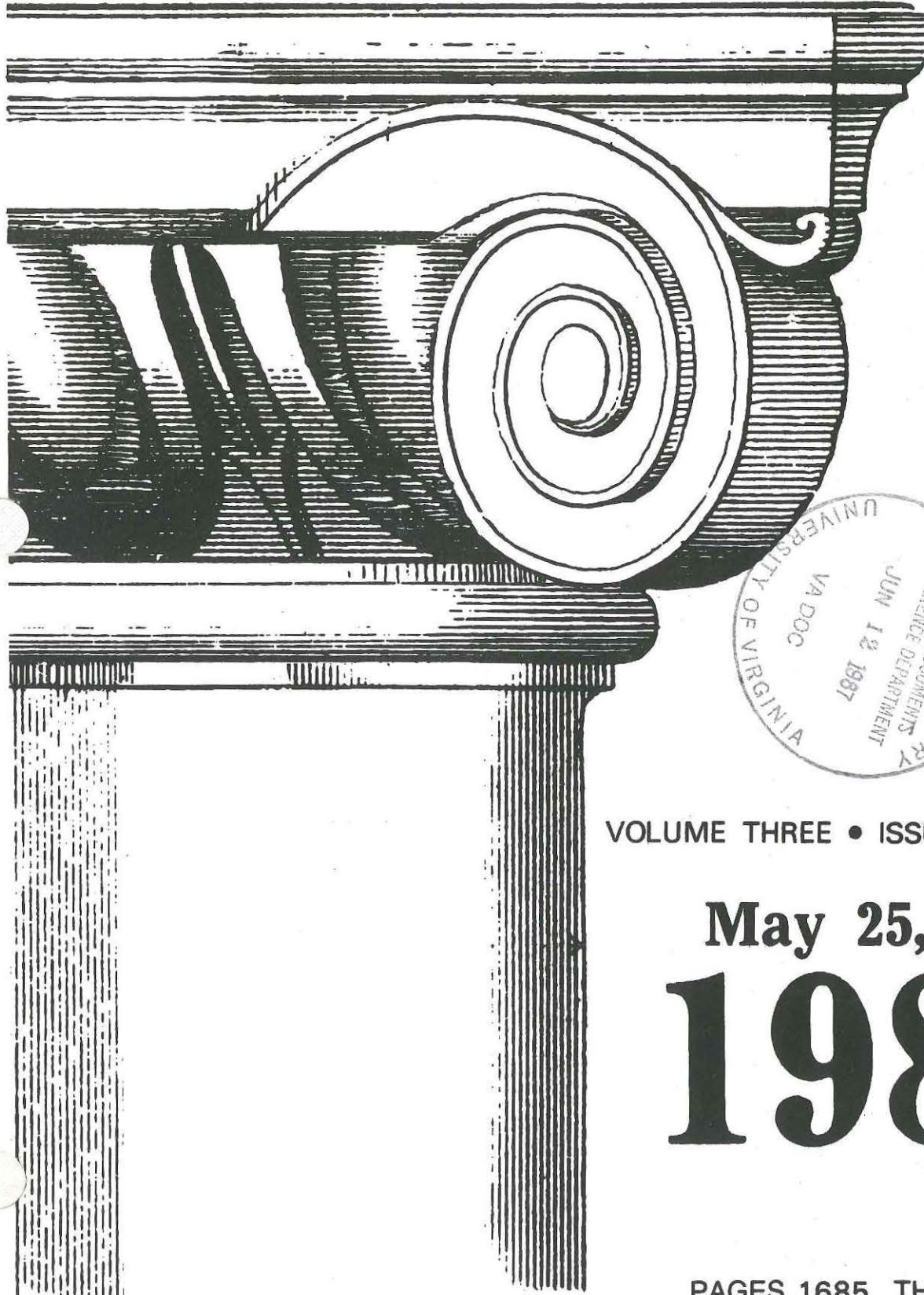


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THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME THREE • ISSUE SEVENTEEN

May 25, 1987

1987

PAGES 1685 THROUGH 1918

INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative

objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

"The *Virginia Register of Regulations*" is published bi-weekly, except four times in January, April, July and October for \$85 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Application to Mail at Second-Class Postage Rates is Pending at Richmond, Virginia. POSTMASTER: Send address changes to the *Virginia Register of Regulations*, P.O. Box 3-AG, Richmond, Virginia 23208.

The *Virginia Register of Regulations* is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

Members of the *Virginia Code Commission*: Theodore V. Morrison, Jr., Chairman, Delegate; Dudley J. Emick, Jr., Vice Chairman, Senator; A. L. Philpott, Speaker of the House of Delegates; James P. Jones, Senator; Russell M. Carneal, Circuit Judge; John Wingo Knowles, Retired Circuit Judge; H. Lane Kneedler, Chief Deputy Attorney General; John A. Banks, Jr., Secretary, Director of the Division of Legislative Services.

Staff of the *Virginia Register*: Joan W. Smith, Registrar of Regulations; Ann M. Brown, Deputy Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

MATERIAL SUBMITTED BY

12 Noon Wednesday

PUBLICATION DATE

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Symbol Key

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

STATE AIR POLLUTION CONTROL BOARD

NOTICE: Due to the length, the Regulations for the Control and Abatement of Air Pollution: Permits for New and Modified Sources (Part VIII) by the State Air Pollution Control Board will not be published, however, a summary has been provided. The regulations may be viewed at the office of the Registrar of Regulations or the State Air Pollution Control Board.

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution: Permits for New and Modified Sources (Part VIII).

Statutory Authority: § 10-17.18(b) of the Code of Virginia

Public Hearing Dates:

July 29, 1987 - 10 a.m.

July 29, 1987 - 1 p.m.

(See Calendar of Events section for additional information)

Summary:

The purpose of the proposed amendments is to change the agency's regulations concerning permits for new and modified sources in order to address comments, suggestions and complaints received pursuant to the agency's Regulatory Reform Program and the Notice of Intended Regulatory Action dated July 7, 1986.

The regulation amendments concern provisions covering new and modified sources and are summarized below:

- 1. Clarify the relationship between the definitions of "modification" and "reconstruction" with respect to what constitutes replacement.*
- 2. Revise the exemption levels for the general permit system.*
- 3. Add a requirement that permit applicants notify adjacent land owners of the proposed facility.*
- 4. Clarify the requirements for public hearings for permits for major stationary sources under the general permit system with respect to the hearing requirements for modifications to major stationary sources.*
- 5. Specify the requirements for changes in ownership or name of a permitted facility.*

6. Add a requirement that copies of permits be available on the premises of the permitted facility.

7. Update the permit regulations for Prevention of Significant Deterioration Areas to be consistent with EPA regulations with respect to modeling guidance requirements.

8. Update the permit regulations for Nonattainment Areas to be consistent with EPA regulations with respect to the inclusion of fugitive emissions in determining whether a source is a major requirement of their permit. It is not expected that the regulation amendments will result in any cost to the board beyond that currently in the budget.

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION (STATE BOARD OF)

NOTICE: The Department of Mental Health and Mental Retardation proposes to REPEAL the regulation listed below:

Title of Regulation: VR 470-02-04. Rules and Regulations for the Licensure of Group Homes and Halfway Houses.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Public Hearing Dates:

July 21, 1987 - 10 a.m.

July 28, 1987 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on May 1, 1978, almost 10 years ago. They have served as the basic licensure regulations for group homes, halfway houses, residential treatment centers and other nonhospital level residential facilities serving mentally ill and mentally retarded adults. The term "group home" is defined in these regulations as "...a

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licensed community based residential facility for four or more mentally retarded or mentally ill persons who may require personal care and supervision, and who may be considered to be potential candidates for independent living." The term "halfway house" means "...a licensed facility, community based, offering residential services to individuals in aftercare status emphasizing social rehabilitation with support and guidance toward the goal of independent living."

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the board to replace VR 470-02-04 Rules and Regulations for the Licensure of Group Homes and Halfway Houses with an entirely new set of regulations: VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities. VR 470-02-04 Rules and Regulations for the Licensure of Group Homes and Halfway Houses will be repealed concurrently with the effective date of the new regulations, which will then serve as the basic licensure regulations for group homes, halfway houses, and residential treatment centers serving mentally retarded and mentally ill adults. The new regulations will also serve as the basic licensure regulations for nonhospital based residential substance abuse treatment and rehabilitation facilities previously licensed under VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities. It is the intention of the board to repeal these latter regulations with respect to their applicability to nonhospital based residential substance abuse treatment and rehabilitation facilities concurrent with the effective date of the new regulations, which will then serve as the basic licensure regulations for nonhospital based residential substance abuse treatment and rehabilitation facilities.

In VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities the term "residential facility" includes with certain exceptions any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more adult mentally ill or mentally retarded persons, or adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

VR 470-02-04 Rules and Regulations for the Licensure of Group Homes and Halfway Houses articulate the current minimum requirements for licensure of group homes, halfway houses and similar residential facilities providing care or treatment in order to protect the health and safety of mentally ill and mentally retarded clients in such facilities and to assure that

they receive services that are appropriate to meet their identified needs.

These regulations are comprised of the following issues which have impact on residential facilities subject to licensure:

Physical facility and safety, health and safety, organization and management, personnel practices, admissions to facility, individual program plan, religious services, records, educational programs, orientation and education, and food service.

These regulations will be replaced by VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities.

* * * * *

NOTICE: The Department of Mental Health and Mental Retardation proposes to REPEAL the regulation listed below:

Title of Regulation: VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Public Hearing Date:
July 21, 1987 - 10 a.m.
July 28, 1987 - 10 a.m.

