for interim inspector/risk assessor certification in target housing and public buildings shall provide evidence of:

1. Successful completion of a department-approved initial lead inspector/risk assessor course; or
2. Successful completion of a lead inspector/risk assessor training course between October 1, 1990, and January 1, 1996, that is equivalent to a department-approved lead inspector/risk assessor course, and successful completion of a department-approved lead inspector/risk assessor refresher course; and
3. One year experience in a related field (e.g., lead, asbestos, or environmental remediation work), or 25 inspections over at least a three month period as a lead inspector technician, and one of the following:
  - a. A bachelor's degree and one year experience in a related field.



b. A certification as an industrial hygienist, an engineer, a registered architect, or an environmentally related field, such as an environmental scientist.

c. A high school diploma or its equivalent, and two years experience in a related field.

B. The following lead inspector/risk assessor course shall be deemed equivalent if completed between October 1, 1990, and January 1, 1996:

1. Courses given by an EPA Model Training Institution.
2. Lead inspector training courses that were at least three days in length and covered the topics outlined in the EPA proposed lead regulations.

§ 4.8. Certified inspector/risk assessor for target housing and public buildings.

Applicants shall comply with § 4.7 of these regulations and shall pass a department-approved certification examination for inspector technician and a department-approved certification examination for risk assessor in target housing and public buildings before the expiration of their interim certification.

## PART V.

### CERTIFIED CONTRACTOR REQUIREMENTS.

§ 5.1. Requirements for certification.

A. Each applicant for contractor certification shall comply with the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, governing the regulation of contractors.

B. Firms seeking contractor certification shall certify that:

1. Only properly certified individuals will be employed to conduct lead-based paint activities; and
2. The standards for conducting lead-based activities established in these regulations and standards established by the EPA and OSHA shall be followed at all times during the conduct of lead-based paint activities.

## PART VI.

### TRAINING PROGRAM ACCREDITATION.

§ 6.1. General.

A. Each applicant for an accredited training program shall meet the requirements established by these regulations before being granted approval. Applicants requesting approval of a lead training program to prepare participants for certification shall apply on a form provided by the department. The application form shall be complete in accordance with the instructions supplied and shall include the following:

1. The course for which it is applying for accreditation.
2. A statement, signed by the training program manager which certifies that the training program and each instructor meets the minimum requirements established in these regulations.

3. A copy of the student manuals and instructor manuals to be used.

4. A copy of the course agenda, which includes the time allocation for each course topic.

5. A copy of the test and answer sheet.

6. A description of the facilities and equipment available for lecture and hands-on training.

7. A description of the procedures for conducting the assessment of hands-on skills.

8. A copy of the quality control plan as described in these regulations.

9. An example of a certificate that will be issued to students who successfully complete the course.

10. A proposed course date for auditing purposes.

11. The application fee required by § 3.10 of these regulations.

B. After November 1, 1995, the completed application form, with attachments and fee shall be received by the department no later than 45 days before the desired audit date.

C. Receipt of application and deposit of fees by the department in no way indicates approval of a training program.

D. An applicant may seek approval for as many initial and refresher courses as it chooses, but shall submit a separate application and fee for each program.

E. Effective June 1, 1996, training programs shall have accreditation for the corresponding initial training program before approval shall be granted to the refresher training program. Applications for initial and refresher training programs may be filed concurrently.

F. Each training program shall be conducted in compliance with these regulations to qualify for and maintain approval as an accredited training program.

§ 6.2. Department review and audit procedures.

A. Upon receipt of an application, the department shall conduct a preliminary review and shall notify the applicant, in writing, of any deficiencies in the submittal packages. Applicants will have one year from the department's receipt of the application to correct any problems noted in the review.

B. After the application has been found to be complete and in compliance with these regulations, an on-site audit of the training program shall be conducted. The department shall conduct an additional on-site audit, grant approval or deny approval based on the department's evaluation of the level of compliance with these regulations found during the on-site audit.

C. Applicants denied approval shall have one year from the date of receipt of the application by the department to correct any deficiencies and notify the department in writing.



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D. The department may grant interim approval allowing the applicant to act as an accredited training program until an on-site audit can be conducted.

E. An accredited training provider shall have been given interim approval or approval by the department before its training certifications shall be accepted by the department as evidence that an individual has completed an accredited training program.

## § 6.3. Accreditation approval.

Each accredited training program which is granted interim approval or approval shall be sent a form indicating the discipline approved and an expiration date which shall be maintained at the business address listed on the application.

## § 6.4. Changes to an approved course.

Once a training course has been approved, substantial changes in the items listed below must be submitted to the department for review and approval prior to the continuation of the training course:

1. Course curriculum.
2. Course examination.
3. Course materials.
4. Training manager and principal instructor.
5. Certificate of completion.

The department shall communicate its approval or disapproval in the same manner as for initial applications for accreditation approval.

## § 6.5. Change of ownership.

When an accredited training program has a change of ownership, the new owner shall apply anew.

## § 6.6. Access by department representatives.

Training course sponsors shall admit department representatives for the purpose of monitoring, an on-site audit or any other purpose necessary to evaluate compliance with these regulations and other applicable laws and regulations.

## § 6.7. Re-accreditation of training programs.

A. Firms desiring to maintain an approval for an accredited training program shall cause the department to receive a statement signed by the training program manager which certifies the following no later than 36 months after the date of initial approval and not less often than once each 36 months thereafter:

1. The course materials, for each course, meet the requirements of Part VIII of these regulations.
2. The training manager and principal instructors meet the qualifications listed in § 7.2 of these regulations.
3. The training program manager complies at all times with all requirements of these regulations.
4. The quality control program meets the requirements noted in § 7.9 of these regulations.

5. The record keeping requirements of these regulations will be followed.

B. An audit by a department representative may be performed to verify the certified statements and the contents of the application before re-certification is granted.

## PART VII. REQUIREMENTS FOR THE ACCREDITATION OF TRAINING PROGRAMS.

### § 7.1. General.

For a training program to obtain accreditation from the department to teach lead-based paint activities, the program shall demonstrate, through its application material, that it meets the minimum requirements for instructor qualifications, required topic review, length of training, and record keeping for each discipline for which the program is seeking accreditation. Training programs shall offer courses which teach the standards for conducting lead-based paint activities contained in these regulations, and other such standards adopted by the EPA and OSHA.

### § 7.2. Instructor requirements.

1. The training program shall employ a training manager who:

- a. Has at least two years classroom experience in teaching workers/adults; or
- b. Has a bachelor's or graduate level degree in building construction technology, engineering, industrial hygiene, safety, or public health; or
- c. Has four years experience in managing an occupational health and safety training program that specialized in environmental hazards; and
- d. At least one year experience specializing in a relevant construction trade, including but not limited to, lead or asbestos abatement, painting, carpentry or renovation and remodeling, or one year of experience or education in teaching workers/adults.

2. The training program shall employ a qualified principal instructor for each course who:

- a. Demonstrates experience, education or training in teaching workers/adults.
- b. Successfully completed at least 24 hours of any lead-specific training.
- c. Has two years of experience in the construction trade, including, but not limited to, lead or asbestos abatement, painting, carpentry, or renovation and remodeling.

### § 7.3. Designation of instructors.

1. The training program shall employ a training program manager who shall be responsible for ensuring that the training program complies at all times with the requirements of these regulations.

2. The training program shall, for each course offered, designate a principal instructor. Principal instructors are

responsible for the organization of the course and oversight of the teaching of all course material. Additional instructors may be designated as needed to provide instruction specific to the lecture, hands-on activities or work practice components of a course.

#### § 7.4. Instructor documentation.

The following documents shall be recognized by the department as proof that training managers and principal instructors meet the relevant educational, work experience, and training requirements specifically listed in § 7.2 of these regulations:

1. Official academic transcripts as proof of meeting the educational requirements.
2. Resumes, letters of reference, lead certification in another state, or documentation of work experience as proof of meeting the work experience requirements.
3. Certificates from train-the-trainer courses and lead-specific training courses as proof of meeting the training requirements.

#### § 7.5. Training facilities.

The training program shall provide adequate facilities for lecture and hands-on training and assessment. This includes providing training equipment that reflects current work practices, and maintaining or updating the equipment and facilities as needed.

#### § 7.6. Length of training programs.

1. For inspector technician for target housing and public buildings, a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training.
2. For inspector/risk assessor course for target housing and public buildings, a minimum of 40 training hours, which shall include the 24 training hours provided for in subsection 1 of this section for inspector technician for target housing and public buildings. Sixteen training hours of the required 40 training hours shall be devoted to inspector/risk assessor for target housing and public buildings training, with a minimum of eight hours devoted to hands-on training which includes site visits.
3. For planner/project designer for target housing and public buildings shall last a minimum of 40 training hours, with a minimum of 8 hours devoted to hands-on training which includes site visits.
4. For supervisor for target housing, superstructures and public and commercial buildings, a minimum of 40 training hours, with a minimum of 8 hours devoted to hands-on training.
5. For worker for target housing, superstructures and public and commercial buildings, a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training.
6. For refresher courses, a minimum of one day (seven hours) for all disciplines.

In no case shall actual training exceed eight hours during any single 24 hour period, exceed four hours when conducted during evening hours (after 5 p.m. and before 8 a.m.) or exceed 16 hours during any weekend (Friday after 5 p.m. to Monday 8 a.m.).

#### § 7.7. Course examination.

1. For each course, the accredited training program shall conduct a monitored, written course test at the completion of each course and a hands-on skills assessment. The hands-on assessment and the course test will evaluate trainee competency and proficiency. The hands-on assessment and a course test must be successfully completed for an individual to pass any course.
2. The course test is an evaluation of the overall effectiveness of the training which shall test the trainee's knowledge and retention of the topics covered during the course. An oral course test may be administered in lieu of a written course test for lead worker only.
3. Seventy percent shall be considered the passing score on the course test.
4. The hands-on skills assessment is an evaluation of the effectiveness of the hands-on training which shall test the ability of the trainees to demonstrate satisfactory performance of work practices and procedures specified in Part VIII of these regulations, as well as any other skills demonstrated in the course.
5. The training manager is responsible for maintaining the validity and integrity of the course test and hands-on assessment to ensure that it accurately evaluates the trainee's performance of these work practices and procedures.

#### § 7.8. Certificates of completion.

Accredited training programs shall issue unique course completion certificates to each individual who successfully completes the course requirements. The course completion certificate shall include:

1. A unique certificate number.
2. The name, a unique identification number, and address of the individual.
3. The name of the particular course that the individual completed.
4. Dates of course completion/test passage.
5. Expiration date. In the case of supervisors, inspector technicians and risk assessors, interim certification shall expire 6 months from the date of course completion. In the case of workers and planner/project designers, certification shall expire three years from the date of course completion.
6. Name, address, and telephone number of the training program.

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## § 7.9. Quality control plan.

The training manager shall develop and implement a quality control plan. The plan shall be used to maintain or improve the quality of the accredited training program over time. This plan shall contain at least the following elements:

1. Procedures for periodic revision of training materials and course test to reflect innovations in the field.
2. Procedures for the training manager's annual review of instructor competency.

## § 7.10. Record keeping.

Each accredited training program shall maintain, and make available upon request from the department, the following records:

1. All documents specified in § 7.4 of these regulations that demonstrate the qualifications listed in § 7.2 of these regulations of the training manager and principal instructors.
2. Current curriculum/course materials, and documents reflecting any changes made to these materials.
3. Course examination.
4. Information on how the hands-on assessment is conducted, including but not limited to, who conducts the assessment, how the skills are graded, what facilities are used, and the pass fail rate.
5. The quality control plan described in § 7.9 of these regulations.
6. Results of the student's hands-on skills assessments and course examination and a copy of each student's course completion certificate.
7. Any other material not listed in these regulations that submitted to the department as part of the application for accreditation.

The accredited training program shall retain these records at the location specified on the training program application for a minimum of three years and six months.

## § 7.11. Change of address.

The accredited training program shall notify the department 30 days prior to relocating its business or transferring the records.

### PART VIII.

#### TRAINING COURSE CURRICULA REQUIREMENTS.

## § 8.1. General.

To become accredited, training programs shall ensure that their courses of study for various lead-based paint activities disciplines cover the mandatory subject areas. Listed requirements ending in an asterisk (\*) indicate areas that require hands-on training as an integral component of the course. All training courses shall be discipline specific.

## § 8.2. Initial training criteria for lead worker for target housing, superstructures and public and commercial buildings.

The lead abatement workers course for target housing, superstructures and public and commercial buildings shall last a minimum of 16 hours with a minimum of 8 hours devoted to hands-on training. The training course shall address the following topics:

1. Background information and health effects of lead.
2. Sources of environmental lead contamination (paint, surface dust, soil, water, air, food others).
3. Regulatory background, federal, state and local.
4. Hazard recognition and control methods. \*
5. Respiratory protection. \*
6. Medical Monitoring.
7. Personal hygiene. \*
8. Exposure monitoring.
9. Lead-based paint abatement and lead hazard reduction methods. \*
10. Interior dust abatement methods/clean-up or lead hazard reduction. \*
11. Soil and exterior dust abatement methods or lead hazard reduction. \*
12. Paint removal operations:
  - a. Power tools and miscellaneous.
  - b. Abrasive blasting.
13. Welding, burning and torch cutting.
14. Mechanical disturbance of lead.
15. Waste disposal. \*
16. Record keeping.
17. Course review.
18. Examination.

## § 8.3. Initial training criteria for supervisor for target housing, superstructures and public and commercial buildings.

The lead abatement supervisor course for target housing, superstructures and public and commercial buildings shall last a minimum of 40 hours with a minimum of eight hours devoted to hands-on training. The training course shall address the following topics:

1. Background information on lead and the adverse health effects associated with excessive lead exposure.
2. Regulatory background, federal, state and local.
3. Liability and insurance issues relating to lead-based paint abatement.
4. Sources of environmental contamination (paint, surface dust, soil, water, air, food or other sources).

5. Identification of lead-based paint. \*
  - a. Historical information.
  - b. Limited sampling procedures.
  - c. Laboratory analysis.
6. Development and implementation of a project design plan. \*
7. Hazard recognition and other safety and health hazards and control methods. \*
8. Exposure monitoring and control. \*
9. The purpose of OSHA's medical surveillance program, including employee information, training and the specific nature of operations which could result in exposure to lead above OSHA's action level (30 micrograms per cubic meter).
10. Project management and supervisory techniques.
11. Work preparation procedures and proper engineering controls and work practices, including prohibited work practices. \*
12. Contract specifications and cost estimation.
13. Medical monitoring.
14. Environmental monitoring.
15. Respiratory protection. \*
16. Lead paint abatement or lead hazard reduction methods. \*
17. Interior dust abatement/clean-up or lead hazard reduction. \*
18. Soil and exterior dust abatement or lead hazard reduction. \*
19. Paint removal operations pertaining to superstructures and commercial buildings, including:
  - a. Power tools.
  - b. Abrasive blasting.
20. Mechanical disturbance of lead.
21. Soil, dust, and air sampling.
22. Clearance standards and testing.
23. Waste disposal.
24. Community relations process.
25. Record keeping.
26. Risk assessment/inspection report interpretation. \*
27. Integration with modernization and rehabilitation.
28. Course review.
29. Examination.

### § 8.4. Initial training criteria for inspector technician for target housing and public buildings.

The lead inspector technician course shall last a minimum of 24 hours with a minimum of eight hours devoted to hands-on training. The training course shall address the following topics:

1. Background information on lead.
2. Health effects of lead.
3. Regulatory review. This entails a discussion of applicable federal, state and local regulations that pertain to lead-based paint.
4. Roles and responsibility of the lead-based paint inspector.
5. Lead-based paint inspection methods, including visual inspections. \*
6. Paint, dust and soil sampling methodologies. \*
7. Formulation and implementation of the final inspection report. \*
8. Clearance standards and testing, including random sampling. \*
9. Recordkeeping.