Summary:
Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on January 1, 1980, almost eight years ago. They have served as the basic licensure regulations for inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, which serve adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the board to replace VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities with three entirely new sets of regulations:

1. VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities which will serve as the basic licensure regulations for, among other types of residential facilities, intermediate care facilities, social detoxification facilities, transitional domiciliary facilities serving substance abusing clients, and residential facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone;

2. VR 470-02-09 Rules and Regulations for the Licensure of Outpatient Facilities which will serve as the basic licensure regulations for, among other types of outpatient facilities, outpatient facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; and

3. VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities which will serve as the basic licensure regulations for, among other types of hospital-based treatment facilities, hospital based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone.

Concurrently with the effective date of the above three sets of regulations, VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities will be repealed with respect to the types of facilities that are subject to licensure under each set of new regulations, which will then serve as the basic licensure regulations for those facilities.

In VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities the term "residential facility" includes with certain exceptions any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more adult mentally ill or mentally retarded persons, or adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

In VR 470-02-09 Rules and Regulations for the Licensure of Outpatient Facilities the term "outpatient facility" includes with certain exceptions any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions which

individually are less than three consecutive hours duration for mentally ill, mentally retarded or substance abusing persons in a nonresidential setting. Outpatient facilities usually provide these interventions through a multidisciplinary staff that is employed by the outpatient facility. In contrast, similar interventions provided by individual practitioners of the same healing art or of the same behavioral science profession, or provided by 'private practice' organizations organized under pertinent provisions of the Code of Virginia by groups of practitioners of the same healing art or of the same behavioral science profession, are not subject to licensure by the Department of Mental Health and Mental Retardation and are, therefore, excluded from the term "outpatient facility". For further clarification see the definitions of "outpatient facility" and "professional service" in § 1.1 of the regulations.

In VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities the term "psychiatric hospital" includes with certain exceptions any facility or institution or any identifiable component of any facility or institution whose primary function is to provide psychiatric diagnosis and treatment, including medical, nursing and related services, in an inpatient setting for two or more nonrelated mentally ill individuals, including hospitals known by varying nomenclature or designation such as sanatoriums; sanatariums; general, acute, short-term, and long-term hospitals; and psychiatric units within general hospitals and community mental health centers. The term "inpatient substance abuse facility" includes any organization established to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities articulate the current minimum requirements for the licensure of inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, in order to protect the health and safety of substance abusing clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

These regulations are comprised of the following issues which have impact on substance abuse treatment and rehabilitation facilities subject to licensure:

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Patient rights; health and safety; space usage; sanitary, health and special medical requirements for treatment in inpatient, intermediate care, subacute detoxification and transitional domiciliary substance abuse treatment facility only; record keeping and accountability; organization and management; and methadone treatment facilities.

These regulations will be replaced by the three new sets of regulations referenced above.

* * * * *

Title of Regulation: VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Shelter Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Public Hearing Dates:

July 21, 1987 - 10 a.m.

July 28, 1987 - 10 a.m.

Written comments will be received through July 31, 19887.

(See Calendar of Events section for additional information)

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "supported residential program" includes any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency shelter services or supportive services in supported residential settings to mentally ill or mentally retarded persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants. Supported residential settings may include: (i) residential respite care/emergency shelter facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized adult foster care provided in private family homes, or (iii) contracted beds in licensed residential facilities.

"Residential respite care/emergency shelter facility" means with certain exceptions a facility that is specifically approved to provide for four or more residents periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.

These regulations articulate the minimum requirements for licensure of supported residential programs and residential respite care/emergency shelter facilities in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in supported residential programs and residential respite care/emergency shelter facilities and to assure that they receive services that are appropriate to meet their identified needs.

The regulations are comprised of the following issues which have impact on supported residential programs and residential respite care/emergency shelter facilities that are subject to licensure: (i) organization and administration, (ii) personnel, (iii) physical environment, (iv) programs and services, and (v) disaster or emergency plans.

These are new regulations which will subject supported residential programs to licensure for the first time.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Shelter Facilities.

PART I. INTRODUCTION.

Article 1. Definitions.

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

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the local human rights committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health Retardation.

"Allegation" means an accusation that a facility is operating without a license.

"Ambulatory detoxification services" means a program/service provided in an outpatient facility to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification services" does not include detoxification and treatment with the controlled drug methadone. Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the clients and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Board" means the State Mental Health and Mental Retardation Board.

"Case record" or "record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the client or resident.

"Child" means any person legally defined as a child under the law of the Commonwealth.

"Client" means a mentally ill or mentally retarded person or a person addicted to the intemperate use of narcotic drugs, alcohol or other stimulants who is being served by a facility, institution or other entity licensed under these regulations.

"Commissioner" means the Commissioner of Mental Health and Mental Retardation.

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

"Department" means the Department of Mental Health and Mental Retardation.

"Detoxification facility" means a residential facility or a portion thereof that is licensed a nonhospital medical detoxification service, a sobering-up shelter service or a social detoxification service, but does not include a hospital based medical detoxification service or an inpatient substance abuse facility as defined in these regulations.

"Domiciliary care" means the provision of food, shelter, assistance in activities of daily living, protection, and general supervision and oversight of the physical and mental well-being of clients.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

"Facility-based residential respite care/emergency shelter services" means the provision of residential respite care/emergency shelter services in a residential respite care/emergency shelter facility.

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification service" means a program/service which offers medical treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence or participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue of fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended

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to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each client. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

"Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in applicable human rights regulations. Except where otherwise provided, the term "local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a client's behavior, such as handcuffs,

straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated clients.

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

"Nonfacility-based residential respite care/emergency shelter services" means the provision of residential respite care/emergency shelter services in supervised apartments, in specialized adult foster care placement in private family homes or in contracted beds in a licensed residential facility.

"Nonhospital medical detoxification service" means a program/service which provides a medically supervised withdrawal from alcohol or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more clients.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions which individually are less than three consecutive hours duration for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility does not include the treatment rooms or offices used to provide the services of:

1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice

psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional services, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

4. Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia;

5. Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

5. Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; or

6. Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.

"Patient" means a person voluntarily or involuntarily admitted to or residing in a facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force with clients as a method or technique of managing harmful client or resident behavior.

"Placement" means any activity of any person which provides assistance to a client in locating and effecting a move to a supported residential program setting including assessing the client's residential needs, assessing the service characteristics of various residential options and providing assistance to the client in selecting the residential setting that will meet his residential needs.

"Premises" means the tract(s) of land on which any part of a facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by the department and is duly licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia and includes psychiatric wards of general hospitals.

"Private institution" means an establishment which is not operated by the department and which is licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia, except that the phrase 'rendering the same and specific professional service' as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such person to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-367.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty

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inflicted for a fault or mistake.

"Regional advocate" means a person or persons who perform the functions set forth in Part IV of the Rules And Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the Commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for a disabled individual to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his handicapping condition.

"Resident" means a person admitted to a residential respite care/emergency facility for supervision, care, training or treatment on a 24-hour basis.

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more mentally ill or mentally retarded persons, or persons addicted to the imtemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the State Board of Social Services;
6. A facility or portion of a facility licensed by the State Board of Health;
7. A facility or portion of a facility which provides domiciliary or residential care to children; or
8. A residential respite care/emergency shelter facility.

"Residential respite care/emergency shelter facility" means a facility that is specifically approved to provide

residential respite care/emergency shelter services for four or more residents, but does not include:

1. A residential facility as defined in these regulations;
2. A residential facility operated by an agency of the federal government;
3. A private family home;
4. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
5. A hospital-based medical detoxification service; and inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
6. A facility or portion of a facility licensed by the State Board of Social Services;
7. A facility or portion of a facility licensed by the State Board of Health;
8. A facility or a portion of a facility which provides domiciliary or residential care to children; or
9. A supported residential program as defined in these regulations.

"Respite care/emergency services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.

"Residential service system" means a service component of a licensed supported residential program as defined in these regulations which provides sponsored placement and supportive services to clients in: (i) supervised apartments operated by the supported residential program; (ii) specialized adult foster care placements provided in private family homes; (iii) residential respite care/emergency shelter facilities; or (iv) in contracted beds in licensed residential facilities.

"Right" means that to which one has a natural, legal or moral claim.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a

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nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgments and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.

"Seclusion" means confining a client in a room with the door secured in any manner that will prohibit the client from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of clients.

"Sobering-up shelter service" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to 'sleep it off.' Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.

"Social detoxification service" means a residential program/service which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room. The program/service does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol education, an opportunity to attend Alcoholics Anonymous meetings and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Specialized adult foster care" means the provision of domiciliary care to adult clients in private family homes in which family members have been specially trained in the characteristics and needs in private family home settings.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State Human Rights Committee" means a committee of nine members appointed by the board pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation and the Rules and Regulations to Assure the Rights of Clients in Community Programs whose responsibility it shall be to perform the functions specified in those regulations. The term "State Human Rights Committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

"Substantial compliance" means a demonstration by a facility or other entity of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

"Supervised apartment" means a single unit housing three or fewer clients that is owned, rented or leased by a licensed supported residential program in which its clients are placed and provided with supportive services. The licensed supported residential program is responsible for the selection, inspection, approval and monitoring of such units with respect to building safety, maintenance, repair, fire safety and sanitation, including the solicitation of inspections and approvals for such units by local building, fire and health authorities when required, but such units shall not be required to be individually licensed by the department.

"Supportive services" means a variety of interventions provided to clients in community-based residential settings to enhance their ability to adjust to and maintain their residence in those settings. Such supportive services may include financial assistance, case management, training or assistance in activities of daily living, homemaker services, vocational assistance, crisis intervention or similar assistance but does not include interventions which are part of active, ongoing treatment.

"Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency shelter services or supportive services in supported residential settings to mentally ill or mentally retarded persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants. Supported residential settings may include (i) residential respite care/emergency shelter facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized adult foster care provided in private family homes, or (iii) contracted beds in licensed residential facilities. The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;
2. A residential facility as defined in these regulations;
3. A hospital as defined in §32.1-123 of the Code of Virginia serving mentally ill persons;

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4. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; a screening and referral facility (substance abuse); or a detoxification facility as these facilities are defined in these regulations;

5. A facility or portion of a facility licensed by the State Board of Social Services;

6. A facility or portion of a facility licensed by the State Board of Health;

7. An entity which provides placement and supportive services to children;

8. A residential respite care/emergency shelter facility; or

9. A program or service provided by a local department of welfare/social services.

"Supported residential settings" means (i) residential respite care/emergency shelter facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized adult foster care provided in private family homes, or (iii) contracted beds in licensed residential facilities.

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a client from contact with people or other reinforcing stimuli through confining the client alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

"Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.

"Treatment" means any intervention which helps a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2.

Legal Base

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3.

Facilities and Entities Subject to Licensure Under These Regulations.

§1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any supported residential program or residential respite care/emergency shelter facility as defined in § 1.1 of these regulations without first being duly licensed, except where such program is exempt from licensing.

Article 4.

General Licensing Requirements.

§1.4 All supported residential programs and residential respite care/emergency shelter facilities shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5.

Separate License Required.

§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.

Article 6.

Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the licensure office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed facility;

3. To provide assistance in locating sources of information and technical assistance;

4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and

5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7.

Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

§ 1.12. A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

§ 1.13. A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department.

§ 1.15. Corporations sponsoring facilities shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate facilities shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all

individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8. The License.

§ 1.19. The commissioner may issue a license to a facility making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; (v) when appropriate the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed.

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§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

§ 1.26. Each residential respite care/emergency facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall residents be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9. Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed facility or project as defined in §§ 32.1-102.1 to 32.1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 of Title 32.1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.

Article 10. Inspection.

§ 1.32. Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article 11. Early Compliance.

§ 1.33. A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the

provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations.

2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and

3. All other terms of the license remain the same.

§ 1.34. A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

§ 1.35. If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article 12. Situation Requiring a New Application.

§ 1.36. A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship;
2. Change of location; or
3. Substantial change in services provided or target population.

Article 13. Modification of License.

§ 1.37. The terms of a license may be modified during the term of the license with respect to the number of beds or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report to the department of any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license.

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article 14. Allowable Variance.

§ 1.38. The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute

or by the regulations of another government agency; and

3. Client care would not be adversely affected.

§ 1.39. Any request for an allowable variance shall be submitted in writing to the department.

§ 1.40. The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article 15.

Investigation of Complaints and Allegations.

§ 1.41. The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article 16.

Revocation, Suspension or Refusal of License.

§ 1.42. The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 (§ 37.1-179, et seq.) of Title 37.1 of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;

2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations.

3. Conduct or practices detrimental to the welfare of any client of a facility or institution licensed under these regulations.

§ 1.43. Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administration Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) shall apply.

§ 1.44. If a license is revoked or refused as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

§ 1.45. When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to §

37.1-186 of the Code of Virginia, the six month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the department.

§ 1.46. Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article 17.

Suppression of Unlawful Operations.

§ 1.47. If any facility or institution is being operated in violation of the provisions of § 37.1-179 et seq. of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article 18.

Penalty.

§ 1.48. Any person violating any provision of § 37.1-179 et seq. of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article 19.

Reports.

§ 1.49. Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II.

ORGANIZATION AND ADMINISTRATION.

Article 1.

Governing Body.

§ 2.1. The facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

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§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and
2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expense, unless, the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership, shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities.

§ 2.9. Facilities operated by state or local government agencies, boards and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.10. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. A operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.11. The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.12. There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

§ 2.13. There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

§ 2.14. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.15. A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability.

§ 2.16. There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.17. Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Relationship to the Licensing Authority.

Proposed Regulations

§ 2.18. The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

§ 2.19. The governing body or its official representative shall notify the licensing authority within 10 working days of:

1. Any changes in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

§ 2.20. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

§ 2.21. The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who: (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that required such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination by a licensed physician or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food services to clients; and
2. Shall not be allowed contact with clients or food served to clients until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement by the physician.

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the facility.

§ 3.11. When a facility is licensed to care for 13 or more clients, a full time, qualified staff member shall fulfill the duties of the program director.

Proposed Regulations

§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.

§ 3.13. The residential care worker or adult foster parent shall have direct responsibility for guidance and supervision of the clients to whom he is assigned. This shall include:

1. Overseeing the general welfare and safety of clients; and
2. Helping to meet the goals and objectives of any required service or treatment plan.

§ 3.14. Sufficient qualified relief staff shall be employed to maintain required staff/client ratios during:

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

§ 3.15. Services of a licensed physician shall be available for treatment of clients as needed.

§ 3.16. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

Article 6. Staff Qualifications.

§ 3.17. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

§ 3.18. When services or consultation are obtained on a contract basis they shall be provided by professionally qualified personnel.

Article 7. Personnel Records.

§ 3.19. A separate up-to-date personnel record shall be maintained for each staff member and adult foster parent. The record shall include:

1. A complete employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written references or notations of oral references;

3. Reports of required health examinations; and
4. Annual performance evaluations.

§ 3.20. Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

§ 3.21. The licensee shall have approved written personnel policies.

§ 3.22. Written personnel policies shall be readily accessible to each staff member.

§ 3.23. Each staff member and adult foster parent shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific position.

Article 9. Job Descriptions.

§ 3.24. For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.25. A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 10. Volunteers and Students Receiving Professional Training.

§ 3.26. If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

§ 3.27. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.28. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the sole responsibility of designated staff members.

§ 3.29. Responsibilities of volunteers/students shall be clearly defined.

§ 3.30. All volunteers/students shall have qualifications appropriate to the services they render based on

experience or orientation.

§ 3.31. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.32. Volunteers/students shall be informed regarding liability and protection of clients issues.

Article 11. Staff Supervision and Evaluation.

§ 3.33. The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12. Staff Development.

§ 3.34. New employees, relief staff, appropriate members of foster families, volunteers and students shall within one calendar month of employment be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.35. Each new staff member shall receive the orientation and training required by § 3.34 prior to assuming sole responsibility for supervision of one or more clients.

§ 3.36. Provision shall be made for staff development activities, designed to update staff on items in § 3.34 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.37. Participation of staff, appropriate members of foster families, volunteers and students in orientation, training and staff development activities shall be

documented.

Article 13. Staffing Patterns.

§ 3.38. Except for foster family members no person shall be scheduled to work more than six consecutive days between rest days.

§ 3.39. Except for foster family members, direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.40. Except for foster family members, direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.41. Except for foster family members, direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

§ 3.42. In buildings where 30 or more residents are sleeping there shall be no less than one direct care staff member awake and on duty during night hours.

§ 3.43. There shall be at least one direct care staff member awake on each floor and on each major wing of each floor where 30 or more residents are sleeping.

§ 3.44. When residents are away from the facility they shall be furnished with a telephone number(s) where appropriate person(s) may be reached.

§ 3.45. Residential respite care/emergency shelter facilities other than those serving mentally retarded persons shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the resident population being served;
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of resident disabilities; and
6. Carrying out appropriate resident care evaluations, peer review, and utilization review procedures.

§ 3.46. For those residential respite care/emergency shelter facilities serving mentally retarded adults, the following staff ratios shall be maintained:

Proposed Regulations

1. For programs serving profoundly retarded adults there shall be one staff member for each four residents present during each shift. Regardless of the number of residents present, at least one staff member shall be present at all times.

2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each 12 residents. If no residents are at home, a staff member shall be on call. If at least one resident is home during the day shift, at least one staff member shall be present unless planned for and indicated in the resident's individualized service plan.

Article 14.

Minimum Qualifications of Adult Foster Families.

§ 3.47. Foster parents shall be at least 18 years old.

§ 3.48. Prior to approval of the home for the placement of clients, each permanent member of the household shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who: (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.49. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the types(s) of test(s) used and the test result(s).

§ 3.50. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.51. The statement shall be filed in the individual's personnel record.

§ 3.52. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with §§ 3.48 through 3.50.

§ 3.53. The total number of persons residing in an adult foster home including clients and permanent members of the foster family shall not exceed six.

§ 3.54. The income and financial resources of the foster family shall be sufficient to assure continuing maintenance of the foster home.

§ 3.55. When a single adult foster parent or both foster parents are employed, there shall be plans approved by the supported residential program for the care and supervision of the client during the absence of the foster parent(s).

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Applicability.

§ 4.1. All of the regulations in Part IV except Article 16 shall apply to residential respite care/emergency facilities. The regulations in Part IV, Articles 2 through 5, 7, 10, 11 (except § 4.39), 13 (except § 4.51), 14, and 15 shall apply to the office facilities of a supported residential program. The regulations in Article 16 shall apply to supervised apartments and to private family homes providing specialized foster care.

Article 2. Buildings, Inspections and Building Plans.

§ 4.2. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed purpose.

§ 4.3. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operation; and
 - e. Swimming pools.

Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.4. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;

Proposed Regulations

3. Local or state health departments; and

4. Office of the State Fire Marshal.

§ 4.5. Documentation of the approvals required by § 4.3 shall be submitted to the licensing authority.

§ 4.6. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required, and such work shall be performed by a licensed contractor.