### § 8.5. Initial training criteria for inspector/risk assessors for target housing and public buildings.

The inspector/risk assessor course shall last a minimum of 40 hours, 24 hours of which shall constitute the inspector technician course established by § 8.4 of these regulations, and 16 hours of which shall address the following topics, with a minimum of eight hours devoted to hands-on training which includes site visits:

1. All information provided for in § 8.4 of these regulations.
2. Background information to perform risk assessment.
3. Visual inspection. \*
4. Risk assessment report form. \*
5. Sampling and inspection guidelines. \*
6. Sampling for other sources of lead exposure.
7. Interpretation of sampling results.
8. Preparation of final report. \*
9. Recommendations to abate or reduce lead-based paint hazards, including instructions on when interim controls are appropriate.
10. Development of an interim control plan.
11. Record keeping.
12. Identification of the lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil.

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§ 8.6. *Initial training criteria for planner/project designer for target housing and public buildings.*

*The project designer course shall consist of all information required in § 8.3 of these regulations.*

§ 8.7. *Refresher training criteria.*

*The refresher course for all disciplines shall address the following topics:*

1. *An overview of key safety practices.*
2. *An update on current federal, state and local laws.*
3. *An update on current technologies related to lead-based paint activities.*

## PART IX. STANDARDS FOR CONDUCTING LEAD-BASED PAINT ACTIVITIES.

§ 9.1. *General.*

*This section establishes the procedures for conducting lead-based inspections, risk assessments and abatement for target housing, superstructures and public and commercial buildings or specific portions thereof.*

§ 9.2. *Inspections in target housing.*

1. *Inspections shall be conducted only by persons certified by the department.*
2. *When conducting an inspection, the following locations shall be tested for the presence of lead-based paint:*
  - a. *All component surfaces with visible distinct painting histories in every room, of every residential dwelling chosen for inspection, as well as all exterior components with distinct painting histories of every residential dwelling chosen for testing, except those components that are known to the inspector technician or inspector risk assessor to have been replaced after 1980.*
  - b. *All components with distinct visible painting histories in every common area, except those components that are known to the inspector technician or inspector risk assessor to have been replaced after 1980.*
3. *Testing for the presence of lead-based paint shall be conducted by documented methodologies which incorporate adequate quality control procedures.*
4. *Paint chips taken during inspections shall:*
  - a. *Be collected according to the procedures found in the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.*
  - b. *Be sent for analysis to a laboratory recognized by EPA as being capable of performing the analysis.*

§ 9.3. *Use of x-ray fluorescence spectroscopy.*

*Inspectors using an X-Ray Fluorescence Spectroscopy (XRF) to test for the presence of lead-based paint shall use*

*the XRF in accordance with the manufacturer's instructions and the procedures found in the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.*

§ 9.4. *Written inspection report.*

*The following information shall be recorded in a written inspection report by an inspector technician or inspector/risk assessor:*

1. *Date of inspection.*
2. *Address of buildings and units.*
3. *Date of construction of buildings and units.*
4. *Unit numbers (if applicable).*
5. *Name, address and telephone number of the owner or owner's agent of buildings and units.*
6. *Name and signature of the certified inspector technician or inspector/risk assessor conducting testing, including certification or license number.*
7. *Name, address and telephone number of the certified firm employing each inspector technician or inspector/risk assessor.*
8. *Name, address and telephone number of each recognized laboratory conducting an analysis of collected samples.*
9. *Each testing device and/or sampling procedure employed, and if used, the serial number of any XRF device.*
10. *Precise locations of all components and surfaces on components tested and sampled.*
11. *Data pertinent to lead collected using on-site testing devices.*
12. *A list of all tested surfaces (components) found, either through on-site testing or laboratory analysis, to contain lead-based paint, as defined in these regulations, and those surfaces that did not contain lead-based paint.*
13. *Any recommendation by an inspector technician or inspector/risk assessor regarding the need for additional testing or assessment.*

*Reports and plans required by this section shall be maintained by the regulant who conducted the inspection for no less than 3 years.*

*The above information is subject to the disclosure requirements developed under section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 in subpart E, "Residential Property Renovation."*

§ 9.5. *Risk assessment in target housing.*

*Risk assessments, or other lead hazard assessment activity shall be conducted only by persons certified by the Board as an inspector/risk assessor.*

## § 9.6. Background information.

When conducting a risk assessment, background information regarding the physical characteristics of the unit and residential use patterns shall be collected, and shall contain the following information:

1. A schematic site plan showing each room within the/every unit, its use and number of children under age 6 currently residing in the unit.
2. The age of the structure and any additions thereto.
3. A copy of any previous test results or inspections regarding lead-based paint or other assessments for lead-related hazards.
4. A description of any lead-related health problems for either children or adults in the residence, provided such information is made available to the inspector/risk assessor by the residents.
5. Other available information that the risk assessor determines is necessary to characterize occupant use patterns that may generate or contribute to lead-based paint hazards.

## § 9.7. Visual inspection.

A visual inspection to determine the condition of all painted surfaces shall be completed by the inspector/risk assessor.

## § 9.8. Dust samples.

A. Dust samples shall be collected within each selected unit according to the following procedures by an inspector technician or inspector/risk assessor:

1. Parts of the living area where children are most likely to come into contact with dust as determined by the risk assessor shall be sampled.
2. The samples shall be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

B. Where applicable, dust samples shall be collected by an inspector technician or inspector/risk assessor in the following common areas:

1. In buildings three floors or less, collect samples from common areas adjacent to the sampled unit. Additional samples shall be collected in the following common areas:
  - a. Entry area of building.
  - b. First level landing above the ground floor.
2. In buildings containing four floors or more, collect samples from floor and window sills of common areas, if present.
3. The samples shall be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

## § 9.9. Paint samples.

Any paint found to be deteriorated or any other area that the inspector/risk assessor, in their professional opinion determines to be deteriorated, shall be tested by an inspector technician or inspector/risk assessor according to the procedures outlined in these regulations.

## § 9.10. Soil samples.

Randomly selected soils samples shall be collected by an inspector technician or inspector/risk assessor and analyzed in order to adequately characterize the lead concentrations. Samples shall be collected in the following areas:

1. Exterior play area.
2. Areas containing bare soil.
3. Driveline/foundation areas.

The samples shall be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

## § 9.11. Written assessment report.

A. After an assessment has been conducted, a written assessment report shall be completed. A risk assessment report shall contain the following minimum information:

1. Date of assessment.
2. Address of buildings and residents.
3. Date of construction of residences and buildings.
4. Unit numbers (if applicable).
5. Name, address and telephone number of the owner of residences and building.
6. Name of each occupant of the residences and buildings at the time of assessment (if applicable).
7. Name and signature of certified inspector/risk assessor conducting the assessment, including their certification number.
8. Name, address and telephone number of the firm employing each inspector/risk assessor.
9. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
10. Any background information collected.
11. Results of the visual inspection.
12. Testing method and sampling procedures for paint analysis employed.
13. Precise locations of all painted surfaces (components) tested for the presence of lead-based paint.
14. All data collected from on-site testing.
15. All results of laboratory analysis on collected paint, soil and dust samples.

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16. Any other sampling results.

17. An evaluation, to the extent that they are utilized as part of the hazard determination, of the adequacy of any previous inspections or analyses of the presence of lead-based paint or other assessments of lead related hazards.

18. A detailed description of recommended control strategies for reducing lead-based paint hazards and justification for the strategy selected, the locations where the recommended actions should take place, and a suggested prioritization for taking each action based on the immediacy of the hazard.

B. Reports and plans required by this section and § 9.6 of these regulations shall be maintained by the owner of the residence or building, and the certified individual or firm that conducted the risk assessment for no less than 3 years.

C. Reports and plans required by this section and § 9.6 of these regulations are subject to the disclosure requirements developed under section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 in subpart E, "Residential Property Renovation."

### § 9.12. Abatement in target housing.

A. Abatement shall be conducted only by individuals certified by the department as a supervisor or worker and employed by a certified contractor.

B. A certified supervisor shall be assigned to each abatement project. The supervisor shall be available by telephone and be present physically at the work site within 2 hours of where abatement activities are being conducted.

C. The certified supervisor and the certified firm employing the supervisor are responsible for ensuring completion of all abatement activities according to the standards of these regulations and all other federal, state and local regulations.

D. Notification shall be sent to the Virginia Department of Labor & Industry prior to the commencement of abatement activities. The notification shall be sent in a manner prescribed by the Virginia Department of Labor and Industry.

### § 9.13. Written project design.

A. A written project design shall be developed for lead abatement firms by a certified planner/project designer.

B. Certified supervisors may develop the project design for projects with less than 10 units to be abated.

C. The written project design shall contain the following elements:

1. Measures taken to ensure worker protection which are consistent with all federal, state and local regulations, hazard recognition and control procedures, and information and training to be provided to abatement workers.
2. Measures taken to ensure compliance with all federal, state and local environmental regulations.
3. An occupant protection program, unique to each unit and developed prior to abatement, that describes the

measures that will be taken during abatement to protect the building occupants, the methods of verification that will be utilized to document this protection, and contains the following:

- a. In plans which require the relocation of occupants, post-abatement dust clearance levels must be met as described in these regulations.
- b. Duration of abatement activities.
- c. Access to facilities and exits.
- d. Total area involved.
- e. Specification of the use of containment.

### § 9.14. Pre-abatement soil samples.

1. Prior to exterior abatement of lead-based paint, pre-abatement composite soil samples shall be taken. Soil samples shall consist of at least four sub-samples taken next to the foundation or from the dripline below any exterior surfaces to be abated.

2. The samples shall be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

3. This section shall not apply if the information is available from a current risk assessment.

### § 9.15. Post-abatement clearance procedures.

The following post-abatement clearance procedures for units that have been abated shall be performed by a certified inspector/risk assessor:

1. Following an abatement, a visual inspection shall be performed by the inspector technician or inspector risk assessor to determine if there are any deteriorated surfaces or visible amounts of dust. If deteriorated surfaces or visible amounts of dust are present, these conditions must be corrected and recleaned prior to the continuation of the clearance procedures.

2. Surface dust samples shall be taken no sooner than one hour after completion of final post abatement clean-up activities.

3. All dust samples shall be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

4. The following locations shall be sampled for lead containing dust by a certified inspector technician or inspector risk assessor:

- a. After removing lead-based paint from components throughout a unit, three dust samples shall be taken from each area in every unit abated. One sample shall be taken from one window sill, one window well, and one floor of each area, if available.
- b. After removing lead-based paint from components in a portion of the unit, procedures in § 9.15(4)(a) of these regulations shall be followed and one sample from outside the containment area (within 10 feet) shall be taken.

c. Following a complete replacement or encapsulation of surfaces coated with lead-based paint, samples shall be taken from each area in every unit abated. One sample each shall be collected from window wells, window sills, and floors.

d. Following a partial replacement or encapsulation of surfaces coated with lead-based paint, the procedures established in § 9.15(4)(c) of these regulations shall be followed and one sample from outside the work area (within 10 feet) shall be taken.

5. Following an exterior abatement, at least one sample shall be taken from an adjacent horizontal surface in the outdoor living area, including but not limited to, a patio, deck, porch, or stoop.

6. In each area within an individual unit, the inspector/risk assessor shall compare the residual lead dust levels (as determined by the laboratory analysis) from each dust sample with the clearance levels for lead in dust on floors, window sills, window wells, and exterior surfaces, as established in the HUD Guidelines for the Evaluation and Controls of Lead-Based Paint Hazards in Housing, unless superseded by any other clearance levels. If any of the area's residual dust levels exceed these clearance levels, the area shall be cleaned again and retested until the clearance levels are met. If dust levels continue to exceed the clearance levels, alternate hazard control strategies should be considered for use. Until all applicable clearance levels for lead in dust are met, the area shall not be cleared for re-occupancy.

7. Once all residual lead levels for an area meet or fall below the clearance levels for lead in dust and there is no deteriorated paint or visible dust present, the area shall be cleared for re-occupancy by the certified inspector/risk assessor.

### § 9.16. Soil clearance lead levels.

The following procedures for determining whether soil clearance lead levels have been met shall be performed by a certified inspector technician or inspector/risk assessor:

1. Composite soil samples consisting of at least four sub-samples shall be taken after all exterior abatement work from the dripline or next to the foundation below any exterior surfaces abated.

2. Samples shall be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

3. A statistical analysis, such as, but not limited to, a paired student T-test shall be used to determine if the post-abatement soil lead level had increased at a statistically significant level (significant at the 95 percent confidence limit) from the pre-abatement soil lead level following exterior abatement activities.

a. If soil lead levels do not show a statistically significant increase in lead concentrations based on a statistical analysis at the 95 percent confidence limit after abatement, no redemption is required.

b. If soil lead levels do show a statistically significant increase, above any applicable federal or state standard for lead in residential soil, based on the statistical analysis at the 95 percent confidence limit, the measured level of lead in the soil shall be remediated back to the pre-abatement level or abatement of the soil shall be conducted according to the standards in these regulations.

### § 9.17. Waste disposal.

All waste generated from a lead-based paint abatement project shall be disposed in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA) and any other applicable federal, state and local laws and regulations.

### § 9.18. Supervisor's report.

A. The following information shall be recorded in a written report by the certified supervisor when conducting abatement for lead-based paint:

1. Start and completion dates of abatement.

2. The name and address of each certified firm conducting the abatements, and the name of each supervisor assigned to the abatement project.

3. The name, address and signature of each certified inspector/risk assessor or inspector technician conducting clearance sampling and the date of clearance testing.

4. The results of clearance testing, the name of each recognized laboratory that conducted the analysis, and the name and signature of the person conducting the analysis.

5. A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, and reason for selecting particular abatement methods for each component.

6. Information on the storage, transport and disposal of any hazardous waste generated during abatement.

B. The report described in § 9.18 (A) of these regulations and the written abatement plan noted in § 9.13 of these regulations shall be maintained by the building owner and certified firm conducting the abatement activity for no less than three years and are subject to the disclosure requirements mandated under Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 in subpart E of this part, "Residential Property Renovation."

### § 9.19. Identification of lead-based paint in public buildings.

A. The procedures, requirements and standards in § 9.2 through § 9.4 of these regulations shall be followed when identifying lead-based paint in public buildings.

B. All information collected from the identification of lead-based paint in public buildings as described in § 9.19(A) of these regulations shall be maintained by the regulator for not less than three years.



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## § 9.20. Risk assessment for public buildings.

A. The standards in § 9.5 through § 9.7, § 9.8 (2), and § 9.9 through § 9.11 of these regulations as applicable, shall be followed when conducting a risk assessment in public buildings.

B. All information collected from a risk assessment in public buildings as described in § 9.20 (A) of these regulations shall be maintained by the owner of the building and certified firm responsible for the risk assessment for not less than three years.

## § 9.21. Abatement in public buildings.

A. The standards in § 9.12 through § 9.15 (4) and § 9.17 of these regulations shall be followed when abating a public building.

B. All reports required in § 9.18 of these regulations shall be maintained by the building owner and the certified firm conducting the abatement activity for a period of not less than three years.

## § 9.22. Demolition in public and commercial buildings and superstructures.

The following standards shall be followed when conducting demolition in public and commercial buildings and steel structures:

1. A certified supervisor shall, through a review of available documents, obtain any relevant historical information on use of lead-based paint on the building or structures.
2. Whenever deleading is conducted as part of a demolition, such as welding, burning, or torch cutting of lead-based paint, the standards and procedures prescribed in § 9.24 of these regulations shall be followed.

## § 9.23. Standards for identification of lead-based paint in commercial buildings and superstructures.

The following standards shall be followed when conducting lead-based paint identification in commercial buildings and superstructures:

1. A certified supervisor shall, through a review of available documents, obtain any relevant historical information on use of lead-based paint on the building or structure.
2. If the presence of lead-based paint cannot be established as specified in § 9.23 (1) of these regulations for the portion of the building or structure or the entire building or structure, a visual inspection and limited sampling shall be conducted at the rate of one sample per 1,000 square feet of surface with a distinct painting history, including any distinct finish color and maintenance painting, within the area that the historical review was not conclusive.
3. Samples shall be analyzed by a laboratory recognized by EPA as being capable of performing these activities.

4. The following information shall be recorded in a written report by the certified supervisor when conducting lead identification activities:

- a. Date of identification activity.
- b. Name and signature of each person making the identification.
- c. Determination of existence of lead-based paint based on the results of testing.
- d. The name and address of each recognized laboratory doing paint analysis, date of analysis, results of analysis, and name of person performing the analysis.

5. All reports required under this section shall be maintained by the owner or operator of such structure or building until such time that the structure or portion of the structure that was involved in the identification is repainted.

## § 9.24. Deleading of lead-based paint in commercial buildings and superstructures.

A. Deleading shall only be conducted by persons certified by the department.

B. A supervisor, certified by the department for deleading on superstructures and commercial buildings, shall be assigned to the deleading project and available at all times when deleading activities are being conducted.

C. The supervisor and the certified firm are responsible for ensuring completion of all deleading activities conducted on superstructures and commercial buildings according to the standards in these regulations.

D. A written deleading plan shall be prepared by a certified supervisor and shall contain the following elements:

1. Measures taken to ensure worker protection which are consistent with all federal, state and local regulations, hazard recognition and control procedures, and information and training to be provided to deleading workers.
2. Measures taken to ensure compliance with all federal, state, and local environmental regulations.

E. All waste shall be disposed of in accordance with the appropriate requirements of the Resource Conservation and Recovery Act (RCRA) and any applicable federal, state, and local requirements.

F. A report containing the following information shall be maintained by a certified firm when conducting deleading activities on superstructures and commercial buildings:

1. Start and completion dates of deleading.
2. Names and addresses, as well as signatures of each supervisor of the deleading activity and their certification number.
3. The name and address of each certified firm and the recognized laboratory doing any analysis, date of

analysis and name and signature of each person performing the analysis.

4. A detailed written description of the deleading methods used.

5. Identification of storage and disposal sites of all hazardous waste.

6. Reports required under this section shall be maintained by the owner or oversight agency of such structure until the structure or portion of that structure is repaired.

## § 9.25. Soil abatement procedures.

A. Abatement shall only be conducted by persons certified by the department.

B. A supervisor, certified by the department, shall be assigned to the abatement project and available at all times when abatement activities are being conducted.

C. The supervisor and the certified firm are responsible for ensuring that all soil abatement activities are conducted according to the standards in these regulations.

D. Soil abatement shall be conducted in one of the following ways:

1. If soil removal is to be conducted, the lead-contaminated soil shall be removed to a depth determined by the inspector/risk assessor until the EPA promulgates a regulation pursuant to section 403 of TSCA defining lead-contaminated soil.

2. If, after removal, the soil is to be replaced, the soil shall be replaced with non-contaminated soil, to prevent any recontamination that would pose a lead hazard.

3. If the contaminated soil is not removed, it shall be permanently covered.

E. Soil abatement shall be conducted in a way that minimizes the likelihood that significant amounts of lead contaminated soil and dust will be blown from the site or carried away by water run-off.

F. The following information shall be recorded in a written report by a certified firm when conducting soil abatement:

1. Start and completion dates of deleading.

2. Names and addresses, as well as signatures of each supervisor of the deleading activity and their certification number.

3. The name and address of each certified firm and the recognized laboratory doing any analysis, date of analysis, and name and signature of each person performing the analysis.

4. The results of clearance and/or monitoring analysis conducted by recognized laboratories.

5. A detailed written description of the abatement, including abatement methods used, locations of abatement, and reason for selecting each abatement method.

6. Identification of storage and disposal sites of all hazardous waste.

G. Notification of the commencement of the soil abatement shall be submitted to the Virginia Department of Labor and Industry according to the procedures established by the Department of Labor and Industry.

H. All reports required by this section shall be maintained by the owner or the oversight agency of the site where soil abatement occurred and the certified firm which performed the abatement for not less than three years.

## PART X.

### STANDARDS OF PRACTICE AND CONDUCT.

#### § 10.1. Responsibility to the public.

The primary obligation of the regulant is to the public. If the regulant's judgement is overruled under circumstances when the safety, health, property, and welfare of the public are endangered, the regulant shall inform the employer or client of the possible consequences and notify appropriate authorities if the situation is not resolved. The regulant shall take such action only when his authority to correct a problem has been ignored or overruled.

#### § 10.2. Public statements.

A. The regulant shall be truthful in all matters relating to the performance of lead abatement or lead consulting services.

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

C. Regulants or applicants shall not knowingly make a materially false statement, submit falsified documents or fail to disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for certification or renewal.

#### § 10.3. Solicitation of work.

In the course of soliciting work:

1. The regulant shall not bribe.

2. The regulant shall not falsify or permit misrepresentation of the regulant's work or an associate's academic or professional qualifications, nor shall the regulant misrepresent the degree of responsibility for prior assignments.

3. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associate joint ventures or past accomplishments of any kind.

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## Emergency Regulations

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4. Materials used in the solicitation of services shall not misrepresent facts of approval, federal, or state requirements.

### § 10.4. Professional responsibility.

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

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

### § 10.5. Good standing in other jurisdictions.

A. Regulants certified to practice planning/project designs, inspections, risk assessments, training, contractual or supervisor work in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or approved and shall not have had a license, certification or approval suspended, revoked or surrendered in connection with a disciplinary action.

B. Regulants shall notify the department in writing no later than 10 days after the final disciplinary action taken by another jurisdiction against their approval to conduct lead-based paint activities.

C. Regulants may be subject to disciplinary action against their Virginia certification or accredited training program for disciplinary actions taken by another jurisdiction.

### § 10.6. Grounds for denial of application, denial of renewal, or discipline.

A. The board shall have the authority to deny application for and to deny renewal of a certification or accredited training program as well as to discipline a certified individual, a certified firm, an accredited training program, or individual instructors for the following reasons:

1. The certified individual, certified firm, accredited training program, training manager, principal instructor or work practice instructor violates or induces another person to violate any provisions of Chapters 1, 2, 3 or 5 of Title 54.1 of the Code of Virginia of Virginia, or of these regulations.
2. The regulant obtained his certification or accredited training program approved through fraudulent means.
3. The regulant or applicant has altered a Virginia lead certification issued by the department or a training certificate issued by an accredited training program.
4. The certified individual, certified firm, accredited training program, training manager, principal instructor or work practice instructor violates any provision of these regulations.
5. The regulant has been found guilty by the board, an administrative body or by a court, of any material

misrepresentation in the course of performing his operating duties.

6. The regulant has been convicted or found guilty, regardless of adjudication, of any felony or misdemeanor involving lying, cheating or stealing, or violation which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment. Any plea of nolo contendere shall be considered a conviction for the purposes of this regulation. The record of a conviction authenticated in such form as to be admissible as evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.

7. Failing to notify the board in writing within thirty days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of any misdemeanor involving lying, cheating or stealing or which resulted in the significant harm or the imminent threat of significant harm to human health or the environment.

8. Negligence, or a continued pattern of incompetence, in the practice of the discipline in which a certification is held.

9. Failing or neglecting to send any information or documentation that was requested by the board or its representatives.

10. Refusing to allow state or federal representatives access to any area of an abatement site for the purpose of warranted compliance inspections.

B. Any individual or firm whose certification or approval as an accredited training program is revoked under this section shall not be eligible to reapply for a period of one year from the effective date of the final order of revocation. The individual or firm shall meet all education, experience and training requirements, complete the application and submit the required fee for consideration as a new applicant.

### § 10.7. Suspension or revocation of approval of an accredited training program.

A. The board may, after notice and an opportunity for hearing, suspend, revoke, or modify an accredited training program approval if an accredited training program, training manager, or other person with supervisory authority over the training program has:

1. Misrepresented the contents of a training course to the board or the student population.
2. Failed to submit required information or notification in a timely manner.
3. Failed to maintain required records.
4. Falsified accreditation records, instructors qualifications, or other accreditation information.
5. Failed to comply with the Federal, State, or local lead-based paint statutes or regulations.

B. The board shall conduct disciplinary procedures in accordance with the Administrative Process Act (§ 9-6.14:et seq. of the Code of Virginia).

PART XI.  
FEE SCHEDULE.

CATEGORY	FEE AMOUNT
Lead Contractors's Certification .....	\$50.00
Renewal .....	\$50.00
Late Renewal .....	\$100.00
Lead Worker Certification .....	\$35.00
Renewal .....	\$35.00
Late Renewal .....	\$70.00
Lead Supervisor Certification .....	\$35.00
Renewal .....	\$35.00
Late Renewal .....	\$70.00
Inspector Technician Certification .....	\$35.00
Renewal .....	\$35.00
Late Renewal .....	\$70.00
Inspector/Risk Assessor .....	\$35.00
Renewal .....	\$35.00
Late Renewal .....	\$70.00
Planner/Project Designer .....	\$35.00
Renewal .....	\$35.00
Late Renewal .....	\$70.00
Dishonored Check Service Fee .....	\$25.00

EVALUATION OF TRAINING COURSES

Lead Worker Course (16 hours) .....	\$800.00
Refresher Course (7 hours) .....	\$400.00
Renewal .....	\$100.00
Lead Supervisor Course (40 hours) .....	\$2000.00
Refresher Course (7 hours) .....	\$400.00
Renewal .....	\$100.00
Inspector Technician (24 hours) .....	\$1200.00
Refresher Course (7 hours) .....	\$400.00
Renewal .....	\$100.00
Inspector/Risk Assessor (16 hours) .....	\$800.00
Refresher Course (7 hours) .....	\$400.00
Renewal .....	\$100.00
Planner/Project Designer (40 hours) .....	\$2000.00
Refresher Course (7 hours) .....	\$400.00
Renewal .....	\$100.00

VA.R. Doc. No. R96-42; Filed September 29, 1995, 4:24 p.m.

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# STATE CORPORATION COMMISSION

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## FINAL REGULATION

### Division of Securities and Retail Franchising

Title of Regulation: Securities Act Regulations (Article 5, § 11).

Statutory Authority: §§ 12.1-13 and 13.1-523 of the Code of Virginia.

Effective Date: October 2, 1995.

Agency contact: Copies of the regulation may be obtained from Don Gouldin, Division of Securities, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, telephone (804) 371-9051. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, SEPTEMBER 27, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC950021

Ex Parte, in re: Promulgation of rules pursuant to Virginia Code § 13.1-523 (Securities Act)

### ORDER ON RECONSIDERATION

On June 8, 1995, the Commission adopted final rules in this proceeding. By order dated June 28, 1995, the Commission granted a petition for reconsideration filed by Northern Virginia Technology Council. The petition requested an opportunity to submit comments on the rule and sought a suspension of the effective date of the rule.

The Commission denied the Council's request that the effective date of the rule, July 1, 1995, as specified in the order of June 8, 1995, be suspended based on its finding and opinion that the amended rules were adopted with legally sufficient notice and opportunity to comment and be heard. The Commission maintained its jurisdiction over the rule, however, to allow the Council to file comments. The terms of the June 8, 1995 order remained in effect except to the extent modified by the order of June 28. The Council has filed its comments.

Based on the comments filed by the Council, and the recommendations of the Division of Securities and Retail Franchising which the Council supports, the Commission is of the opinion and finds that the rules should be amended as follows:

- (1) Paragraph A.3. of Section 11 be deleted.
- (2) Paragraph A.4. of Section 11 be renumbered 3.
- (3) Paragraph B.3. of Section 11 be amended to read, "If the amount of money to be raised from the offering exceeds \$1,000,000."
- (4) Paragraph 4. of FORM VA-1 Part 1 be amended to read, "Describe, in summary form, the material risk factors to be considered in purchasing the securities."

(5) Paragraph 5. of FORM VA-1 Part 1 be amended to read, "Describe, in summary form, material assets owned or leased by the issuer's business and if leased, describe the material terms."

(6) Paragraph 6. of FORM VA-1 Part 1 be amended to read, "Describe, in summary form, pending litigation involving the issuer's business or its officers or directors relative to the issuer's business."

Accordingly, IT IS ORDERED THAT:

(1) The changes described above shall be adopted and the rule created by Section 11 of Article 5 of Part V of the Securities Act Rules adopted by Commission Order in Case No. SEC950021 dated June 8, 1995, which became effective July 1, 1995, shall be amended as specified above.

(2) The rule changes adopted herein shall become effective on October 2, 1995.

(3) This matter is dismissed from the Commission's docket and the papers herein shall be placed in the file for ended causes for Case No. SEC950021.

AN ATTESTED COPY hereof, including the attachment, shall be sent to each of the following by the Division of Securities and Retail Franchising: Thomas C. Hicks, III, Esquire, Counsel to Northern Virginia Technology Council; all other persons who filed comments in this proceeding; the Commission's Division of Informational Resources; Securities Regulation and Law Report, c/o The Bureau of National Affairs, 1231 25th Street, N.W., Washington, D.C. 20037; and the Blue Sky Law Reporter, c/o Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646.

Securities Act Regulations.

Article 5.  
Exemptions.

§ 11. Issuer limited transactional exemption.

A. In accordance with § 13.1-514 B 7(b) of the Act, an offer or sale by the issuer of any of the following securities issued by a corporation, partnership, limited liability company, or real estate investment trust, as the case may be: note, stock, bond, debenture, evidence of indebtedness, partnership interest, share of beneficial interest in a real estate investment trust, a warrant or right to purchase or subscribe to any of the foregoing or a security convertible into any of the foregoing, shall be exempt from the securities, broker - dealer and agent registration requirements of the Act, provided the following conditions are met:

1. In connection with an offering pursuant to this rule, there shall be no more than 35 purchasers in this Commonwealth during any period of 12 consecutive months;
2. In connection with an offering pursuant to this rule, the issuer shall:
  - a. Deliver Form VA-1 and in certain prescribed circumstances, Part 2 of Form VA-1 or a disclosure document containing the information required by Form

VA-1 and Part 2, if required, to each prospective purchaser prior to a sale to a purchaser; and

b. Sell securities only to purchasers, each of which the issuer shall, after reasonable inquiry, believe either:

(1) Has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and is able to bear the economic risks of the prospective investment; or

(2) Together with a purchaser representative or representatives, has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and that the purchaser is able to bear the economic risks of the prospective investment; and,

~~3. No more than \$100,000 shall be raised pursuant to this rule during any period of 12 consecutive months.~~

4. 3. No commission or similar remuneration is paid or given, directly or indirectly, for soliciting a prospective purchaser, or in connection with sales of securities in reliance on this rule, unless paid to a broker-dealer and its agent who are registered under the Act;

B. This exemption is not available with respect to an offering:

1. Pursuant to a registration statement or Regulation A (17 CFR §§ 230.251-230.263) notification which has been filed under the federal Securities Act of 1933;

2. Pursuant to an exemption under Regulation D (17 CFR § 230.505 or 17 CFR § 230.506), which offering may be exempted in Virginia only by Article 5, § 4 of these rules (uniform limited offering exemption);

3. If the amount of money to be raised from the offering; ~~when added to the total amount of money raised from all prior offerings under this rule, exceeds \$500,000; \$1,000,000;~~

4. If the issuer has offered for sale or sold its securities which are of the same or a similar class as that to be offered for sale or sold under this rule within 180 days prior to this offering or if the issuer offers for sale or sells its securities that are of the same or a similar class as those offered and sold under this rule within 180 days after this offering; or

5. If the issuer does not have a principal place of business in this Commonwealth.

C. An exemption under this rule is not available if the issuer, its directors, officers, partners, members, trustees or beneficial owners of 10% or more of a class of its voting securities, or its promoters or agents connected with it or a person offering or selling the securities for or on behalf of the issuer:

1. Has been convicted (or has pleaded nolo contendere) within five years prior to reliance on this rule of a felony or a misdemeanor in connection with the purchase or

sale of a security, or in connection with making a false filing with the United States Securities and Exchange Commission or a state securities administrator or of a felony involving fraud or deceit, including but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, conspiracy to defraud, or theft;

2. Is subject to an order, judgment or decree of a court of competent jurisdiction that temporarily or preliminarily restrains or enjoins, or is subject to an order, judgment or decree of a court of competent jurisdiction, entered within five years prior to reliance on this rule, which permanently restrains or enjoins a person from engaging in or continuing a practice or conduct in connection with the purchase or sale of a security, or involving the making of a false filing with the United States Securities and Exchange Commission or a state securities administrator;

3. Is subject to a United States Postal Service false representation order entered within five years prior to reliance on this rule; or

4. Is subject to a state administrative order entered within five years prior to reliance on this rule by a state securities administrator in which fraud or deceit was found.