Article 4.

Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.9. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

§ 4.11. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed by a contractor.

Article 5.

Lighting.

§ 4.12. Artificial lighting shall be by electricity.

§ 4.13. All areas within buildings shall be lighted for safety.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 6.

Sleeping Areas.

§ 4.17. Male residents shall have separate bedrooms from female residents.

§ 4.18. No more than four residents may share a bedroom or sleeping area except in detoxification facilities.

§ 4.19. No required path of travel to the bathroom shall be through another bedroom not under immediate control of the occupant of the first bedroom.

§ 4.20. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, residents who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.21. In facilities licensed, established, constructed or reconstructed after the effective date of these regulations, sleeping quarters shall meet the following space requirements:

1. There shall not be less than 450 cubic feet of air space per person;
2. There shall not be less than 80 square feet floor area in a bedroom accommodating only one person;
3. There shall not be less than 60 square feet of floor area per person in rooms accommodating two or more persons; and
4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.22. Each resident shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed a waterproof mattress cover.

§ 4.23. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.24. Each resident shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.25. Smoking by any person shall be prohibited in sleeping areas.

§ 4.26. The facility shall provide for designated smoking areas.

Article 7.

Plumbing and Toilet Facilities.

§ 4.27. All plumbing shall be maintained in good operating condition.

§ 4.28. There shall be an adequate supply of hot and cold running water available at all times.

Proposed Regulations

§ 4.29. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

§ 4.30. There shall be at least one toilet, one hand basin and shower/bath for every four clients in care.

Article 8. Privacy for Residents.

§ 4.31. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

§ 4.32. Where bathrooms are not designated for individual use, bathtubs and showers shall provide for visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.33. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall readily open in case of fire or other emergency.

§ 4.34. Windows in sleeping areas and dressing areas shall provide for privacy.

Article 9. Living Rooms/Indoor Recreation Space.

§ 4.35. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide for a comfortable and homelike environment that is age-appropriate.

Article 10. Buildings and Grounds.

§ 4.36. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 11. Equipment and Furnishings.

§ 4.37. All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

§ 4.38. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

§ 4.39. Meals shall be served in areas equipped with sturdy tables and benches or chairs.

§ 4.40. Dead bolt locks shall not be used on doors.

§ 4.41. The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 12.

Staff Quarters.

§ 4.42. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24 hours or more except, that when there are no more than four persons, including staff and family of staff, residing in or on duty in the living unit, a private bathroom is not required for staff.

Article 13. Housekeeping and Maintenance.

§ 4.43. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.44. The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

§ 4.45. All buildings shall be well-ventilated and free of stale, musty and foul odors.

§ 4.46. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.47. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

§ 4.48. All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

§ 4.49. Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

§ 4.50. Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 14. Support Functions.

§ 4.51. Facilities shall provide for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

§ 4.52. Clients shall not be solely responsible for support functions and shall not be assigned duties beyond their physical or mental capacity to perform.

Article 15. Firearms and Weapons.

§ 4.53. No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility.

Article 16. Requirements for the Approval and Maintenance of the Residential Environment of Supervised Apartments and Specialized Foster Homes.

§ 4.54. The supported residential program shall implement written policies and procedures for the selection, approval and monitoring of supervised apartments and sponsored specialized adult foster homes with respect to building safety, maintenance, repair, fire safety and sanitation including the solicitation of inspections and approvals for such units by local building, fire and health authorities when required. Such policies and procedures shall include but shall not be limited to the requirements of §§ 4.55 through 4.65 of this article.

§ 4.55. When either the sewage disposal system or the water supply of a proposed supervised apartment or proposed adult foster home is not part of a municipal system, it shall be inspected and approved by the local department of health prior to approval of the supervised apartment or adult foster home as a supported residential setting and reinspected and approved annually thereafter.

§ 4.56. Each supervised apartment and each specialized adult foster home shall have a working telephone.

§ 4.57. All doors and windows used for ventilation shall be screened.

§ 4.58. Each client residing in a supervised apartment or in a sponsored specialized adult foster home shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.59. Each client shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed a waterproof mattress cover.

§ 4.60. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.61. Male clients shall have separate bedrooms from female clients.

§ 4.62. No more than four clients may share a bedroom or sleeping area.

§ 4.63. Clients who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.64. Smoking by any person shall be prohibited in sleeping areas.

§ 4.65. Each supervised apartment and each adult foster home shall have a written plan for evacuation in case of an emergency.

PART V. PROGRAMS AND SERVICES.

Article 1.

Residential Services in a Residential Respite Care/Emergency Shelter Facility.

§ 5.1. In a residential respite care/emergency shelter facility there shall be evidence of a structured program of care that is designed to:

1. Meet the resident's physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.2. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.3. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by residents including health and dental complaints or injuries.

§ 5.4. Entries in the daily activity log shall be signed or initialed by the person making the entry.

Article 2. Program Description and Annual Program Review.

§ 5.5. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the needs of the population to be served; and
3. A clear identification of the program components and services to be provided.

§ 5.6. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.

§ 5.7. Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

§ 5.8. Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 3. Admission Criteria.

Proposed Regulations

§ 5.9. Each facility shall have written criteria for admission that shall be made available to all parties when admission is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the programs; and
4. Intake and admission procedures including necessary referral documentation.

§ 5.10. The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

§ 5.11. A facility shall not knowingly accept into care a client whose health or behavior shall present a clear and present danger to the client or others served by the facility.

Article 4.

Documented Diagnostic Study of the Client.

§ 5.12. Acceptance for care, other than for respite care/emergency services, shall be based on an evaluation of a documented diagnostic study of the client.

§ 5.13. At the time of admission to the program each client's record shall contain all of the elements of the documented diagnostic study of the client.

§ 5.14. The documented diagnostic study of the client shall include all of the following elements:

1. A formal request or written application for admission;
2. Identifying information documented on a face sheet (see § 5.15);
3. Physical examination as specified in § 5.59;
4. Medical history (see § 5.16);
5. A statement concerning the client's recent vocational and educational history and skills;
6. Results of any psychiatric or psychological evaluations of the client, if applicable;
7. Social and developmental summary (see § 5.17);
8. Reason for referral; and
9. Rationale for acceptance.

§ 5.15. Identifying information on a face sheet shall include:

1. Full name of client;
2. Last known residence;
3. Date of birth;
4. Birthplace;
5. Sex of client;
6. Racial and national background;
7. Social security number;
8. Religious preference;
9. Custody status indicating name and address of legal guardian, if any;
10. Names, addresses and telephone numbers for emergency contacts, parents, guardians or representatives of the referring agency, as applicable;
11. Criminal justice status, if any; and
12. Date of admission.

§ 5.16. A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries and hospitalizations;
3. Psychological, psychiatric and neurological examinations, if applicable;
4. Substance abuse history including onset of use, types of substances, frequency of use, quantity of use, method of administration, if applicable;
5. Name, address and telephone number or client's physician(s), when information is available; and
6. Name, address and telephone number of client's dentist(s), when information is available.

§ 5.17. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous service history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for services; and
5. Names, ages and sex of siblings.

Article 5.

Admission Procedures for Respite Care/Emergency Shelter Services or Admission to a Residential Respite Care/Emergency Shelter Facility.

§ 5.18. At the time of admission for respite/care emergency shelter services or admission to a residential respite care/emergency facility the following shall be documented in the client's record:

1. A written request for admission or documentation of an oral request for care;
2. Identifying information documented on a face sheet which shall include:
 - a. Full name of resident;
 - b. Last known residence;
 - c. Date of birth;
 - d. Sex of resident;
 - e. Racial and national background;
 - f. Names and addresses of persons or agencies to be contacted in case of emergency;
 - g. Client's social security number; and
 - h. Date of admission.
3. The client's health status including:
 - a. A statement of known or obvious illnesses and handicapping conditions;
 - b. A statement of medications currently being taken;
 - c. A statement of the client's general health status; and
 - d. Name, address and telephone number of client's physician, if known; and
4. A statement describing the client's need for respite care/emergency shelter services.

§ 5.19. When identifying information is not available the reason shall be documented on the face sheet.

Article 6. Community Relations.

§ 5.20. Opportunities shall be provided for the residents in a group living situation to participate in activities and to utilize resources in the community.

Article 7. Work and Employment.

§ 5.21. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the client resident.

§ 5.22. The facility shall ensure that any resident employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

§ 5.23. Any money earned through employment of a resident shall accrue to the sole benefit of that resident.

Article 8. Grievance Procedures.

§ 5.24. The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article 9. Human Rights.

§ 5.25. The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 10. Services Planning Policies and Procedures.

§ 5.26. Each licensee shall develop and implement written policies and procedures to be followed by staff in services planning, implementation and review.

Article 11. Services Plan.

§ 5.27. A written individualized services plan, based on information derived from the documented diagnostic study of the client and other assessments made by the facility shall be developed and implemented for each client within 30 days of admission and placed in the client's master file, except that the requirements of the regulations in Part V Articles 11 through 13 shall not apply to residents admitted to a residential respite care/emergency shelter facility or to clients admitted solely for respite care/emergency shelter services.

§ 5.28. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized services plan:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

Proposed Regulations

§ 5.29. The degree of participation, or lack thereof, of each of the parties listed in § 5.28 in developing the services plan shall be documented in the client's record.

§ 5.30. The written individualized services plan shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems and current level of functioning including strengths and weaknesses, and corresponding treatment/training needs;
2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement of the timetable for the accomplishment of the client's goals and objectives; and
6. The estimated length of the client's need for services.

Article 12. Quarterly Progress Reports.