D. The issuer shall file with the State Corporation Commission 15 days prior to the first sale in this Commonwealth in reliance on this rule:

1. A copy of Form VA-1, including Part 2, if applicable or a disclosure document containing the information required by the Form;

2. An executed Consent to Service of Process on Form U2 appointing the Clerk of the State Corporation Commission as its agent for service of process;

3. An undertaking to promptly provide to the State Corporation Commission, upon request, additional information as the State Corporation Commission may require; and

4. A nonrefundable filing fee of \$250.

E. This rule does not exempt persons or transactions from the anti-fraud provisions of the Virginia Securities Act (§ 13.1-501 et seq. of the Act).

F. The State Corporation Commission may deny the exemption if it determines that a particular transaction or offering is not in the public interest.

G. For purposes of this rule and § 13.1-514 B 7(b) of the Act, the following shall apply:

1. Neither the issuer nor persons acting on its behalf shall offer or sell the securities by form of general solicitation or advertising, including but not limited to, the following:

a. "Cold" calls by telephone or other means, advertising, article, notice, or other communication published in a newspaper, newsletter, magazine, mass mailing, electronic media, or similar media or broadcast over television or radio; or

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## State Corporation Commission

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b. Seminars or meetings whose attendees have been invited by general solicitation or general advertising.

2. Securities acquired in a transaction under this rule shall not be resold without registration under or exemption from the Virginia Securities Act. The issuer or a person acting on its behalf shall exercise reasonable care to assure that the purchasers of the securities in an offering under this rule are purchasing for investment and not with a view to distribution of the securities. Reasonable care shall include, but not be limited to, the following:

a. Reasonable inquiry to determine whether the purchaser is acquiring the securities for himself or for other persons;

b. Placement of a restrictive legend on the certificate or other document evidencing the securities. The legend shall be in the following form:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE (OR OTHER DOCUMENT) HAVE BEEN ISSUED PURSUANT TO A CLAIM OF EXEMPTION FROM THE REGISTRATION OR QUALIFICATION PROVISIONS OF FEDERAL AND STATE SECURITIES LAWS AND SHALL NOT BE SOLD OR TRANSFERRED WITHOUT COMPLIANCE WITH THE REGISTRATION OR QUALIFICATION PROVISIONS OF APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR APPLICABLE EXEMPTIONS THEREFROM;

c. Issuance of stop-transfer instructions to the issuer's transfer agent with respect to the securities, or, if the issuer transfers its own securities, notation in the appropriate records of the issuer; and

d. Obtaining from the purchaser a signed agreement that the securities will not be sold unless they are registered under the Virginia Securities Act or exempted from registration.

3. All sales that are part of the same offering under this rule shall meet all the conditions of this rule. Offers and sales that are made more than six months before the commencement of an offering under this rule or are made more than six months after completion of an offering under this rule will not be considered part of that offering, so long as during those six-month periods there are no offers or sales of securities by or on behalf of the issuer that are of the same or a similar class as those offered or sold under this rule. If securities of the same or a similar class as those offered pursuant to this rule are offered or sold less than six months before or after an offer or sale pursuant to this rule, those offers to sell or sales, will be deemed to be "integrated" with the offering.

H. In proceedings involving this rule, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

I. The exemption authorized by this rule shall be known and may be cited as the "Issuer Limited Transactional Exemption."

FORM VA-1 Part 1  
7/1/95 10/2/95

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING  
**NOTICE OF LIMITED OFFERING OF SECURITIES**  
PURSUANT TO ARTICLE 5, § 11 OF THE SECURITIES ACT RULES

The issuer shall file this notice with the Division of Securities and Retail Franchising not later than 15 days prior to the first sale of securities in this Commonwealth.

This notice shall be accompanied by a non-refundable filing fee of \$250.00. This notice shall be deemed filed with the division for purposes of the rule as of the date on which the notice is received by the division.

IF ADDITIONAL SPACE IS REQUIRED TO RESPOND COMPLETELY TO ANY ITEM, PLEASE ATTACH ADDITIONAL SHEETS.

1. Name of issuer: \_\_\_\_\_  
Address of issuer: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone number \_\_\_\_\_
2. Correspondence to whom communications regarding this notice should be directed:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone number \_\_\_\_\_
3. Describe, in summary form, the issuer's business including but not limited to the operations being conducted (if the business is not operational, describe when operations will begin):
4. Describe in detail *summary form* the *material* risk factors to be considered in purchasing the securities:
5. Describe, in summary form, *material* assets owned or leased by the issuer's business and if leased, describe the *material* terms:
6. Describe, in summary form, pending litigation involving the issuer's business or its officers or directors *relative to the issuer's business*:
7. Issuer's type of business organization: \_\_\_\_\_  
(corporation, partnership, limited liability company, real estate investment trust)
8. Year in which the issuer was incorporated or organized: \_\_\_\_\_
9. State or country in which the issuer was incorporated or organized: \_\_\_\_\_



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10. Identify the exemption from federal registration on which the issuer is relying in connection with this offering:  
\_\_\_\_\_ (SEC Rule 504, Section 4(2) of the Securities Act of 1933, SEC Rule 147, other (specify))
11. List the other jurisdictions in which it is proposed that securities in connection with this offering will be offered or sold:  
\_\_\_\_\_
12. Indicate the nature of the issuer's securities that are the subject of this offering: \_\_\_\_\_  
notes \_\_\_\_\_ debentures \_\_\_\_\_ stocks \_\_\_\_\_ evidence of indebtedness \_\_\_\_\_  
bonds \_\_\_\_\_ partnership interests \_\_\_\_\_  
shares of beneficial interest of a real estate investment trust \_\_\_\_\_  
warrants or rights to purchase or subscribe to one of the above \_\_\_\_\_  
other securities convertible into one of the above \_\_\_\_\_
13. Have securities of the same or a similar class as those that are the subject of this offering been offered or sold within the six months preceding the beginning of this offering?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
Date of first sale in Virginia: \_\_\_\_\_ If "yes", explain briefly: \_\_\_\_\_
14. Date of beginning of this offering: \_\_\_\_\_
15. Aggregate offering price of the securities intended to be sold in this offering: \$ \_\_\_\_\_  
Number of units offered: \_\_\_\_\_  
Price per unit offered: \$ \_\_\_\_\_  
Use of proceeds (be specific) \_\_\_\_\_
16. State the aggregate offering price of the securities intended to be sold in Virginia, if different from answer to 15, above:  
\$ \_\_\_\_\_
17. On a separate sheet; state the name, home address and position of each officer, director, general partner or trustee of the issuer, in the following format:
- | Name  | Position |
|-------|----------|
| _____ | _____    |
| _____ | _____    |
| _____ | _____    |
| _____ | _____    |
- Home Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_

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# State Corporation Commission

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18. Using a separate sheet if necessary, state the name and home address of each person who is, or will be immediately after completion of this offering, a beneficial owner of 10% or more of the outstanding class of voting securities of the issuer, in the following format:

\_\_\_\_\_  
Name Position

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

19. Using a separate sheet if necessary, identify all persons authorized by the issuer to sell securities of the issuer under this offering, in the following format:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

( ) \_\_\_\_\_  
Telephone Number

Is this person affiliated with the issuer? Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", position: \_\_\_\_\_

Type and value of any remuneration to this person for sale of securities (if "none", so state):  
\_\_\_\_\_

Is this person a broker-dealer or an agent of a broker-dealer? Yes \_\_\_\_\_ No \_\_\_\_\_

20. Applicant's Signature:

\_\_\_\_\_  
Name (please print): \_\_\_\_\_

Title: \_\_\_\_\_

Date of Notice: \_\_\_\_\_

# State Corporation Commission

FORM VA-1 Part 2  
7/1/95

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING

**NOTICE OF LIMITED OFFERING OF SECURITIES**  
PURSUANT TO ARTICLE 5, § 11 OF THE SECURITIES ACT RULES

Issuer limited transactional exemption.

An issuer must deliver Part 2 of Form VA-1 or a disclosure document containing the information required by Part 2 of Form VA-1 to all purchasers, if:

1. Within 18 months prior to the first sale of securities under this rule, the issuer has issued or committed to be issued securities of the same or a similar class for consideration of a value 25% or more below the offering price of securities to be sold under this rule, if the securities issued or committed to be issued constitute 10% or more of the securities of the same or a similar class outstanding at the beginning of the offering under this rule, or if the securities were issued or committed to be issued to an officer, director, general partner, trustee, or promoter of the issuer; or

2. The entire proceeds of the offering under this rule are not to be escrowed in a bank, as defined in the federal Securities Act of 1933, §3(a)(2), or a savings and loan association or similar institution as defined in the federal Securities Act of 1933, §(3)(a)(5), until completion of the offering.

- (a) Indicate the names of officers, directors, general partners, trustees (if a real estate investment trust) or promoters of the issuer to whom any amount of securities of the issuer has been, or is to be, issued at a price of 25% or more below the offering price of this offering, regardless of the percentage of securities of the Issuer this represents, if issued or committed to be issued within the last 18 months.

NAME	CLASS/TYPE	NO. OF SHARES	PRICE

- (b) Indicate the names of any persons other than those named in paragraph (a), above, to whom securities aggregating 10% or more of the total securities outstanding at the beginning of this offering have been issued or committed to the issued within the last 18 months and which were issued or are to be issued at a price 25% or more below the offering price of this offering.

NAME	CLASS/TYPE	NO. OF SHARES	PRICE

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# State Corporation Commission

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(c) Are any proceeds of this offering to be escrowed pending completion of this offering?  
Yes \_\_\_\_\_ No \_\_\_\_\_

(1) If "yes", identify the escrow agent:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code Telephone Number

( ) \_\_\_\_\_

(2) If "yes", will the escrow account be:  
\_\_\_\_\_ entire proceeds of offering; or  
\_\_\_\_\_ partial proceeds of offering.

(3) If "yes", describe the duration, e.g., "until completion of the offering" or "until partial proceeds stated in Paragraph 2 are raised", and terms regarding interest, indicating for whose benefit any interest will accrue.

**NOTICE TO PROSPECTIVE INVESTORS:** IF THE ENTIRE PROCEEDS ARE NOT TO BE ESCROWED PENDING COMPLETION OF THE OFFERING, PROSPECTIVE INVESTORS ARE WARNED THAT THEIR TOTAL INVESTMENT MAY BE LOST OR EXPOSED TO CLAIMS OF CREDITORS OF THE ISSUER IF THE ISSUER IS UNSUCCESSFUL IN COMPLETING THE OFFERING.

SIGNATURE:

Applicant's Signature:

\_\_\_\_\_

Name (please print): \_\_\_\_\_

Title: \_\_\_\_\_

Date of Notice: \_\_\_\_\_

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# State Corporation Commission

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## NOTICE OF DESIGNATION

Notice is given that the Director of the Division of Securities and Retail Franchising of the State Corporation Commission of Virginia, pursuant to the authority given him in the Commission's Securities Act Rules, intends to designate the Uniform Combined State Law Examination (Series 66) as an acceptable examination in lieu of either, or both, the Uniform Securities Agent State Law Examination (USASLE-Series 63) of the Uniform Investment Advisor Law Examination (Series 65). The Series 63 and Series 65 exams will continue to be accepted by the Commission for individuals applying under the Virginia Securities Act for registration as agents or investment advisor representatives, respectively, and the Series 63 will continue to be accepted for principals of broker-dealers. Seventy percent (70%) will be the minimum acceptable passing grade for the Series 66 exam, and will continue to be the minimum acceptable passing grade for the Series 63 and Series 65 exams.

Any questions about, or objections to, the intended designation of the Series 66 exam should be directed to Rhea Shelton, Chief of Registration, Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, Virginia 23218-1197, (804) 371-9610, fax (804) 371-9911. If no written objections are received by November 29, 1995, the designation of the Series 66 exam will become effective on December 14, 1995, without further notice.

VA.R. Doc. No. R96-58; Filed October 11, 1995, 12:53 p.m.

AT RICHMOND, SEPTEMBER 27, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940067

Ex Parte, In re: Consideration of standards for integrated resource planning, investments in conservation and demand side management, and efficiency in power generation and supply for electric utilities

## FINAL ORDER

The 102d Congress of the United States adopted the Energy Policy Act of 1992 ("EPACT") on October 24, 1992. Among its many provisions, Section 111 of EPACT added new sections to the Public Utility Regulatory Policies Act of 1978 ("PURPA") to establish, for consideration by the states, standards related to integrated resource planning, conservation and demand-side management investments, and energy efficiency in power generation and supply for electric utilities. Upon the adoption of certain of these standards, a state regulatory commission is required to consider the impact of said adoption on small business.

EPACT further required that each state initiate and complete consideration of the new PURPA standards not later than three years after the statute's adoption, i.e., by October 24, 1995. Accordingly, the Commission established

this docket by Order entered on October 12, 1994. That Order included a list of questions upon which the Commission solicited responses from interested parties. Comments or prefiled testimony were received from each of the Commonwealth's jurisdictional electrical utilities, and from other utilities, power suppliers, demand side management equipment vendors, environmental representatives and the Commission's Staff. The matter was brought on for hearing on June 12-13, 1995. The Commission appreciates the careful review and thoughtful comment received from the parties. Having considered the record, the Commission finds that adoption of the federal standards is not necessary to ensure the provision of reliable electric service at just and reasonable rates. We further find that Virginians will be better served by the evolution of the Commission's existing regulatory procedures rather than by adoption of the EPACT standards. Accordingly, the Commission declines to adopt the standards.

The electric utility industry at both the wholesale and retail levels was changing even as the EPACT/PURPA provisions we address here were being drafted and debated. The enactment of EPACT itself contributed to this change. While the requirement that we consider new PURPA standards appears to assume an industry largely dependent upon and controlled by traditional state regulation, other sections encourage competition and a less regulated environment. As a result of legislation, regulation, technology and other factors, the electric industry is presently experiencing a broad transformation. How the industry will be structured and will operate a decade from now is difficult if not impossible to predict. We have recently instituted a new docket to formalize a review of our policies in view of these changes.<sup>2</sup> Given this changing environment and our investigation, it would be unwise to adopt the proposed standards.

Although the electric utility industry is experiencing great change, it is a regulated monopoly providing a service that is vital to the economic and physical well-being of the citizens of the Commonwealth. While we do not adopt the proposed standards, given our responsibilities, several matters presented in this proceeding require comment, discussion and a statement of our expectations.

The Commission continues to be of the opinion that integrated resource planning ("IRP") is a vital, critical and necessary function of utility management and we expect each of the jurisdictional electric utilities to continue to develop, utilize and refine its planning process. The Commission also believes that there is a place for public comment and involvement in the planning process, but formal proceedings are not the only means of affording public input into the utility's planning. The parties were virtually unanimous in asserting that the responsibility for formulating and

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<sup>1</sup> We do not believe, as some of the parties have suggested, that adoption of any or all of the standards would somehow encumber the Commission with an unwanted federal partner in the regulation of the Commonwealth's jurisdictional electric utilities.

<sup>2</sup> *Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte, In the matter of reviewing and considering Commission policy regarding restructuring of and competition in the electric utility industry, Case No. PUE950089 (Order Establishing Investigation, September 18, 1995).*

implementing a resource plan lies primarily with the utility. The Commission agrees, but believes that utilities can benefit from receiving advice and opinion from others while formulating their resource plans. We expect the jurisdictional electric utilities that are required to file a biennial, twenty-year resource plan to solicit comments from all customer classes and interested and affected parties and include them in informal, meaningful discussions regarding the utility's resource plans. This process should come early enough for the input received to be analyzed and addressed by the utility in its plan. The responsibility for reviewing and recommending to the Commission any modification in the resource plan will remain primarily with our Staff. We direct our Staff to keep us advised of the extent to which the planning discussions described above develop.

The second and third EPACT/PURPA standards deal with conservation, demand management and efficiency. As discussed earlier, the electric utility industry is presently experiencing the broadest transformation in its history. Utilities and other parties are now justifiably preoccupied with the issue of stranded costs. It is, however, also important to bear in mind the potential stranding of investment in conservation and efficiency measures and the value of resource diversity in system supply.

The new PURPA standard related to utility investment in conservation and demand management would require the Commission to set rates to ensure that "the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales . . . as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment." Given the current trend toward cost cutting, competition and restructuring, the ratemaking treatment of investment in conservation resources may not be the critical factor in the development and deployment of conservation and efficiency measures. Conservation, efficiency and demand-side management are, however, important and our regulation and ratemaking must continue to consider and address these issues.

The Commission has long encouraged utility efforts to promote conservation and load management programs ("CLM").<sup>3</sup> In our CLM Order, we stated that "cost effective CLM programs are essential components of the balanced resource portfolio that utilities must achieve to provide energy to Virginia consumers at fair and reasonable rates." However, we recognized in that order that "we must move cautiously in an attempt to avoid promoting uneconomic programs, or those that are primarily designed to promote growth of load or market share without serving the overall

public interest."<sup>5</sup> We have also recognized "that utilities have little incentive to create and market programs which serve to reduce sales and lower their profits. . . . Programs specifically designed truly to conserve energy may require consideration of ratemaking incentives when fully implemented[.]"<sup>6</sup>

The record disclosed several disincentives to CLM programs.<sup>7</sup> Further, there is, as the testimony of Staff witness DeBruhl demonstrates, a reluctance to support any flow through recovery mechanism for the costs imposed by demand-side investment.<sup>8</sup> Such regulatory devices were developed to facilitate recovery of massive, volatile costs that were felt to be beyond the control of the utility, and demand-side investment does not fit comfortably within this regulatory model.

The level of investment in demand-side management, conservation and energy efficiency in Virginia appears limited in comparison to supply-side investment and, in at least one instance, is diminishing.<sup>9</sup> The Commission reiterates its commitment to encouragement of cost-effective conservation, load management and efficiency programs and again urges the parties to propose, in utility rate applications and other proceedings, innovative approaches toward CLM development and, where appropriate, methods of overcoming disincentives toward conservation and demand-side investment. The Commission does not want regulatory convention to drive resource planning. While we can never "insure" that any investment, whether on the demand- or the supply-side, will be profitable for the utility, the Commission intends for jurisdictional electric utilities to supply reliable service at reasonable cost to their consumers. The Commission hopes to reduce or remove any impediment or incentive that causes utility planning and investment to be skewed from attaining this goal.

In conclusion, the Commission declines to adopt the standards set forth in Section 111 of EPACT. The Commission reiterates its support for the goals of integrated resource planning, continued investment in conservation and demand management, and energy efficiency in power generation and supply for electric utilities. The Commission expects the jurisdictional electric utilities that file biennial,

<sup>5</sup> *Id.*

<sup>6</sup> *Application of Appalachian Power Company*, Case No. PUE920081, 1994 S.C.C. Ann. Rep. 342, 345. (Final Order, June 27, 1994).

<sup>7</sup> When a utility prudently invests in generation, that investment is added to its rate base and earns a return. More importantly, sales from that asset can provide a contribution to the utility's fixed costs and increase its earnings. Currently, certain of the costs of investing on the supply-side, notably fuel and purchased capacity expenses, may flow directly, by way of special clauses or deferral mechanisms, to the utility's ratepayers. By contrast, investments in demand-side programs rarely have added to the utility's rate base and, hence, been eligible to earn a return. In addition, demand-side investments can result in reduced sales, loss of contribution to fixed costs and loss of profits. (See, e.g., testimony of Appalachian witness Terry Eads (Ex. TRE-4), at pp. 7-11.)

<sup>8</sup> Ex. MRD-2, pp. 3-10.

<sup>9</sup> Virginia Power reduced its projected conservation savings by about 350 megawatts between the time of its 1994 and 1995 resource plans. (Tr. 290-91.)

<sup>3</sup> See, *Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In re, Investigation of Conservation and Load Management Programs*, Case No. PUE900070, 1992 S.C.C. Ann. Rep. 261 (Final Order, March 27, 1992) (the "CLM Order").

<sup>4</sup> *Id.*, at 263.

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## State Corporation Commission

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twenty-year resource plans to initiate processes for receiving, reviewing and analyzing input from interested and affected parties. Finally, the Commission urges utilities and other interested and affected parties to continue to develop and propose innovative programs and appropriate regulatory mechanisms for investment in cost-effective conservation, load management and efficiency measures.

There being nothing further to come before the Commission, this matter is DISMISSED from the docket of active cases.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all electric public utilities subject to the Commission's jurisdiction as shown on Appendix A; all electric cooperatives subject to the Commission's jurisdiction as shown on Appendix B; Tom Griffin, Environmental Review Coordinator, Office of Environmental Impact Review, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23240-0009; Peter F. Clark, Assistant General Counsel, Delmarva Power & Light Company, P.O. Box 231, Wilmington, Delaware 19899; Lawrence R. Moter, Jr., Executive Director, National Electrical Contractors Association, 2510 Grenoble Road, Richmond, Virginia 23294; Kenworth E. Lion, Jr., Esquire, Jackson, Pickus & Associates, P.C., 2201 West Broad Street, Suite 100, Richmond, Virginia 23220; John A. Pirko, Esquire, LeClair, Ryan, Joynes, Epps and Framme, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; William D. Kee, Jr., President, Energy Consultants, Inc., 1439 Great Neck Road, Suite 202L, Virginia Beach, Virginia 23454-1347; William R. Van Buren, III, Esquire, and Kyle C. Johnson, Esquire, Kaufman & Canoles, 2000 NationsBank Center, Norfolk, Virginia 23510; Michael J. Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., P.O. Box 14125, Roanoke, Virginia 24038-4125; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Edward L. Flippen, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; John D. Sharer, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Marleen L. Brooks, Esquire, The Potomac Edison Company, 10435 Downsville Pike, Hagerstown, Maryland 21740-1766; Ann M. Wohlgemuth, Esquire, Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601; David B. Kearney, Assistant City Attorney, City of Richmond, 900 East Broad Street, Suite 300, Richmond, Virginia 23219; Jeffrey M. Gleason, Esquire, and Oliver A. Pollard, III, Esquire, Southern Environmental Law Center, 201 West Main Street, Suite 14, Charlottesville, Virginia 22902-5065; Lawrence E. Durbin, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Donald A. Fickenscher, Vice President, General Counsel and Corporate Secretary, Virginia Natural Gas, Inc., 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23502-3488; Donald R. Hayes, Senior Attorney, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; Rodney W. Anderson, Esquire, Commonwealth Gas Services, Inc., P.O. Box 117, Columbus, Ohio 43216-0117; Charles W. Hundley, Esquire, White, Blackburn & Conte, P.C., 300 West Main Street, Richmond, Virginia 23220-5630; Dee Tagliavia, Executive Director, Mid-Atlantic Independent Power

Producers, 105-A East Holly Avenue, Sterling, Virginia 20164; and the Commission's Divisions of Economics and Finance, Energy Regulation, and Public Utility Accounting.

### APPENDIX A

#### Electric Companies in Virginia

Appalachian Power Company  
Mr. R. Daniel Carson, Vice President  
Post Office Box 2021  
Roanoke, VA 24022-2121

Delmarva Power & Light Company  
Mr. R. Erik Hansen  
General Manager, Pricing and Regulation  
800 King Street  
Post Office Box 231  
Wilmington, Delaware 19899

Kentucky Utilities Company  
Mr. Robert M. Hewett  
Vice President, Rates  
Budget & Financial Forecasts  
One Quality Street  
Lexington, Kentucky 40507

The Potomac Edison Company  
Mr. James D. Latimer, President  
Downsville Pike  
Hagerstown, Maryland 21740

Virginia Power Company  
Mr. Edgar M. Roach, Jr.  
Vice President-Regulation  
Box 26666  
Richmond, VA 23261

### APPENDIX B

#### Electric Cooperatives in Virginia

A&N Electric Cooperative  
Mr. Vernon N. Brinkley  
Executive Vice President  
P.O. Box 1128  
Parksley, Virginia 23421

B-A-R-C Electric Cooperative  
Mr. Hugh M. Landes  
General Manager  
P.O. Box 264  
Millboro, Virginia 24460-0264

Central Virginia Electric Cooperative  
Mr. Howard L. Scarboro  
General Manager  
P.O. Box 247  
Lovingston, Virginia 22949

Community Electric Cooperative  
Mr. J. M. Reynolds  
General Manager  
Post Office Box 267  
Windsor, Virginia 23487

Craig-Botetourt Electric Cooperative  
Mr. Gerald H. Groseclose  
General Manager  
Post Office Box 265  
New Castle, VA 24127

Mecklenburg Electric Cooperative  
Mr. John Bowman  
General Manager  
Caller 2451  
Chase City, Virginia 23924-2451

Northern Neck Electric Cooperative  
Mr. Charles R. Rice, Jr.  
General Manager  
Post Office Box 288  
Warsaw, Virginia 22572-0288

Northern Virginia Electric Cooperative  
Mr. Stanley C. Feuerberg  
General Manager  
Post Office Box 2710  
Manassas, VA 22110

Powell Valley Electric Cooperative  
Mr. Randell W. Meyers  
General Manager  
Post Office Box 308  
Church Street  
Jonesville, VA 24263

Prince George Electric Cooperative  
Mr. Dale Bradshaw  
General Manager  
Post Office Box 168  
Waverly, VA 23890

Rappahannock Electric Cooperative  
Mr. Cecil E. Viverette, Jr.  
President  
Post Office Box 7388  
Fredericksburg, VA 22404-7388

Shenandoah Valley Electric Cooperative  
Mr. C. D. Wine  
Executive Vice President  
Post Office Box 236  
Route 257  
Mt. Crawford, VA 22841-0236

Southside Electric Cooperative  
Mr. John C. Anderson  
Executive Vice President  
Post Office Box 7  
Crewe, VA 23930

VA.R. Doc. No. R96-46; Filed October 4, 1995, 10:09 a.m.



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# STATE LOTTERY DEPARTMENT

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## DIRECTOR'S ORDER NUMBER NINETEEN (95)

"GIVE ME FIVE," VIRGINIA LOTTERY RETAILER SALES PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the "Give Me Five," Virginia Lottery Retailer Sales Promotional Program Rules for the lottery retailer incentive program which will be conducted from Sunday, October 15, 1995 through Saturday, December 2, 1995. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until December 31, 1995, unless otherwise extended by the Director.

/s/ Penelope W. Kyle  
Director  
Date: September 5, 1995

VA.R. Doc. No. R96-50; Filed October 4, 1995, 11:42 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY (95)

VIRGINIA'S FIFTY-FIRST INSTANT GAME LOTTERY; "VICTORY LAP," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's fifty-first instant game lottery, "Victory Lap." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: September 11, 1995

VA.R. Doc. No. R96-51; Filed October 4, 1995, 11:42 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-ONE (95)

"VICTORY LAP PHOENIX 500 CONTEST"; PROMOTIONAL GAME AND DRAWING RULES.

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the "Victory Lap Phoenix 500 Contest" promotional game and drawing rules. The promotion will be conducted from Thursday, September 7 through Friday, October 20, 1995. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: September 7, 1995

VA.R. Doc. No. R96-52; Filed October 4, 1995, 11:42 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-TWO (95)

VIRGINIA'S FOURTH ON-LINE GAME LOTTERY; "CASH 5," FINAL RULES FOR GAME OPERATION; SECOND REVISION.

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the revised rules for game operation in Virginia's fourth on-line game lottery, "Cash 5." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of on-line game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order supersedes Director's Order Number Forty-One (94), issued November 30, 1994. This Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: September 19, 1995

VA.R. Doc. No. R96-53; Filed October 4, 1995, 11:43 a.m.

# State Lottery Department

## DIRECTOR'S ORDER NUMBER TWENTY-THREE (95)

VIRGINIA'S "LESSONS WITH A LEGEND" SECOND CHANCE DRAWING; FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate Virginia's "Lessons with a Legend" Second Chance Drawing game rules. The promotion will be conducted from Monday, September 18 through Saturday, October 14, 1995. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: September 18, 1995

VA.R. Doc. No. R96-54; Filed October 4, 1995, 11:43 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-FOUR (95)

"FREE LOTTO FOR LIFE;" FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Free Lotto for Life" promotional game and drawing rules. The promotion will be conducted from Sunday, October 15 through Monday, December 4, 1995. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: September 24, 1995

VA.R. Doc. No. R96-55; Filed October 4, 1995, 11:43 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-FIVE (95)

STATE FAIR DAILY VIRGINIA LOTTERY RAFFLE TICKET DRAWING RULES

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the State Fair Daily Virginia Lottery Raffle Ticket Drawing Rules for the daily raffle drawings, the lottery promotional event which will be conducted during the 1995 Virginia State Fair. The event will take place at the fairgrounds in Richmond from September 21 through October 1, 1995. These rules amplify and conform to the duly adopted State Lottery Department regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until October 31, 1995, unless otherwise extended by the Director.

/s/ Penelope W. Kyle  
Director  
Date: September 21, 1995

VA.R. Doc. No. R96-56; Filed October 4, 1995, 11:43 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-SIX (95)

PAUL ADAMS' CASH EXPLOSION GAME SHOW RAFFLE DRAWING RULES

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the Paul Adams' Cash Explosion Game Show Raffle Drawing Rules for the lottery promotional event which will be conducted during the 1995 Virginia State Fair. The event will take place at the fairgrounds in Richmond from September 22 through October 1, 1995. These rules amplify and conform to the duly adopted State Lottery Department regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until October 31, 1995, unless otherwise extended by the Director.

/s/ Penelope W. Kyle  
Director  
Date: September 21, 1995

VA.R. Doc. No. R96-57; Filed October 4, 1995, 11:43 a.m.

# MARINE RESOURCES COMMISSION

## MARINE RESOURCES COMMISSION

**NOTICE:** The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

**Title of Regulation:** VR 450-01-0008. Pertaining to the Taking or Catching of Oysters (REPEALED).

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** October 1, 1995.

**Summary:**

*The provisions of this regulation have been amended and readopted in § 6 A of VR 450-01-0095, Restrictions on Oyster Harvest in Virginia.*

**Agency Contact:** Katherine V. Leonard, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2120.

VA.R. Doc. No. R96-64; Filed September 28, 1995, 4:58 p.m.

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**Title of Regulation:** VR 450-01-0027. Pertaining to Dredging for Oysters (REPEALED).

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** October 1, 1995.

**Summary:**

*The provisions of this regulation have been amended and readopted in § 6 C of VR 450-01-0095, Restrictions on Oyster Harvest in Virginia.*

**Agency Contact:** Katherine V. Leonard, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2120.

VA.R. Doc. No. R96-65; Filed September 28, 1995, 4:58 p.m.

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**Title of Regulation:** VR 450-01-0081. Pertaining to Summer Flounder.

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** October 1, 1995.

**Preamble:**

*This regulation establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and trip limits, minimum size limits, and a recreational possession and season limit.*

*This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and*

*amends VR 450-01-0081, which was promulgated by the Marine Resources Commission and made effective April 25, 1995. The effective date of this regulation is October 1, 1995.*

**Agency Contact:** Copies of this regulation may be obtained from Deborah R. McCalester, Regulatory Coordinator, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0081. Pertaining to Summer Flounder.

**§ 1. Purpose.**

The purpose of this regulation is to reduce commercial and recreational fishing mortality in order to rebuild the severely depleted stocks of Summer Flounder.

**§ 2. Definitions.**

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

"Trip" means that period during which a vessel shall have left a dockside landing place, relocated to waters where trawling is legally permitted, and returned to a dockside landing place.

**§ 3. Commercial harvest quotas.**

A.1. During each calendar year, commercial landings of Summer Flounder shall be limited to the total pounds calculated pursuant to the joint Mid-Atlantic Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992; and shall be distributed as described in subdivisions 2 through 8 of this subsection:

2. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds.

3. During the period of January 1 through March 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 64.3% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

4. During the period of April 1 through June 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

5. During the period of July 1 through September 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

6. During the period of October 1 through December 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an

# Marine Resources Commission

amount of pounds equal to 22.9% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection and as may be further modified by subdivision 7 of this subsection.