§ 5.31. There shall be review and update of the client's individualized services plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

§ 5.32. Written progress summary reports completed quarterly shall be included in each client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;
2. Changes in client's social and family situation;
3. Summary of the client's social, emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;
4. Documentation of the appropriateness of the client's involvement in the program;
5. Update of the appropriateness of the treatment goals;
6. Update of the client's involvement in all necessary services;

7. Update of contract with parent(s) or guardian (if applicable and legally permissible);

8. The evaluation of client progress and client outcomes; and

9. Tentative discharge plans.

Article 13. Annual Services Plan Review.

§ 5.33. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the services plan based on the client's current level of functioning and needs:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.34. The degrees of participation, or lack thereof, of each of the parties listed in § 5.33 in reviewing and rewriting the services plan shall be documented in the client's record.

Article 14. Services Plan for Respite Care/Emergency Shelter Services.

§ 5.35. A written individualized services plan including the elements required by § 5.36 shall be developed for each resident admitted for respite care/emergency shelter services and placed in the resident's case file within 72 hours after admission.

§ 5.36. The written individualized services plan shall include:

1. The resident's description, if appropriate, of his need for respite care/emergency shelter services;
2. If appropriate, documentation of contact with the resident's parent, guardian or other family member to obtain his description of the resident's need for respite care/emergency shelter services;
3. The facility staff's assessment of the resident's need for respite care/emergency shelter services;
4. A plan of action including:
 - a. Services already provided immediately after admission;
 - b. Services to be provided;

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- c. Activities to be provided;
 - d. Name of assigned case manager;
 - e. Who is to provide services and activities;
 - f. When services and activities are to be provided;
 - g. Other service resources in the community which will be coordinated on behalf of the resident or to which the resident will be referred, if any; and
5. The anticipated date of discharge; and
 6. An assessment of the resident's continuing need for services.

Article 15. Client Records.

§ 5.37. A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client.

§ 5.38. Each case record shall be kept up to date and in a uniform manner through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards.

§ 5.39. Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article 16. Confidentiality of Client Records.

§ 5.40. The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

§ 5.41. There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the client.

Article 17. Suspected Abuse or Neglect.

§ 5.42. Written policies and procedures related to abuse and neglect shall be distributed to all staff members.

These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and

3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

§ 5.43. The client's record shall include;

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

Article 18. Storage of Confidential Records.

§ 5.44. Records shall be kept in areas which are accessible only to authorized staff.

§ 5.45. When not in use, active records shall be stored in a locked metal file cabinet or other locked metal compartment.

§ 5.46. When not in use, closed records shall be kept in a locked compartment or in a locked room.

Article 19. Disposition of Client Records.

§ 5.47. Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 5.48. Permanent information shall be kept on each client even after the disposition of the client's record unless otherwise specified by state or federal requirements.

Such information shall include:

1. Client's name;
2. Date and place of client's birth;
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

§ 5.49. Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

Article 20. Service Coordination.

§ 5.50. Each facility shall develop and implement written policies and procedures for case coordination that shall

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provide for the assignment of a case coordinator to each client.

§ 5.51. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;
2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;
3. Ensuring systematic and inclusive individualized services plans, when required, through monitoring the continuity and range of services delivered;
4. Developing and reviewing the specific individualized services plans with additions and deletions in service delivery at least on a quarterly basis;
5. Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;
6. Providing coordination and referral at the time of discharge;
7. Identifying the individual or agency responsible for follow-up and aftercare; and
8. Documenting follow-up when appropriate.

Article 21. Discharge and Case Closure.

§ 5.52. Each facility shall develop and implement written policies and procedures regarding discharge and case closure including:

1. Written criteria for a client's completion of the program; and
2. Conditions under which a client may be discharged before completion of the program.

§ 5.53. No later than 30 days after discharge a comprehensive discharge summary shall be placed in the client's record and it shall contain:

1. Admission date;
2. Discharge date;
3. Name of client's case coordinator, if assigned;
4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
5. Summary of the client's progress since admission;

6. Reasons for discharge; and

7. Follow-up and referral plans and requirements.

Article 22. Health Care Procedures.

§ 5.54. Facilities shall have written policies and procedures for the prompt provision of emergency medical or dental services.

§ 5.55. A well stocked first aid kit, approved by the local rescue squad or Red Cross, shall be maintained and readily accessible for minor injuries and medical emergencies.

§ 5.56. At all times that staff is required to be present there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (multimedia, personal safety, or standard first aid modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse or certified emergency medical technician (EMT) is present at the facility.

§ 5.57. At all times that staff is required to be present there shall be at least one staff member on the premises who has received a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

§ 5.58. The following written information concerning each client or resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician or dentist to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy or Medicaid number;
4. Information concerning:
 - a. Use of medication,
 - b. Medication allergies,
 - c. Any history of substance abuse, and
 - d. Significant medical problems;
5. Written consent authorizing the facility to transport the client to receive emergency medical or dental services; and
6. Written permission for emergency medical or dental care.

Article 23. Physical Examinations for Clients.

§ 5.59. Except for admissions for respite care/emergency shelter services each client accepted for services by supported residential programs shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report of an examination within the preceding 12 months shall be acceptable if a client transfers from one residential facility licensed, certified or accredited by a state or federal agency to another, or a physical examination shall be conducted within 30 days after admission if the client is admitted on an emergency basis and a report of a physical examination is not available.

§ 5.60. Each physical examination report shall include:

1. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
2. Allergies, chronic conditions, and handicaps, if any;
3. Restriction of physical activities, if any;
4. Recommendations for further treatment, immunizations, and other examinations indicated;
5. The date of the physical examination; and
6. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article 24. Use of Tobacco Products and Other Substances.

§ 5.61. No client under 16 shall be permitted to purchase, possess or use tobacco products.

§ 5.62. Each facility shall have a written policy addressing the use of alcoholic beverages.

§ 5.63. Each facility shall have a written policy addressing the possession or use of illegal drugs.

Article 25. Medication.

§ 5.64. As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic or adverse drug reactions.

3. Ineffective medication therapy.

§ 5.66. There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by clients. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked storage area and properly labeled.
2. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.
3. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications may be delivered by any designated employee for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee must have successfully completed a medication assistance training program endorsed by the Virginia Board of Nursing.
4. Only those clients judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the client's record.
5. Controlled substances brought into the program by clients shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.
6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.
7. Documentation of drugs prescribed following admission shall include:
 - a. The date prescribed;
 - b. Drug product name;
 - c. Dosage;
 - d. Strength;
 - e. Route;
 - f. Schedule;
 - g. Dates medication discontinued or changed;
 - h. Total supply of medication prescribed; and

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i. Signature of physician ordering medication.

8. Each program shall have written policies and procedures regarding the review of medication therapy which shall insure and provide for a quarterly review of the individual client's therapy plan by a physician (in conjunction with program staff when needed) shall include:

a. Documentation of the need for continued use of medication therapy including multiple drug usage, with evidence that treatment strategies other than medication therapy are under consideration.

b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that clients or a legally authorized representative are informed of the potential side effects of prescribed medication.

11. All staff who supervise clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

Article 26.
Nutrition.

§ 5.65. Provision shall be made for each client to have three nutritionally balanced meals daily.

§ 5.66. Menus shall be planned at least one week in advance.

§ 5.67. The menus, including any deviations, shall be kept on file for at least two months.

§ 5.68. The daily diet for clients shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

Article 27.
Clothing.

§ 5.69. Provision shall be made for each resident to have his own adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

§ 5.70. The resident shall be allowed to take personal clothing when the resident leaves the facility.

Article 28.
Behavior Management.

§ 5.71. Each facility shall implement written policies and procedures concerning behavior management that are

directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;

2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;

3. Specify the staff members who may authorize the use of each technique;

4. Specify the processes for implementing such policies and procedures;

5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and

6. Specify the methods for documenting their use.

§ 5.72. In the list required by § 5.71, subdivision 2, of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

§ 5.73. A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any client until the local human rights committee has determined:

1. That the client or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk of physical or psychological injury or discomfort to the client than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the client;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness;

9. That the program is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person;

§ 5.74. The local human rights committee having made the determinations required by § 5.73 shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in § 5.73.

§ 5.75. The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

§ 5.76. The client subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and local human rights committee review of the necessity and propriety of their use at any time.

Article 29. Prohibited Means of Punishment.

§ 5.77. The following methods of punishment, whether spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks or meals;
2. Prohibition of contacts and visits with attorney, probation officer, or placing agency representative;
3. Prohibition of contacts and visits with family or legal guardian except where specifically permitted by other applicable regulations;
4. Delay or withholding of incoming or outgoing mail except where specifically permitted by other applicable regulations;
5. Any action which is humiliating, degrading, harsh, or abusive;
6. Corporal punishment as defined in these regulations;
7. Subjection to unclean and unsanitary living conditions;

8. Deprivation of opportunities for bathing and access to toilet facilities;

9. Deprivation of health care including counseling; and

10. Administration of laxatives, enemas, or emetics.

Article 30. Chemical or Mechanical Restraints.

§ 5.78. The use of mechanical or chemical restraints is prohibited unless such use is specifically permitted by other applicable regulations.

Article 31. Physical Restraint.

§ 5.79. A client may be physically restrained only when the client's uncontrolled behavior would result in harm to the client or others and when less restrictive interventions have failed.

§ 5.80. The use of physical restraint shall be only that which is minimally necessary to protect the client or others.

§ 5.81. If the use of physical restraint is unsuccessful in calming and moderating the client's behavior the client's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

§ 5.82. Any application of physical restraint shall be fully documented in the client's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article 32. Seclusion.

§ 5.83. Seclusion of a client in a room with the door secured in any manner that will prohibit the client from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37-84.1 of the Code of Virginia.

Article 33. Time-out Procedures.

§ 5.84. Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.85. When a client is placed in a time-out room, the room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

§ 5.86. Any client in a time-out room shall be able to communicate with staff.

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§ 5.87. The use of time-out procedures shall not be used for periods longer than 15 consecutive minutes.

§ 5.88. Written documentation shall be maintained verifying that each client placed in a time-out room has been checked by staff at least every 15 minutes.

§ 5.89. A client placed in a time-out room shall have bathroom privileges according to need.

§ 5.90. If a meal is scheduled while a client is in time-out, the meal shall be provided to the client at the end of the time-out procedure.

Article 34. Adult Foster Home Study and Approval.

§ 5.91. The supported residential program shall prepare a written study and approve each adult foster home prior to the placement of a client in the adult foster home.

§ 5.92. The date of approval of the adult foster home shall be documented in the foster home record.

§ 5.93. The foster home study shall be based on a minimum of three face-to-face interviews with each foster parent, including at least one joint interview in the home; and all other members of the household shall be interviewed at least once.

§ 5.94. The foster home study shall be written and shall include the information gathered as well as the supported residential program's assessment of the following areas:

1. Each applicant's reasons for and expectations of becoming an adult foster home parent for client's served by the supported residential program;
2. Each applicant's ability to function as an adult foster home parent including interpersonal skills, understanding of the type of clients to be placed, prior experiences with such clients, attitudes toward such clients, and ability to work cooperatively with the program;
3. The abilities of all members of the household to accept such clients and their typical behaviors, and the experienced members of the household in sharing with and caring for persons not related to them;
4. The social adjustment of children of the foster parent applicant such as peer relationships and school performance;
5. The current functioning within the family including marital relationships and routines of the family's daily life;
6. The applicant's social, extended family and neighborhood relationships;

7. The financial resources of the foster family in relation to its expenses including an examination of financial management to date and employment status and stability;

8. Each household member's health status;

9. The physical environment of the foster home including the following (see also Article 13 of Part IV):

- a. The availability and use of sleeping space;
- b. The availability of recreation space;
- c. The availability of storage space;
- d. The housekeeping standards of the home;
- e. The neighborhood;
- f. The accessibility of the home to community resources;

10. At least three personal references;

11. The number, age, sex and special characteristics of clients who could be cared for successfully in the home including the foster parent applicant's preferences for the type of client to be placed and the reasons for those preferences; and

12. Documentation of the qualifications as specified by Article 35 and of any qualifications established by the supported residential program.

§ 5.96. The supported residential program shall reevaluate each adult foster home annually.

§ 5.97. The reevaluation shall be written and shall cover the same topics as the initial evaluation. It shall indicate any changes in status as well as the following areas:

1. The program's evaluation of the performance of the foster parents;
2. Problems which may have occurred with the foster family during the past year;
3. The stability of the home;
4. The relationship between the clients in care and the family members;
5. A brief descriptive summary of the adjustment of each client placed in the home during the year and the specific impact of the family members on that client's progress; and
6. An assessment of the needs of family members for further orientation and training related to their role as

adult foster parents.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Disaster or Emergency Procedures.

§ 6.1. In residential respite care/emergency shelter facilities established written procedures shall be made known to all staff and residents, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuations.

Article 2. Written Fire Plan.

§ 6.2. Each supported residential program and residential respite care/emergency shelter facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and residents with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of residents with special needs (i.e., deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in each supported residential program and residential respite care/emergency shelter facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in each supported residential

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program and residential respite care/emergency shelter facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source;
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspections.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the residential respite care/emergency shelter facility occupied by residents.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarm;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Specific tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other;
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these regulations and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;
3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention

and fire safety.

Article 7.
Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more residents.

§ 6.27. Residents shall be oriented as to fire procedures at time of admission.

Article 8.
Poison Control.

§ 6.28. The telephone number of a regional poison control center shall be posted on or next to at least one nonpay telephone in each building in which residents participate in programs.

§ 6.29. At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the poison control center or physician.

Article 9.
Use of Vehicles and Power Equipment.

§ 6.30. Any transportation provided for or used by clients shall be in compliance with state and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 6.31. There shall be written safety rules for transportation of clients, including handicapped clients, appropriate to the population served.

§ 6.32. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10.
Control of Deviant or Criminal Behavior.

§ 6.33. The person in charge of the facility shall take all reasonable precautions to assure that no client is exposed to, or instigates such behavior as might be physically, emotionally or morally injurious to himself or to another person.

§ 6.34. Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and

immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

Title of Regulation: VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Public Hearing Dates:

July 21, 1987 - 10 a.m.

July 28, 1987 - 10 a.m.

Written comments will be received through July 21, 1987.

(See Calendar of Events section for additional information)

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "day support program" includes with certain exceptions any publicly or privately operated facility, institution or other entity which provides day support services to mentally ill or mentally retarded persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.

"Day support services" means a planned program of treatment or training interventions which individually are more than three consecutive hours duration for mentally ill or mentally retarded persons or for persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. Day support services include such services as day treatment/partial hospitalization, psychosocial rehabilitation, and adult developmental day programs. The term "day support services" does not include such services as extended sheltered employment or work activity programs, supported or transitional employment services, alternative day support arrangements, educational services, or recreational services.

These regulations articulate the minimum requirements for licensure of day support programs in

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order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in day support programs and to assure that they receive services that are appropriate to meet their identified needs. These regulations are comprised of the following issues which have impact on day support programs subject to licensure: (i) organization and administration, (ii) personnel, (iii) physical environment, (iv) programs and services, (v) disaster or emergency plans, and (vi) special requirements for methadone treatment facilities.

These are new regulations that will subject this type of facility to licensure for the first time.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

PART I. INTRODUCTION.

Article I. Definitions.

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

"Adult developmental day program" means a program that provides instruction and training for mentally retarded/developmentally disabled adults (age 18 or older) that is designed to assist them to progress toward independent living.

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the local human rights committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation.

"Alternative day support arrangements" means services that are designed to assist clients in locating day support settings and may provide program staff, follow along, or assistance to clients in maintaining the independent day support arrangement. This term does not include such services as day treatment/partial hospitalization, psychosocial rehabilitation, work activity, adult developmental day programs, extended sheltered employment, supported or transitional employment, alternative day support arrangements, education, or recreational services.

"Allegation" means an accusation that a facility is operating without a license.

"Ambulatory detoxification services" means a program/service provided in a day treatment/partial hospitalization program to people under the influence of intoxicants that provides a safe place to withdraw from

such intoxicants, but the term "ambulatory detoxification services" does not include detoxification and treatment with the controlled drug methadone (see Part VII). Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the clients and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Board" means the State Mental Health and Mental Retardation Board.

"Case record" or "record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the client.

"Child" means any person legally defined as a child under the law of the Commonwealth.

"Client" means mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.

"Commissioner" means the Commissioner of Mental Health and Mental Retardation.

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

"Day support program" means any publicly or privately operated facility, institution or other entity which provides day support services to mentally ill or mentally retarded persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants but does not include:

1. Extended sheltered employment or work activity programs;
2. Supported or transitional employment programs;
3. Alternative day support arrangements;
4. Educational programs;
5. Recreational programs; or
6. Outpatient facilities licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Day support services" means a planned program of treatment or training interventions which individually are more than three consecutive hours duration for mentally ill or mentally retarded persons or for persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. Day support services include such services as day treatment/partial hospitalization, psychosocial rehabilitation, and adult developmental day programs. The term day support services does not include such services as extended sheltered employment or work activity programs, supported or transitional employment services, alternative day support arrangements, educational services, or recreational services.

"Day treatment/partial hospitalization" means a treatment program that includes the major diagnostic, medical, psychiatric, psychosocial, prevocational and educational treatment modalities designed for patients with serious mental disorders or substance abuse problems who require coordinated, intensive, comprehensive and multidisciplinary treatment of pathological conditions not provided in outpatient facility settings.

"Department" means the Department of Mental Health and Mental Retardation.

"Detoxification facility" means a residential facility or a portion thereof that is licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia as a nonhospital medical detoxification service, a sobering-up shelter service or a social detoxification service, but does not include a hospital-based medical detoxification service or an inpatient substance abuse

facility as defined in these regulations.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Educational/recreational program" means a program designed to provide education, recreation, enrichment, and leisure time activities for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants. Such a program may consist of daily, weekly, or monthly activities which are carried out during the summer months or throughout the year.

"Extended sheltered employment or work activity" means a program which provides remunerative employment for mentally ill, mentally retarded or substance abusing clients as a step in the rehabilitation process for those who cannot be readily absorbed into the competitive labor market. Such a program may include a sheltered employment program and a specialized vocational training program.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification service" means a program/service which offers medical treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established

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and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each client. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complication of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

"Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State

Human Rights Committee for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in applicable human rights regulations. Except where otherwise provided, the term "local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a client's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated clients.

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

"Nonhospital medical detoxification service" means a program/service which provides a medically supervised withdrawal from alcohol or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more clients.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions which individually are less than three consecutive hours duration for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility does not include the treatment rooms or offices used to provide the services of:

1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the

association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

4. Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia;

5. Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

6. Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; or

7. Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.

"Patient" or "resident" means a person voluntarily or

involuntarily admitted to or residing in a facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force with clients as a method or technique of managing harmful client behavior.

"Premises" means the tract(s) of land on which any part of a facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by the department and is duly licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia and includes psychiatric wards of general hospitals.