7. a. During the periods set forth in subdivisions 3, 4, and 5 of this subsection, should landings exceed or fall short of the quota specified for that period any such excess shall be deducted from, and any such shortage shall be added to, the quota for the period set forth in subdivision 6 of this subsection.

b. During the period specified in subdivision 2 of this subsection, should landings be projected to fall short of the quota specified for that period, any such shortage shall be added to the quota for the period set forth in subdivision 6 of this subsection. A projection of harvest under this subdivision b will be made on or about November 1.

8. For each of the time periods and quotas set forth in subdivisions 3, 4, 5, 6 and 7 of this subsection, the Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments thereto.

B. It shall be unlawful for any person to harvest for commercial purposes or to land Summer Flounder for sale after any commercial harvest or landing quota as described in this section has been attained and announced as such.

#### § 4. Commercial trip limitation.

A. During the period of January 1 through March 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip after it is projected and announced that 85% of the quarterly quota has been taken.

B. During the period of April 1 through September 30 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel trip.

C. During the period October 1 through December 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of ~~42,000~~ 5,000 pounds per vessel per trip, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip.

D. For each of the time periods and trip limits set forth in subsections A and C of this section, the Marine Resources Commission will give timely notice of any changes in trip limits.

#### § 5. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 13 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to, hook-and-line, rod-and-reel, spear and gig, shall be 14 inches, total length.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit.

#### § 6. Possession limit.

It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, spear, gig or other recreational gear, or with commercial hook-and-line, to possess more than eight Summer Flounder. When fishing is from a boat, or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by eight. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

#### § 7. Recreational fishing season.

The recreational fishing season shall be year-round and there is no closed season.

#### § 8. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R96-40; Filed September 29, 1995, 1:52 p.m.

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**Title of Regulation:** VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

**Statutory Authority:** §§ 28.2-201 and 28.2-507 of the Code of Virginia.

**Effective Date:** October 1, 1995.

#### Preamble:

*This regulation sets times of closure and other restrictions on the harvest of oysters from all oyster grounds in the Chesapeake Bay and its tributaries and on the Seaside of Eastern Shore. This regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia. This regulation amends and readopts previous VR 450-01-0095, which was adopted on March 28, 1995, and was made effective on April 4, 1995. This regulation also rescinds previous VR 450-01-0008 that was adopted on November 25, 1980, and made effective on January 1, 1981, and amends and readopts its provisions in § 6 A of*

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*this regulation. This regulation also rescinds previous VR 450-01-0027, which was adopted November 23, 1982, and made effective March 1, 1983, and amends and readopts only the provisions of § 2(a) in § 6 C of this regulation. The effective date of this regulation is October 1, 1995.*

**Agency Contact:** Copies of this regulation may be obtained from Katherine V. Leonard, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2120.

VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

## § 1. Purpose.

The purpose of this regulation is to ~~establish standing stock criteria for closure of public oyster grounds, promote preservation of broodstock, and~~ protect and conserve Virginia's oyster resource, ~~and promote the preservation of oyster broodstock, which has been depleted by disease, harvesting, and natural disasters.~~

## § 2. Rescission:

~~Regulation 450-01-0086 is rescinded, and only the provisions of Section 3 of that regulation are amended and reenacted in Section 3 of this regulation.~~

## § 2. Definitions.

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

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia, all ground set aside as public oyster ground by court order, and all ground set aside as public oyster ground by order of the Marine Resources Commission.

"Unassigned ground" means all grounds other than public oyster ground as defined by this regulation and which have not been set aside or assigned by lease, permit, or easement by the Marine Resources Commission.

## § 3. Standing stock criteria.

Any public oyster ground, ~~rock or shoal or unassigned ground~~ may be closed to harvest by the Commissioner of Marine Resources when it is determined by the Oyster Replenishment Office that ~~50% of the standing stock of market oysters has been harvested~~ depleted by 50% or more. The initial estimate of standing stock for each area shall be the volume of market oysters as of October 1 of each year as determined by the Oyster Replenishment Officer.

## § 4. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster rocks, ~~beds and shoals~~ grounds and unassigned grounds are as follows:

1. James River Seed Area: October 1, 1994 1995, through April 30, 1995 1996.
2. James River Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994 1995, through April 30, 1995 1996.

3. Seaside of Eastern Shore: for clean cull oysters only, October 1, 1994 1995, through December 31, 1994 1995. Seed harvest shall require a permit from the commission as set forth in § 9 of this regulation.

4. That area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accacæek Point, and the Route 3 Bridge: November 1, 1995, through December 31, 1995.

## § 5. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds and unassigned grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except that area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accacæek Point, and the Route 3 Bridge, the James River Seed Area and the James River Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994 1995, through September 30, 1995 1996.

2. James River Seed Area and James River Jail Island and Point of Shoals Clean Cull Areas: May 1, 1995-1996, through September 30, 1995 1996.

3. All public oyster grounds and unassigned grounds on the Seaside of Eastern Shore: for clean cull oysters, January 1, 1995 1996, through September 30, 1995 1996; and for seed oysters, all year. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the Marine Resources Commission as set forth in § 9 of this regulation.

4. That area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accacæek Point, and the Route 3 Bridge: October 1, 1995, through October 31, 1995, and January 1, 1996, through September 30, 1996.

## § 6. Day and time limit.

A. It shall be unlawful to take, catch or harvest oysters on Saturday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest. The presence of any gear normally associated with the harvesting of oysters on board the boat or other vehicle used during any harvesting under this exception shall be prima facie evidence of violation of this regulation.

B. Harvest on the public oyster grounds in the James River Seed Area and the James River Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. It shall be unlawful for any person to harvest oysters from the public grounds in the

# Marine Resources Commission

James River Seed Area or the *James River Jail Island* and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February, 1995.

C. *The Commissioner of Marine Resources is hereby authorized to issue permits to applicants to dredge for oysters where permitted by the Code of Virginia and Marine Resources Commission regulation or order, provided the applicant is eligible under all applicable laws and regulations, and further provided that such permit shall be granted only upon the condition that the boat not leave the dock until one-half hour before sunrise and be back at dock before sunset.*

## § 7. Gear restrictions.

It shall be unlawful for any person to harvest oysters from public oyster grounds or unassigned grounds with shaft tongs longer than 18 feet in total overall length, except that shaft tongs not to exceed 22 feet in total overall length may be used only on *Morattico Bar*.

## § 8. Quotas and catch limits.

A. In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

B. *It shall be unlawful for any person to take or harvest more than 10 bushels per day from that area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge.*

## § 9. Harvest permit required, *Seaside of Eastern Shore*.

~~A. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the public oyster grounds, leased oyster grounds, or for from fee simple grounds on the Seaside of Eastern Shore during the open season (§ 2-4) without first obtaining a permit from the Marine Resources Commission.~~

B. A. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster ground or fee simple ground during the closed season (§ 5) on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

C. B. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease of or fee simple ground to be harvested and shall verify that the ground is properly marked as specified by VR 450-01-0038.

D. C. No person shall hold more than two four permits at any time.

## § 10. Seed oyster planting procedures.

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the

permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

## § 11. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalties penalty prescribed by law § 28.2-903 of the Code of Virginia, any person violating the provisions of this regulation shall return all oysters harvested in possession to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R96-44; Filed October 2, 1995, 1:57 p.m.

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Title of Regulation: VR 450-01-0103. Pertaining to Artificial Reefs.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: October 1, 1995.

## Preamble:

*This regulation prohibits the use of any fishing gear, other than rod-and-reel, hand line, spear, or gig licensed for recreational use, on parts of certain artificial reef sites, and preserves these parts exclusively for recreational fishing. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. The effective date if this regulation is October 1, 1995.*

Agency Contact: Copies of the regulation may be obtained from Deborah R. McCalester, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0103. Pertaining to Artificial Reefs.

## § 1. Purpose.

*The purpose of this regulation is to reduce gear conflicts on parts of certain artificial reefs.*

## § 2. Definitions.

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

*"Anglers Reef" means that artificial reef site located in the Chesapeake Bay approximately 2.8 nautical miles west-northwest of the mouth of Onancock Creek, Accomack*

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# Marine Resources Commission

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County; such site being more specifically located by U.S. Army Corps of Engineers' permit as the area bound by LORAN lines 41852 on the north, 41842 on the south, 27240 on the east, and 27243 on the west.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R96-41; Filed September 29, 1995, 1:53 p.m.

"Cell Reef" means that artificial reef site located in the Chesapeake Bay approximately 3.6 nautical miles west of the mouth of Hungars Creek, Northampton County; such site being more specifically located by U.S. Army Corps of Engineers' permit as a circle centered at 37° 24' 06" north latitude and 76° 03' 25" west longitude with a radius of 2,000 feet.

"Gwynn Island Reef" means that artificial reef site located in the Chesapeake Bay approximately 1.2 nautical miles east of the southern end of Gwynn Island, Mathews County; such site being more specifically located by U.S. Army Corps of Engineers' permit as a circle centered at 37° 28' 51" north latitude and 76° 14' 19" west longitude with a radius of 2,000 feet.

"Northern Neck Reef" means that artificial reef site located in the Chesapeake Bay approximately seven nautical miles east of the Great Wicomico River Light, Northumberland County; such site being more specifically located by U.S. Army Corps of Engineers' permit as the area bound by LORAN lines 41877 on the north, 41867 on the south, 27320 on the east, and 27323 on the west.

### § 3. Gear restrictions.

A. It shall be unlawful for any person to set, fish, or have in the water, any fishing gear, other than rod-and-reel, hand line, spear, or gig licensed for recreational use, closer than 200 yards to the buoy marking the Anglers Reef. This buoy is a yellow special purpose buoy marked "VMRC Anglers Reef."

B. It shall be unlawful for any person to set, fish, or have in the water, any fishing gear, other than rod-and-reel, hand line, spear, or gig licensed for recreational use, closer than 200 yards to the buoy marking the Cell Reef. This buoy is a yellow special purpose buoy marked "VMRC Cell Reef."

C. It shall be unlawful for any person to set, fish, or have in the water, any fishing gear, other than rod-and-reel, hand line, spear, or gig licensed for recreational use, closer than 200 yards to the buoy marking the Gwynn Island Reef. This buoy is a yellow special purpose buoy marked "VMRC Gwynn Island Reef."

D. It shall be unlawful for any person to set, fish, or have in the water, any fishing gear, other than rod-and-reel, hand line, spear, or gig licensed for recreational use, closer than 200 yards to the buoy marking the Northern Neck Reef. This buoy is a yellow special purpose buoy marked "VMRC Northern Neck Reef."

### § 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Date: October 4, 1995

VA.R. Doc. No. R96-49; Filed October 5, 1995, 10:54 a.m.

### VIRGINIA MANUFACTURED HOUSING BOARD

Title of Regulation: VR 449-01-02. Manufactured Housing and Transaction Recovery Fund Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Date: January 25, 1995

VA.R. Doc. No. R96-62; Filed January 27, 1995, 12:04 p.m.



# SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

## DEPARTMENT OF GAME AND INLAND FISHERIES

### Notice of Comprehensive Review of Regulations

Pursuant to Executive Order Number Fifteen (94), notice is hereby given that the Department of Game and Inland Fisheries will review the following regulations by January 1, 1996, and is soliciting public comment on these regulations in the period beginning with the publication of this announcement and ending November 29, 1995:

- VR 325-01-1. [Definitions and Miscellaneous.] In General.
- VR 325-01-2. Importation, Possession, Sale, Etc., of Animals.
- VR 325-02-1. [Game.] In General.
- VR 325-02-2. Bear.
- VR 325-02-3. Beaver.
- VR 325-02-4. Bobcat.
- VR 325-02-5. Crow.
- VR 325-02-6. Deer.
- VR 325-02-7. Dove.
- VR 325-02-8. Fox.
- VR 325-02-9. Grouse.
- VR 325-02-10. Mink.
- VR 325-02-12. Muskrat.
- VR 325-02-13. Nutria.
- VR 325-02-14. Opossum.
- VR 325-02-15. Otter.
- VR 325-02-16. Pheasant.
- VR 325-02-17. Quail.
- VR 325-02-18. Rabbit and Hares.
- VR 325-02-19. Raccoon.
- VR 325-02-20. Skunk.
- VR 325-02-21. Squirrel.
- VR 325-02-22. Turkey.
- VR 325-02-23. Falconry.
- VR 325-02-24. Waterfowl and Waterfowl Blinds.
- VR 325-02-25. Firearms.
- VR 325-02-26. Pelts and Furs.
- VR 325-02-27. Permits.
- VR 325-02-28. Weasel.
- VR 325-02-29. Woodchuck.
- VR 325-03-1. Fishing Generally.
- VR 325-03-2. Trout Fishing.
- VR 325-03-3. Seines and Nets.
- VR 325-03-4. Gigs, Grab Hooks, Trotlines, Snares, etc.
- VR 325-03-5. Aquatic Invertebrates, Amphibians, Reptiles and Nongame Fish.
- VR 325-04-1. [Watercraft.] In General. This regulation incorporates within it federal regulations and statutes

concerning boating safety equipment and lights to apply to vessels in Virginia.

VR 325-04-2. Motorboat Numbering.

VR 325-04-3. Safe and Reasonable Operation of Vessels.

VR 325-04-4. Accident Casualty Reporting.

VR 325-05-1. Public Participation Guidelines.

The agency is reviewing each of these regulations in order to determine the following: (i) whether it is mandated by state or federal law or regulation; (ii) whether it exceeds the specific minimum requirements of a state or federal mandate, or if it does exceed such a specific minimum requirement, whether and to what extent it is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function; (iii) if it does exceed the specific minimum requirements of a state or federal mandate, whether it offers the least burdensome and intrusive alternative for achieving the essential purpose, what other alternatives were considered, and the reasoning by which alternatives were endorsed or rejected; and (iv) whether it is clearly written and easily understandable by the individuals and entities affected, and any recommendations for improvements to the regulations.

Written comments should be sent to Philip Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230. All comments received during the comment period will be considered during the review of the regulations. Anyone desiring further information concerning this process or the regulations under review should contact Philip Smith at the above address, by phone at (804) 367-8341, or by FAX at (804) 367-2427.

## DEPARTMENT OF SOCIAL SERVICES

The Department of Social Services is proposing to undertake a comprehensive review of the following regulations:

VR 615-22-02. Homes for Adults.

VR 615-21-01. Adult Day Care Centers.

VR 615-30-01 and VR 175-03-01. General Procedures and Information for Licensure.

VR 615-32-01:1. Child Day Care Scholarship Program.

The department's goal in accordance with Executive Order Number Fifteen (94) is to determine: If the regulation achieves the least possible interference in private enterprise and the lives of Virginia's citizens; if the regulation is essential to protect the health, safety and welfare of citizens; if a less burdensome or intrusive alternative is available; if the regulation should be continued as it is, amended or repealed;

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## Schedules for Comprehensive Review of Regulations

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and if it is clearly written and understandable. The department does not plan to hold a public hearing. The review will be completed by July 1, 1996.

As part of the review, public input and comments are being solicited. Comments may be submitted from October 30, 1995, through November 29, 1995, to: Kathryn Thomas, Division of Licensing Programs, Department of Social Services, 730 East Broad Street, 7th Floor, Richmond, Virginia 23219, or by telephone to (804) 692-1793.

The public is encouraged to participate during the public comment period and to share this information with others who may be impacted or interested in the regulation.

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# GENERAL NOTICES/ERRATA

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## Symbol Key

† Indicates entries since last publication of the *Virginia Register*

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## CHESAPEAKE BAY ADVISORY COMMITTEE

### Notice of Acceptance of Grant Proposals

The Chesapeake Bay Advisory Committee will be making recommendations for financial support grants for Chesapeake Bay related projects. The Advisory Committee was given the responsibility of developing guidelines for the use of the moneys collected from the sale of the special Chesapeake Bay license plates. Applications will be accepted from state agencies, local government, and public or private not-for-profit agencies, institutions or organizations. Applications may be obtained from Martin G. Farber, Division of Legislative Services, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 786-3591. The deadline for submission of grant proposals is November 15, 1995.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Public Notice of 303(d) TMDL Priority List

The Virginia Department of Environmental Quality (DEQ) seeks written comment from interested persons on Virginia rivers and streams identified in 1994 as not meeting water quality standards or not expected to meet water quality standards after the implementation of technology-based controls. This list includes approximately 882 miles of streams that did not fully support fishing, shellfishing, swimming, aquatic life, or drinking water uses. The assessment was based on monitoring for the Virginia Water Quality Assessment Report of 1994, also called the 305(b) Report to the Environmental Protection Agency and Congress.