"Private institutions" means an establishment which is not operated by the department and which is licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia, except that the phrase 'rendering the same and specific professional service' as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such persons to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-367.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Psychosocial rehabilitation" means a program for mentally ill or substance abusing clients that provides basic opportunities and services, such as socialization, evaluation, training, vocational and educational opportunities, and advocacy, in the context of a supportive environment in the community focusing on normalization. Psychosocial rehabilitation programs emphasize strengthening client abilities to deal with the tasks of

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everyday life rather than the treatment of pathological conditions.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

"Regional advocate" means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for a disabled individual to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his handicapping condition.

"Resident" means a person admitted to a residential facility for supervision, care, training or treatment on a 24-hour basis. For the purpose of these regulations, the words "resident" and "client" are used interchangeably.

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24-hour domiciliary or residential care or treatment for four or more mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the State Board of Social Services;
6. A facility or portion of a facility licensed by the State Board of Health;

7. A facility or portion of a facility which provides domiciliary or residential care to children; or

8. A residential respite care/emergency shelter facility.

"Residential respite care/emergency shelter facility" means a facility that is specifically approved to provide periodic residential respite care/emergency shelter services for four or more persons but does not include:

1. A residential facility as defined in these regulations;
2. A residential facility operated by an agency of the federal government;
3. A private family home;
4. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
5. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
6. A facility or portion of a facility licensed by the State Board of Social Services;
7. A facility or portion of a facility licensed by the State Board of Health;
8. A facility or portion of a facility which provides domiciliary or residential care to children; or
9. A supported residential program as defined in these regulations.

"Residential respite care/emergency shelter services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.

"Right" means that to which one has a natural, legal or moral claim.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make

such judgements and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.

"Seclusion" means confining a client in a room with the door secured in any manner that will prohibit the client from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of clients.

"Sobering-up shelter service" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to "sleep it off." Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.

"Social detoxification service" means a residential program/service which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room. The program/service does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol education, an opportunity to attend Alcoholics Anonymous meetings and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State Human Rights Committee" means a committee of nine members appointed by the board pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Menatal Retardation and the Rules and Regulations to Assure the Rights of Clients in Community Programs whose responsibility it shall be to perform the functions specified in those regulations. The term "State Human Rights Committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

"Substantial compliance" means a demonstration by a

facility of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

"Supported or transitional employment" means a program which provides paid employment, often paying at or above minimum wage, in a variety of normal business or industry-integrated work settings with job site training and ongoing support services provided by professional program staff to facilitate job retention by clients. These programs serve severely handicapped individuals irrespective of age or vocational potential. Examples of such a program include work enclaves and supported employment in competitive settings.

"Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency shelter services or supportive services in supported residential settings to mentally ill or mentally retarded persons or persons addicted to the imtemperate use of narcotic drugs, alcohol or other stimulants. Supported residential settings may include (i) residential respite care/emergency shelter facilities, (ii) residential services systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized adult foster care provided in private family homes, or (iii) contracted beds in licensed residential facilities. The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;
2. A residential facility as defined in these regulations;
3. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the State Board of Social Services;
6. A facility or portion of a facility licensed by the State Board of Health;
7. A facility or portion of a facility which provides domiciliary or residential care to children;
8. A residential respite care/emergency shelter facility as defined in these regulations; or

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9. A program or services provided by a local department of welfare/social services.

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a client from contact with people or other reinforcing stimuli through confining the client alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

"Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.

"Treatment" means any intervention which helps a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3. Facilities Subject to Licensure Under These Regulations.

§ 1.3. No person shall establish conduct, maintain or operate in this Commonwealth any day support program as defined in § 1.1 of these regulations without first being duly licensed, except where such day support program is exempt from licensing.

Article 4. General Licensing Requirements.

§ 1.4. All day support programs shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the Commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in

this Commonwealth.

Article 5. Separate License Required.

§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.

Article 6. Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the licensure office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purpose:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed facility;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7. Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for

an original license.

§ 1.12. A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

§ 1.13. A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for licensure or license renewal and which shall not be changed without first securing approval of the department.

§ 1.15. Corporations sponsoring day support programs shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate day support programs shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8. The License.

§ 1.19. The commissioner may issue a license to a day support program making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying with a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution

in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; (v) when appropriate the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed.

§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

§ 1.26. Each residential facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall clients be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9. Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed facility or project as defined in §§ 32.1-102.1 to 32.1-102.11

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of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 Title 32.1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.

Article 10. Inspection.

§ 1.32. Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article 11. Early Compliance.

§ 1.33. A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations;

2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and

3. All other terms of the license remain the same.

§ 1.34. A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

§ 1.35. If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article 12. Situation Requiring a New Application.

§ 1.36. A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship;
2. Change of location; or
3. Substantial change in services provided or target population.

Article 13. Modification of License.

§ 1.37. The terms of a license may be modified during the term of the license with respect to the number of beds or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report to the department of any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license.

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article 14. Allowable Variance.

§ 1.38. The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Client care would not be adversely affected.

§ 1.39. Any request for an allowable variance shall be submitted in writing to the department.

§ 1.40. The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article 15. Investigation of Complaints and Allegations.

§ 1.41. The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law enforcement authority.

Article 16. Revocation, Suspension or Refusal of License.

§ 1.42. The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 (§ 37.1-179 et seq.) of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;

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2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations; or

3. Conduct or practices detrimental to the welfare of any client of a facility or institution licensed under these regulations.

§ 1.43. Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) of the Code of Virginia shall apply.

§ 1.44. If a license is revoked or refused as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

§ 1.45. When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the department.

§ 1.46. Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article 17. Suppression of Unlawful Operations.

§ 1.47. If any facility or institution is being operated in violation of the provisions of § 37.1-179 et seq. of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or

violations.

Article 18. Penalty.

§ 1.48. Any person violating any provision of § 37.1-179 et seq. of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article 19. Reports.

§ 1.49. Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The day support program shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

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Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities.

§ 2.9. Facilities operated by state or local government agencies, boards and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.10. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.11. The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.12. There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

§ 2.13. There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

§ 2.14. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.15. A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability.

§ 2.16. There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.17. Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Relationship to the Licensing Authority.

§ 2.18. The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

§ 2.19. The governing body or its official representative shall notify the licensing authority within 10 working days of:

1. Any changes in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

§ 2.20. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

§ 2.21. The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia unless the

facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2 of these regulations.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination by a licensed physician or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food service to clients; and

2. Shall not be allowed contact with clients or food served to clients until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement by the physician.

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the day support program.

§ 3.11. When a facility is licensed to care for 13 or more clients, a full-time, qualified staff member shall fulfill the duties of the program director.

§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.

§ 3.13. Sufficient qualified relief staff shall be employed to maintain required staff/client ratios during:

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

§ 3.14. Services of a licensed physician shall be available for treatment of clients as needed.

§ 3.15. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

Article 6. Staff Qualifications.

§ 3.16. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

§ 3.17. When services or consultation are obtained on a contract basis they shall be provided by professionally qualified personnel.

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Article 7. Personnel Records.

§ 3.18. A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A complete employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history;
2. Written references or notations of oral references;
3. Reports of required health examinations; and
4. Annual performance evaluations.

§ 3.19. Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

§ 3.20. The licensee shall have approved written personnel policies.

§ 3.21. Written personnel policies shall be readily accessible to each staff member.

§ 3.22. Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 9. Job Descriptions.

§ 3.23. For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.24. A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 10. Volunteers and Students Receiving Professional

Training.

§ 3.25. If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

§ 3.26. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.27. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the sole responsibility of designated staff members.

§ 3.28. Responsibilities of volunteers/students shall be clearly defined.

§ 3.29. All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

§ 3.30. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.31. Volunteers/students shall be informed regarding liability and protection of clients' issues.

Article 11. Staff Supervision and Evaluation.

§ 3.32. The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12. Staff Development.

§ 3.33. New employees, relief staff, volunteers and students shall within one calendar month of employment be given

orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.34. Each new staff member shall receive the orientation and training required by § 3.33 prior to assuming sole responsibility for supervision of one or more clients.

§ 3.35. Provision shall be made for staff development activities, designed to update staff on items in § 3.33 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.36. Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 13. Staffing Patterns.

§ 3.37. No person shall be scheduled to work more than six consecutive days between rest days.

§ 3.38. Direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.39. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.40. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

§ 3.41. Facilities other than those serving mentally retarded persons shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the client population being served;
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of client disabilities; and
6. Carrying out appropriate patient care evaluations, peer review, and utilization review procedures.

§ 3.42. For those facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four clients present during each shift. Regardless of the number of clients present, at least one staff member shall be present at all times.

2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each twelve clients. If at least one client is present, at least one staff member shall be present unless planned for and indicated in the client's Individualized Service Plan.

PART IV. PHYSICAL ENVIRONMENT.

Article 1. Buildings, Inspections and Building Plans.

§ 4.1. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed purpose.

§ 4.2. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operation; and
 - e. Swimming pools.

§ 4.3. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, clients who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be served on ground level and provided with a planned means of effective egress for use in emergencies.

Article 2. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications

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to Existing Buildings.

§ 4.4. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.5. Documentation of the approvals required by § 4.4 shall be submitted to the licensing authority.

§ 4.6. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required, and such work shall be performed by a licensed contractor.

Article 3.

Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.9. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

§ 4.11. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed by a contractor.

Article 4.

Lighting.

§ 4.12. Artificial lighting shall be by electricity.

§ 4.13. All areas within buildings shall be lighted for safety.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 5.

Plumbing and Toilet Facilities.

§ 4.17. All plumbing shall be maintained in good operating condition.

§ 4.18. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

§ 4.20. There shall be at least one toilet and one hand basin for every four clients in care.