DEQ monitored about 28,180 stream miles of Virginia's 45,000 stream miles in 1992-93 to conduct this statewide assessment, which is published every two years as required by the federal Clean Water Act. Approximately 27,298 stream miles, or 97%, fully met all water quality standards. The list includes stream segments failing to meet standards because of point and nonpoint source pollutants and those waters that are not expected to meet water quality standards after the implementation of technology-based controls.

Section 303(d) of the Clean Water Act and EPA's Water Quality Planning and Management Regulations (40 CFR Part 130) require the state to report and seek public comment on the waters on the list and to develop total maximum daily loads (TMDLs) for these waters. TMDLs establish allowable pollution loadings or other quantifiable parameters necessary to attain water quality standards. TMDLs will be developed in a separate regulatory process.

The list identifies waters not meeting one or more water quality standards, waters not expected to meet water quality standards after the implementation of technology-based controls, the pollutants responsible for the waters being on the list, and a

priority ranking of these waters for the development of TMDLs. Ultimately, state waters that fail to meet standards are to be included in a water quality management plan to be developed by DEQ and cover each of the state's nine major river basins. The plans will be developed with the help of state and local advisory panels and public and private interests. The plan will recommend control measures to attain water quality standards for the impaired waters identified on the 303(d) list.

The public comment period will end on November 15, 1995. A fact sheet and a copy of the 303(d) priority list are available upon request. Questions or information requests should be addressed to the person listed below. Written comments should include the name, address, and telephone number of the person presenting comments and should be sent to Mr. Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone (804) 762-4462, FAX (804) 762-4136.

## 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 FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

### Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

#### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS -  
RR08

# CALENDAR OF EVENTS

## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD FOR ACCOUNTANCY

**December 4, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations.** Current fees will be adjusted resulting in a decrease in renewal, application and late filing fees. Further, the proposal will eliminate specific examination fees, including language which will place a cap on examination fees, while permitting the Department of Professional and Occupational Regulation to adjust the fees in accordance with examination vendor contract changes.

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

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Aquaculture Advisory Board

† **November 10, 1995 - 9 a.m.** -- Open Meeting  
Virginia Tech, 315 Cheatham Hall Conference Room, Blacksburg, Virginia. ♿

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. 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 accommodations in order to participate at the meeting should contact T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-6094.

#### Virginia Horse Industry Board

**December 14, 1995 - 10 a.m.** -- Open Meeting  
Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ♿

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 accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

#### Virginia Marine Products Board

† **November 8, 1995 - 6 p.m.** -- Open Meeting  
Nicks Steak and Spaghetti House, Route 17, Gloucester Point, Virginia. ♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business. 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 accommodations in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Boulevard, Suite B, Newport News, VA 23608, telephone (804) 874-3474.

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## Calendar of Events

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### Virginia Seed Potato Board

**November 1, 1995 - 8 p.m.** -- Open Meeting  
Eastern Shore Agricultural Experiment Station, Research Drive, Painter, Virginia. ☎

A meeting to review regulations and to plan for the 1996 seed season. 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 accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

### Virginia Winegrowers Advisory Board

† **November 6, 1995 - 10 a.m.** -- Open Meeting  
Charlottesville Omni Hotel, 235 West Main Street, Charlottesville, Virginia. ☎

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 accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 786-0481.

### STATE AIR POLLUTION CONTROL BOARD

**November 9, 1995 - 10 a.m.** -- Public Hearing  
Hampton Roads Planning District Commission, The Regional Building, 723 Woodlake Drive, Chesapeake, Virginia.

**November 13, 1995 - 11 a.m.** -- Public Hearing  
James McCort Administration Building, One County Complex Court, Board Chamber Room, Prince William, Virginia.

**November 14, 1995 - 10 a.m.** -- Public Hearing  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

**December 1, 1995** -- Written comments may be submitted until the close of business on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to adopt regulations entitled: **VR 120-99-05. Regulations for the Control of Emissions from Fleet Vehicles.** The proposed regulation requires that owners or operators of fleets with 10 or more vehicles make a percentage of annual vehicle purchases clean-fuel fleet (CCF) vehicles and applies to fleets which operate in the following localities in the program areas: (i) the Northern Virginia area: Arlington County, Fairfax County,

Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park; (ii) the Richmond area: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond; and (iii) the Hampton Roads area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.
2. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.
3. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

**Additional Issues for Public Comment:** In addition to comments on the proposal, the department is particularly interested in any comments on the following:

1. Whether the regulation should provide that a credit generated by the purchase of an extra CFF vehicle stay with the vehicle or be traded and sold freely.
2. Whether the reporting requirements in this regulation are adequate, although they require less extensive documentation than the requirements detailed in the federal regulations.
3. Whether the regulation should provide for trading of credits between program areas, although the federal regulations prohibit the trading of credits generated in one nonattainment area with another nonattainment area except in the case of an interstate nonattainment area.
4. Whether the regulation should provide that (i) credits not depreciate over time, although it would be in conflict with provisions of most emissions and trading programs provided for in the Clean Air Act and under consideration by many other states and (ii) credits may be traded between mobile and stationary sources.

5. Whether the Commonwealth should change its vehicle registration process in order to be able to determine where fleet vehicles are primarily operated.

**Location of Proposal:** The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, and a discussion of alternative approaches) and any other supporting documents may be examined at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and at the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Piedmont Regional Office  
Department of Environmental Quality  
4900 Cox Road  
Innsbrook Corporate Center  
Glen Allen, Virginia  
Ph: (804) 527-5300

Tidewater Regional Office  
Department of Environmental Quality  
Old Greenbrier Village, Suite A  
2010 Old Greenbrier Road  
Chesapeake, Virginia  
Ph: (804) 424-6707

Northern Virginia Satellite Office  
Department of Environmental Quality  
Springfield Corporate Center, Suite 310  
6225 Brandon Avenue  
Springfield, Virginia  
Ph: (703) 644-0311

Statutory Authority: § 46.2-1179.1 of the Code of Virginia.

Written comments may be submitted until the close of business on December 1, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240. The purpose of this notice is to provide the public the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Contact:** Mary E. Major, Senior Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4423.

### VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

**October 30, 1995 - 9:30 a.m. -- Open Meeting**  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

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

#### Board for Architects

† **November 13, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

#### Board for Landscape Architects

† **November 30, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

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## Calendar of Events

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### Board for Land Surveyors

† **November 16, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### Board for Professional Engineers

† **November 13, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

**November 8, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 3, Richmond,  
Virginia. ☎

A general business meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**November 16, 1995 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ☎

A general board meeting to discuss board business. Public comments will be received at the beginning of the meeting for 15 minutes.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

### BOARD FOR BARBERS

† **December 4, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

#### Central Area Review Committee

**November 2, 1995 - 2 p.m.** -- Open Meeting  
**December 7, 1995 - 2 p.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to 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 committee meeting; however, written comments are welcome.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

#### Northern Area Review Committee

**November 16, 1995 - 10 a.m.** -- Open Meeting  
**December 6, 1995 - 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)

A meeting to 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 committee meeting; however, written comments are welcome.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## Southern Area Review Committee

**November 2, 1995 - 10 a.m. -- Open Meeting**  
**December 7, 1995 - 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)

A meeting to 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 committee meeting; however, written comments are welcome.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## STATE BOARD FOR COMMUNITY COLLEGES

† **November 1, 1995 - 2:30 p.m. -- Open Meeting**  
Virginia Western Community College, 3095 Colonial Avenue, Roanoke, Virginia.

Board committee meetings will be held.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

† **November 2, 1995 - 8:30 a.m. -- Open Meeting**  
Roanoke Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

A regularly scheduled meeting.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

## DEPARTMENT OF CONSERVATION AND RECREATION

### Caledon Natural Area Ad Hoc Committee

**November 8, 1995 - 9:30 a.m. -- Open Meeting**  
Caledon Natural Area, King George County, Virginia. ☎ (Interpreter for the deaf provided upon request)

An introductory meeting of the Caledon Ad Hoc Committee. The purpose of the meeting is to review the 1985 Caledon Task Force recommendations, make committee assignments for updating the 1985 recommendations, and establish a timeline for completion. Please give one week's notice for interpreter services.

**Contact:** Theresa Duffey, Planning and Training Director, Department of Conservation and Recreation, Division of State Parks, Richmond, Virginia 23219, telephone (804) 786-9025, FAX (804) 786-9294 or (804) 786-2121/TDD ☎

### Falls of the James Scenic River Advisory Board

**November 16, 1995 - Noon -- Open Meeting**  
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to discuss river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

## BOARD FOR CONTRACTORS

### Recovery Fund Committee

† **December 19, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 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 discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.




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# Calendar of Events

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## BOARD FOR COSMETOLOGY

† **December 11, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD 


## CRIMINAL JUSTICE SERVICES BOARD

**November 1, 1995 - 11 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. 

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

**Contact:** Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8730 or FAX (804) 371-8981.

## Committee on Training


**November 1, 1995 - 9 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. 

A meeting to discuss matters related to training for criminal justice personnel.


**Contact:** Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8730 or FAX (804) 371-8981.

## DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING


### Advisory Board

**November 1, 1995 - 10 a.m.** -- Open Meeting  
Department for the Deaf and Hard-of-Hearing, 1100 Bank Street, 11th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular quarterly business meeting of the advisory board. Public comment will be permitted with advance notice.

**Contact:** Gloria L. Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917 (V/TTY) or (804) 225-2570/TDD 

### Telecommunications Relay Service Advisory Board

† **November 8, 1995 - 10 a.m.** -- Open Meeting  
Department for the Deaf and Hard-of-Hearing, 1100 Bank Street, 11th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A business meeting of the board. Public comment will be permitted with advance notice.

**Contact:** Gloria L. Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917 (V/TTY) or (804) 225-2570/TDD 


## DISABILITY SERVICES COUNCIL

† **December 6, 1995 - 1 p.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A meeting to review grants submitted for remaining uncommitted resources of the Rehabilitative Services Incentive Fund.

**Contact:** Martha Adams, Staff, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7077, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD 


## BOARD OF EDUCATION

**November 16, 1995 - 8 a.m.** -- Open Meeting  
General Assembly Building, Ninth and Broad Streets, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

**Contact:** James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924 or toll-free 1-800-292-3820.

## STATE BOARD OF ELECTIONS

† **November 27, 1995 - 10 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room One, Richmond, Virginia. 

A meeting to ascertain and certify the results of the November 7, 1995, general election.

Contact: M. Bruce Meadows, Secretary, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free 1-800-552-9745 or (804) 260-3466/TDD ☎

### LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

November 2, 1995 - 5:30 p.m. -- Open Meeting  
December 7, 1995 - 5:30 p.m. -- Open Meeting  
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

### VIRGINIA EMPLOYMENT COMMISSION

#### State Advisory Board

October 30, 1995 - 8:30 a.m. -- Open Meeting  
Virginia Employment Commission, 703 East Main Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Nancy L. Munnikhuysen, Director, Employer Relations and Customer Service, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004 or (804) 371-8050/TDD ☎

### DEPARTMENT OF ENVIRONMENTAL QUALITY

November 16, 1995 - 10 a.m. -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting to obtain advice from interested parties to the Virginia Waste Management Board on desirable features to be incorporated into the Voluntary Remediation Program. Subsequent meetings will be held on December 20, 1995, January 17, 1996, and February 27, 1996. The public should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location and time.

Contact: Dr. Wladimir Gulevich, Assistant Division Director, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4236, FAX (804) 762-4327 or (804) 762-4021/TDD ☎

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

November 8, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A general board meeting to discuss board business. Public comments will be received at the beginning of the meeting for 15 minutes. Formal hearings will take place after the board meeting at 1 p.m.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

November 9, 1995 - 9 a.m. -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

Formal hearings will be conducted.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

† December 11, 1995 - 9 a.m. -- Open Meeting

† December 12, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

Informal conferences will be conducted.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

### BOARD FOR GEOLOGY

† November 9, 1995 - 10 a.m. -- Open Meeting

Department of Mines, Minerals and Energy, 900 Natural Resources Drive, Charlottesville, Virginia. ☎

A regular business meeting to review correspondence, applications, etc. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406 or (804) 367-9753/TDD ☎

### GEORGE MASON UNIVERSITY

#### Student Affairs Committee

† November 14, 1995 - 6:30 p.m. -- Open Meeting

George Mason University, Mason Hall, Room D23, Fairfax, Virginia. ☎

A regular meeting.

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## Calendar of Events

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**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

### Board of Visitors

† **November 15, 1995 - 3:30 p.m.** -- Open Meeting  
George Mason University, Mason Hall, Room D23, Fairfax, Virginia. ♿

A regular meeting to hear reports of the standing committees, and to act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it. Standing committees will meet at 9:30 a.m.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

### DEPARTMENT OF HEALTH (STATE BOARD OF)

† **November 9, 1995 - 10 a.m.** -- Open Meeting  
Holiday Inn, 29 South Business, Culpeper, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A worksession of the board. An informal dinner will be held at 6:30 p.m. at the Downtown Cafe, 128 E. Davis Street, Culpeper.

**Contact:** Paul W. Matthias, Interim Staff to Board of Health, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3564.

† **November 10, 1995 - 9 a.m.** -- Open Meeting  
Holiday Inn, 29 South Business, Culpeper, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A business meeting.

**Contact:** Paul W. Matthias, Interim Staff to Board of Health, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3564.

### Shellfish and Crustacea Advisory Committee

**November 1, 1995 - 9 a.m.** -- Open Meeting  
Virginia Tech Seafood Experiment Station, Hampton, Virginia.

A meeting to review existing Virginia Board of Health regulations governing the harvesting and processing of oysters, clams and other shellfish.

**Contact:** Keith Skiles, Program Manager, Department of Health, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-7937.

### Commissioner's Waterworks Advisory Committee

**November 16, 1995 - 10 a.m.** -- Open Meeting  
Sydnor Hydrodynamics, Inc., 2111 Magnolia Street, Richmond, Virginia.

A general business meeting of the committee. The committee meets on the third Thursday of odd months at various locations around the state. The next meeting is scheduled for January 18, 1996. Location will be announced.

**Contact:** Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **November 28, 1995 - 9:30 a.m.** -- Open Meeting  
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ♿

A monthly meeting of the council.

**Contact:** Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

### BOARD FOR HEARING AID SPECIALISTS

† **January 8, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ♿

### COMMISSION ON THE FUTURE OF HIGHER EDUCATION IN VIRGINIA

**November 15, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, 6th Floor, Richmond, Virginia.

A general business meeting. For information about the meeting agenda, contact the Council of Higher Education.

**Contact:** Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2636.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **November 13, 1995 - 3 p.m.** -- Open Meeting  
† **November 14, 1995 - 8:30 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Council Conference Room, 9th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general business meeting. Contact the Council of Higher Education for additional information.

**Contact:** Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2629.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**November 7, 1995 - 9 a.m.** -- Open Meeting  
† **December 5, 1995 - 9 a.m.** -- Open Meeting  
† **January 2, 1996 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☎ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

**December 29, 1995** -- Public 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 1 - New Construction Code/1993.** The purpose of the proposed action is to (i) amend the "Notice of Violation" section to comport with the Code of Virginia; (ii) amend the requirements for the spacing of intermediate supports for guardrails; (iii) amend the sections that establish "Wind Zones" in Virginia to comply with those required by new federal regulation; (iv) delete vague and subjective text in the regulation regarding ice damming on roofs for one and two family dwellings; (v) raise the size and occupancy threshold regarding when permits are required for tents; and (vi) amend the "Existing Building" section for clarity and remove vague and subjective language which may be barriers to revitalization of existing buildings.

Statutory Authority: § 36-98 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

## State Building Code Technical Review Board

† **November 17, 1995 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North Second Street, 1st Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

**Contact:** Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

## STATEWIDE INDEPENDENT LIVING COUNCIL

† **November 9, 1995 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A regular business meeting.

**Contact:** Maureen Hollowell, Chairperson, or Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134 (Hayfield), (804) 461-8007 (Hollowell), toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

## LIBRARY BOARD

**November 13, 1995 - 10 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☎

A meeting to discuss administrative matters of The Library of Virginia.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## STATE COUNCIL ON LOCAL DEBT

**November 15, 1995 - 11 a.m.** -- Open Meeting  
**December 20, 1995 - 11 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 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

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## Calendar of Events

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prior to the meeting 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 1879, Richmond, VA 23215, telephone (804) 225-4928.

### COMMISSION ON LOCAL GOVERNMENT

**November 20, 1995 - 10 a.m.** -- Open Meeting  
Eighth Street Office Building, Room 702, Richmond, Virginia.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 8, 1996 - 10:30 a.m.** -- Open Meeting  
Town of Round Hill; site to be determined.

Oral presentations regarding the Town of Round Hill - County of Loudoun Agreement Refining Annexation Rights. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 8, 1996 - 7 p.m.** -- Public Hearing  
Town of Round Hill; site to be determined.

A public hearing regarding the Town of Round Hill - County of Loudoun Agreement Refining Annexation Rights. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 9, 1996 - 9 a.m.** -- Open Meeting  
Leesburg area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

### MARINE RESOURCES COMMISSION

† **November 28, 1995 - 9:30 am.** -- Open Meeting  
Marine Resources Commission, 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 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 will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be 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, Marine Resources 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 ☎

### BOARD OF MEDICINE

† **November 3, 1995 - 9:30 a.m.** -- Open Meeting  
The Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

#### State Human Rights Committee

**November 3, 1995 - 9 a.m.** -- Open Meeting  
Piedmont Geriatric Hospital, Burkeville, Virginia.

A regular meeting to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

**Contact:** Theresa P. Evans, Acting State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988 or (804) 371-8977/TDD ☎

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**October 30, 1995 - 9 a.m.** -- Open Meeting  
Mimslyn Inn, 401 West Main Street, Luray, Virginia ☎

The board will meet in regular session to discuss policy issues facing the system of mental health, mental retardation and substance abuse services. For more information, call Jane Helfrich. An agenda will be available on October 20, 1995.

**Contact:** Jane Helfrich, Board Administrator, 109 Governor St., Richmond, VA 23218, telephone (804) 786-7945.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Mineral Mining Examiners

**November 15, 1995 - 10 a.m.** -- Public Hearing  
Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia.

**December 1, 1995** -- Public 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 Mineral Mining Examiners intends to adopt regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed regulation is to establish a separate regulation setting requirements for the certification of mineral miners.

Statutory Authority: § 45.1-161.46 of the Code of Virginia.

**Contact:** Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903-0727, telephone (804) 961-5000.

## MOTOR VEHICLE DEALER BOARD

**November 21, 1995 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Department of Motor Vehicles (DMV) at (804) 367-6606 at least 10 days prior to the meeting so that suitable arrangements can be made. DMV and the board fully comply with the Americans with Disabilities Act. A tentative agenda will be provided upon request by

contacting the Department of Motor Vehicles. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's "Guidelines for Public Comment."

**Contact:** W. Gail Morykon, Chief, Investigative Services, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6002, FAX (804) 367-2936 or (804) 272-9278/TDD ☎

## DEPARTMENT OF MOTOR VEHICLES

### Medical Advisory Board

**November 8, 1995 - 1 p.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia ☎

A regular meeting.

**Contact:** Millicent Ford, Program Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2052.

## BOARD OF NURSING HOME ADMINISTRATORS

**November 29, 1995 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia ☎

A general board meeting to discuss board business. Public comments will be received at the beginning of the meeting for 15 minutes. Formal hearings will take place after the board meeting at 1 p.m.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

## VIRGINIA OUTDOORS FOUNDATION

**October 30, 1995 - 10 a.m.** -- Open Meeting  
Aldie Mill, Route 50, Aldie, Virginia.

A regular meeting of the Board of Trustees. Agenda available upon request. Public comment will be received.

**Contact:** Tamara Ann Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2147 or FAX (804) 692-0567.

## BOARD OF PHARMACY

† **November 9, 1995 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A working meeting of the Regulation Committee for the comprehensive review of regulations VR 530-01-1 in accordance with Executive Order 15(94). No public comments will be received.

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## Calendar of Events

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**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

† **November 13, 1995 - 9 a.m.** -- Open Meeting

† **November 14, 1995 - 9 a.m.** -- Open Meeting


Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

An examination workshop. No public comments will be received.


**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

**November 28, 1995 - 10 a.m.** -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

The board will meet to review new enforcement procedures, administer the polygraph examiners licensing examination to eligible polygraph examiner interns and to consider other matters which may require board action. A public comment period will be scheduled at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD 

### BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

† **November 17, 1995 - 8:30 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Conference Rooms 1 and 3, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

8:30 a.m. Informal conference regarding credentials. Public comment will not be heard. (Conference Room 3)

8:30 a.m. Credentials review by Executive Committee. Public comment will not be heard. (Conference Room 1)


9:30 a.m. A regular meeting of the board to conduct general board business; to consider committee reports, correspondence, and other matters under the jurisdiction of the board; and to conduct regulatory review. This is a public meeting and there will be a

30 minute general public comment period from 9:45 to 10:15 a.m.


**Contact:** Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

### BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**November 20, 1995 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8519, or (804) 367-9753/TDD 

### BOARD OF PSYCHOLOGY


† **November 3, 1995 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. 

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

† **November 14, 1995 - 9 a.m.** -- Open Meeting


Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting to conduct general board business and to approve draft regulations for Sex Offender Treatment Providers. Public comment will be received from 9:15 to 9:30 a.m.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

### REAL ESTATE APPRAISER BOARD

† **November 14, 1995 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact

the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## REAL ESTATE BOARD

**November 9, 1995 - 8:30 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular business meeting to include review of investigative matters, consideration of applications, various requests to the board for information, and other business.

**Contact:** Emily O. Wingfield, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, or (804) 367-9753/TDD ☎

## Continuing Education Committee

† **November 2, 1995 - 7:30 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to approve continuing education courses.

**Contact:** William H. Ferguson, II, Education Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526 or (804) 367-9753/TDD ☎

## STATE REHABILITATION ADVISORY COUNCIL

† **November 13, 1995 - 10 a.m. -- Open Meeting**  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business of the council.

**Contact:** Kathy Hayfield, SRAC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

## BOARD OF REHABILITATIVE SERVICES

**November 30, 1995 - 10 a.m. -- Open Meeting**  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly business meeting.

**Contact:** Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

## VIRGINIA RESOURCES AUTHORITY

**November 14, 1995 - 9:30 a.m. -- Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month; to review the Authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

## SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

† **November 9, 1995 - 10 a.m. -- Open Meeting**  
Department of Health, Main Street Station, 1500 East Main Street, Suite 115, Richmond, Virginia.

A regular meeting of the committee.

**Contact:** Berly Nguyen, Office Services Assistant, Department of Health, 1500 E. Main St., Suite 1500, P.O. Box 2448, Richmond, VA 23219, telephone (804) 780-1750.

## SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

**November 1, 1995 - 10 a.m. -- Open Meeting**  
**November 2, 1995 - 10 a.m. -- Open Meeting**  
General Assembly Building, Senate Room A, Capitol Square, Ninth and Broad Streets, Richmond, Virginia. ☎

The board will hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

**Contact:** Beth B. Dubis, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.



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## Calendar of Events

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### STATE BOARD OF SOCIAL SERVICES

**November 15, 1995 - 1:30 p.m.** -- Open Meeting  
**November 16, 1995 - 9 a.m. (if necessary)** -- Open Meeting  
Wythe Building, Koger Executive Center, 1604 Santa Rosa Road, Richmond, Virginia ☎

A work session and formal business meeting of the board.

**Contact:** Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, FAX (804) 692-1949, toll-free 1-800-552-7096 or 1-800-552-3431/TDD ☎

### TREASURY BOARD

**November 15, 1995 - 9 a.m.** -- Open Meeting  
**December 20, 1995 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia ☎

A regular meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

### BOARD ON VETERANS' AFFAIRS

† **November 15, 1995 - 1 p.m.** -- Open Meeting  
American Legion Post #176, 6520 Amherst Street, Springfield, Virginia ☎

A meeting to discuss the state veterans' cemetery and other items of interest to Virginia's veterans. The public is invited to speak on items of interest to the veteran community; however, presentations should be limited to 10 minutes. Speakers are requested to register with an aide present at the meeting and should leave a copy of their remarks for the record. Service organizations should designate one person to speak on behalf of the entire organization in order to allow ample time to accommodate all who may wish to speak.

**Contact:** Beth Tonn, Secretary for the Board, Department of Veterans' Affairs, 270 Franklin Rd., S.W., Room 1012, Roanoke, VA 24011-2215, telephone (540) 857-7104.

### BOARD OF VETERINARY MEDICINE

**November 15, 1995 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

**December 15, 1995** -- Public 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 Veterinary Medicine intends to amend regulations entitled: **VR 645-**

**01-1 [ 18 VAC 150-20-10 et seq. ] Regulations Governing Veterinary Medicine.** The board proposes a one-time, two-year reduction in fees for licensure and renewals and a permanent reduction in the state jurisprudence exam fee.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

**Contact:** Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9915.

### DEPARTMENT FOR THE VISUALLY HANDICAPPED

#### Vocational Rehabilitation Council

**December 9, 1995 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia ☎  
(Interpreter for the deaf provided upon request)

A quarterly meeting to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Requests for interpreter services must be received no later than November 24, 1995.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

### VIRGINIA VOLUNTARY FORMULARY BOARD

**November 30, 1995 - 10:30 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

### VIRGINIA WASTE MANAGEMENT BOARD

**November 20, 1995** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendment is to incorporate recent changes to federal

regulations governing hazardous materials transport and motor carrier safety and new state law requiring a register of shippers.

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

**Contact:** Julia King-Collins, Office of Enforcement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4247.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **November 8, 1995 - 9 a.m.** -- Open Meeting  
† **November 9, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board and subject matter experts will meet to write and review test items for the Virginia Water and Wastewater Operator's Examinations.

**Contact:** George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD

† **December 8, 1995 - 8:30 a.m.** -- Open Meeting  
† **December 14, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review regulations under Executive Order 15(94). Brief public comment will be received at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

## INDEPENDENT

### STATE LOTTERY BOARD

**November 29, 1995 - 9:30 a.m.** -- Open Meeting  
State Lottery Department, 900 East Main Street, 8th Floor, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

**Contact:** Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

## JUDICIAL

### VIRGINIA CRIMINAL SENTENCING COMMISSION

**October 30, 1995 - 10 a.m.** -- Open Meeting  
100 North 9th Street, 3rd Floor, Judicial Conference Room, Richmond, Virginia.

A regular quarterly meeting of the commission to review sentencing guidelines, compliance rates, and the work of commission subcommittees.

**Contact:** Dr. Richard Kern, Director, Virginia Criminal Sentencing Commission, 100 N. 9th St., 5th Floor, Richmond, VA 23219, telephone (804) 225-4565 or (804) 225-4398, or FAX (804) 786-3934.

## LEGISLATIVE

### COMMISSION ON YOUTH

**November 21, 1995 - 11 a.m.** -- Open Meeting  
**November 21, 1995 - 1 p.m.** -- Public Hearing  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force for dissemination of draft legislative proposals. A public hearing will be held at 1 p.m. on proposals. HJR 604.

**Contact:** Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

**December 13, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force to discuss Task Force approval of legislation and final report. HJR 604.

**Contact:** Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

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# Calendar of Events

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## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### October 30

Alcoholic Beverage Control Board  
Criminal Sentencing Commission, Virginia  
Employment Commission, Virginia  
- State Advisory Board  
Mental Health, Mental Retardation and Substance Abuse Services, State  
Outdoors Foundation, Virginia

#### November 1

Agriculture and Consumer Services, Department of  
- Virginia Seed Potato Board  
† Community Colleges, State Board for  
Criminal Justice Services Board  
- Committee on Training  
Health, Department of  
Sewage Handling and Disposal Appeals Review Board  
Visually Handicapped, Department for the  
- Advisory Board

#### November 2

Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
- Southern Area Review Committee  
† Community Colleges, State Board for  
Emergency Planning Committee, Local - Chesterfield County  
† Real Estate Board  
Sewage Handling and Disposal Appeals Review Board

#### November 3

Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- State Human Rights Committee  
† Psychology, Board of

#### November 6

† Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board

#### November 7

Hopewell Industrial Safety Council

#### November 8

† Agriculture and Consumer Services, Department of  
- Virginia Marine Products Board  
Asbestos Licensing and Lead Certification, Board for  
Conservation and Recreation, Department of  
- Caledon Natural Area Ad Hoc Committee  
† Deaf and Hard-of-Hearing, Department for the  
- Telecommunications Relay Service Advisory Board  
Funeral Directors and Embalmers, Board of  
Motor Vehicles, Department of  
- Medical Advisory Board  
† Water and Wastewater Works Operators, Board for

#### November 9

Funeral Directors and Embalmers, Board of  
† Geology, Board for  
† Health, State Board of

† Independent Living Council, Statewide  
Real Estate Board  
† Pharmacy, Board of  
† Sewage Handling and Disposal Advisory Committee  
† Water and Wastewater Works Operators, Board for

#### November 10

† Agriculture and Consumer Services, Department of  
- Virginia Aquaculture Advisory Board  
† Health, State Board of

#### November 13

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Architects  
- Board for Professional Engineers  
† Higher Education for Virginia, State Council on  
Library of Virginia  
- Library Board  
Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation  
† Pharmacy, Board of  
† Rehabilitation Advisory Council, State

#### November 14

† Pharmacy, Board of  
† Psychology, Board of  
† Real Estate Appraiser Board  
Resources Authority, Virginia

#### November 15

† George Mason University  
- Student Affairs Committee  
- Board of Visitors  
Higher Education, Commission on the Future of  
Local Debt, State Council on  
Social Services, State Board of  
Treasury Board  
† Veterans' Affairs, Board on

#### November 16

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Land Surveyors  
Audiology and Speech-Language Pathology, Board of  
Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
Education, Board of  
Environmental Quality, Department of  
Health, Department of  
- Commissioner's Waterworks Advisory Committee  
Social Services, State Board of

#### November 17

† Housing and Community Development, Department of  
- State Building Code Technical Review Board  
† Professional Counselors and Marriage and Family Therapists

#### November 20

Local Government, Commission on  
Professional and Occupational Regulation, Board for

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## Calendar of Events

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**November 21**

Motor Vehicle Dealer Board  
Youth, Commission on

**November 27**

† Elections, State Board of

**November 28**

† Health Services Cost Review Council, Virginia  
† Marine Resources Commission  
Polygraph Examiners Advisory Board

**November 29**

Lottery Board, State  
Nursing Home Administrators, Board of

**November 30**

† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
- Board for Landscape Architects  
Rehabilitative Services, Board of  
Voluntary Formulary Board, Virginia

**December 4**

† Barbers, Board for

**December 5**

† Hopewell Industrial Safety Council

**December 6**

Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
† Disability Services Council

**December 7**

Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
- Southern Area Review Committee  
Emergency Planning Committee, Local - Chesterfield  
County

**December 8**

† Waterworks and Wastewater Works Operators, Board  
for

**December 9**

Visually Handicapped, Department for the  
- Vocational Rehabilitation Advisory Council

**December 11**

† Cosmetology, Board for  
† Funeral Directors and Embalmers, Board of

**December 12**

† Funeral Directors and Embalmers, Board of

**December 13**

Youth, Commission on

**December 14**

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
Waterworks and Wastewater Works Operators, Board  
for

**December 19**

† Contractors, Board for

**December 20**

Local Debt, State Council on  
Treasury Board

**January 2, 1996**

† Hopewell Industrial Safety Council

**January 8**

† Hearing Aid Specialists, Board for  
Local Government, Commission on

**January 9**

Local Government, Commission on

### PUBLIC HEARINGS

**November 9**

Air Pollution Control Board, State

**November 13**

Air Pollution Control Board, State

**November 14**

Air Pollution Control Board, State

**November 15**

Mines, Minerals and Energy, Department of  
Veterinary Medicine, Board of

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