Article 6.

Privacy for Clients.

§ 4.21. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

Article 7.

Buildings and Grounds.

§ 4.22. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 8.

Equipment and Furnishings.

§ 4.23. All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

§ 4.24. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

§ 4.25. Meals, if provided, shall be served in areas equipped with sturdy tables and benches or chairs.

§ 4.26. Dead bolt locks shall not be used on doors.

§ 4.27. The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 9.

Housekeeping and Maintenance.

§ 4.28. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.29. The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

§ 4.30. All buildings shall be well-ventilated and free of stale, musty and foul odors.

§ 4.31. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.32. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

§ 4.33. All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

§ 4.34. Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, and other materials.

§ 4.35. Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 10. Support Functions.

§ 4.36. Facilities shall provide for support functions including, but not limited to, maintenance of buildings and grounds, and housekeeping.

§ 4.37. Clients shall not be solely responsible for support functions and shall not be assigned duties beyond their physical or mental capacity to perform.

Article 11. Firearms and Weapons.

§ 4.38. No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility.

PART V. PROGRAMS AND SERVICES.

Article 1. Program Description and Annual Program Review.

§ 5.1. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the needs of the population to be served; and
3. A clear identification of the program components and services to be provided.

§ 5.2. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.

§ 5.3. Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

§ 5.4. Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 2. Admission Criteria.

§ 5.5. Each facility shall have written criteria for admission that shall be made available to all parties when admission is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the program; and
4. Intake and admission procedures including necessary referral documentation.

§ 5.6. The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

§ 5.7. A facility shall not knowingly accept into care a client whose health or behavior shall present a clear and present danger to the client or others served by the facility.

Article 3. Documented Diagnostic Study of the Client.

§ 5.8. Acceptance for care shall be based on an evaluation of a documented diagnostic study of the client, except that this requirement shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification services, or to admissions for detoxification and treatment services using the controlled drug methadone (see Part VII).

§ 5.9. At the time of an admission to the day support program for services the client's record shall contain all of the elements of the documented diagnostic study of the client.

§ 5.10. The documented diagnostic study of the client shall include all of the following elements:

1. A formal request or written application for admission;

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2. Identifying information documented on a face sheet (see § 5.11);

3. A physical examination as specified in § 5.55 or documentation of an assessment of the client's current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5.14;

4. Medical history (see § 5.12);

5. A statement concerning the client's recent vocational and educational history and skills;

6. Results of any psychiatric or psychological evaluations of the client, if applicable;

7. Social and developmental summary (see § 5.13);

8. Reason for referral; and

9. Rational for acceptance.

§ 5.11. Identifying information on a face sheet shall include:

1. Full name of client;
2. Last known residence;
3. Date of birth;
4. Birthplace;
5. Sex of client;
6. Racial and national background;
7. Social security number;
8. Religious preference;
9. Custody status indicating name and address of legal guardian, if any;
10. Names, addresses and telephone numbers for emergency contacts, spouse, parents, guardians or representatives of the referring agency, as applicable;
11. Criminal justice status, if any; and
12. Date of admission.

§ 5.12. A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries and hospitalization;

3. Psychological, psychiatric and neurological examinations, if applicable;

4. Substance abuse history including onset of use, types of substances, frequency of use, quantity of use, method of administration, if applicable;

5. Name, address and telephone number of client's physician(s), when information is available; and

6. Name, address and telephone number of client's dentist(s), when information is available.

§ 5.13. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous service history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for services; and
5. Names, ages and sex of siblings.

Article 4.

Protocol for Assessing the Current Physical Condition of Clients.

§ 5.14. Each day support program shall in consultation with a licensed physician develop and implement written policies and procedures for assessing the current physical condition of clients who are being considered for admission to a day support program and who are unable to present a report of a physical examination by or under the direction of a licensed physician performed no earlier than 90 days prior to admission to the program. Such policies and procedures shall include but shall not be limited to:

1. A protocol or screening instrument to be used by clinical staff to gather and document data about the client derived from interviewing and visual observation that may be used to assess the current physical condition of prospective clients;
2. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above, for referral of clients to a physician for medical assessment and treatment; and
3. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above and embodied in a written agreement with a local hospital(s) emergency room, for referral and transportation of clients for

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emergency medical services when needed.

Article 5.

Procedures for Admissions for Day Support Program Ambulatory Detoxification Services.

§ 5.15. Each day support program offering ambulatory detoxification services other than outpatient detoxification and treatment services using the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop and implement written policies and procedures for intake screening including but not limited to:

1. Requirements for documenting identifying information on clients;
2. Requirements for assessing and documenting the medical history and initial physical condition of clients including as a minimum; (i) measurement of blood alcohol content; (ii) respiration rate; (iii) pulse rate; (iv) blood pressure; and (v) body temperature; and
3. Operational criteria for admission for ambulatory detoxification services and for referral to other resources including operational criteria embodied in a written agreement with a local hospital(s) emergency room for referral and transportation of clients for emergency medical services when needed,

Article 6.

Work and Employment.

§ 5.16. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the client.

§ 5.17. The facility shall ensure that any client employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

§ 5.18. Any money earned through employment of a client shall accrue to the sole benefit of that client.

Article 7.

Grievance Procedures.

§ 5.19. The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article 8.

Human Rights.

§ 5.20. The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 9.

Treatment Planning Policies and Procedures.

§ 5.21. Each licensee shall develop and implement written policies and procedures to be followed by staff in treatment planning, implementation and review.

Article 10.

Treatment Plan.

§ 5.22. A written individualized treatment plan, based on information derived from the documented diagnostic study of the client and other assessments made by the facility, shall be developed and implemented for each client within 30 days of admission and placed in the client's master file, except that the requirements of the regulations in Part V, Articles 11-13 shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification services, or to admissions for detoxification and treatment using the controlled drug methadone (see Part VII).

§ 5.23. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized treatment plan:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.24. The degree of participation, or lack thereof, of each of the parties listed in § 5.23 in developing the treatment plan shall be documented in the client's record.

§ 5.25. The individualized treatment plan shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems and current level of functioning including strengths and weaknesses, and corresponding treatment/training needs;
2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement of the timetable for the accomplishment of the client's goals and objectives; and
6. The estimated length of the client's need for services.

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Article 11. Quarterly Progress Reports.

§ 5.26. There shall be a review and update of the client's individualized treatment plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

§ 5.27. Written progress summary reports completed quarterly shall be included in each client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;
2. Changes in client's social and family situation;
3. Summary of the client's social, emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;
4. Documentation of the appropriateness of the client's involvement in the program;
5. Update of the appropriateness of the treatment goals;
6. Update of the client's involvement in all necessary services;
7. Update of contract with parent(s) or guardian (if applicable and legally permissible);
8. The evaluation of client progress and client outcomes; and
9. Tentative discharge plans.

Article 12. Annual Treatment Plan Review.

§ 5.28. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the treatment plan based on the client's current level of functioning and needs:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.29. The degrees of participation, or lack thereof, of each of the parties listed in § 5.28 in reviewing and rewriting the treatment plan shall be documented in the client's record.

Article 13. Ambulatory Detoxification Services.

§ 5.30. Each day support program offering ambulatory detoxification services other than outpatient detoxification and treatment with the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop and implement written policies and procedures for detoxification services including but not limited to :

1. Monitoring of the physical and mental condition of clients including monitoring and recording of the client's vital signs (respiration rate, pulse rate, blood pressure and body temperature) every hour during the three hours after admission;
2. Therapeutic services directly related to and necessary for the detoxification process including but not limited to:
 - a. Ongoing medical services if provided as an integral part of the detoxification program;
 - b. Referral to emergency medical services when appropriate;
 - c. Activities designed to motivate clients to continue treatment after detoxification;
 - d. Opportunities to participate in or be introduced to Alcoholics Anonymous and Narcotics Anonymous;
 - e. Individual and group counseling/support if provided as a part of the detoxification program; and
 - f. Case management including referral and follow-up for further residential or outpatient treatment.

Article 14. Client Records.

§ 5.31. A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client;

§ 5.32. Each case record shall be kept up to date and in a uniform manner through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards.

§ 5.33. Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article 15. Confidentiality of Client Records.

§ 5.34. The facility shall make information available only

to those legally authorized to have access to that information under federal and state laws.

§ 5.35. There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the client.

Article 16. Suspected Abuse or Neglect.

§ 5.36. Written policies and procedures related to abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

§ 5.37. The client's record shall include;

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

Article 17. Storage of Confidential Records.

§ 5.38. Records shall be kept in area which are accessible only to authorized staff.

§ 5.39. When not in use, active records shall be stored in a locked metal file cabinet or other locked metal compartment.

§ 5.40. When not in use, closed records shall be kept in a locked compartment or in a locked room.

Article 18. Disposition of Client Records.

§ 5.41. Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 5.42. Permanent information shall be kept on each client

even after the disposition of the client's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Client's name;
2. Date and place of client's birth;
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

§ 5.43. Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

Article 19. Service Coordination.

§ 5.44. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

§ 5.45. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;
2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;
3. Ensuring systematic and inclusive individualized treatment plans, when required, through monitoring the continuity and range of services delivered;
4. Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;
5. Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;
6. Providing coordination and referral at the time of discharge;
7. Identifying the individual or agency responsible for follow-up and aftercare; and
8. Documenting follow-up when appropriate.

Article 20. Discharge and Case Closure.

§ 5.46. Each facility shall develop and implement written policies and procedures regarding discharge and case closure including;

1. Written criteria for a client's completion of the

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program; and

2. Conditions under which a client may be discharged before completion of the program.

§ 5.47. No later than 30 days after discharge a comprehensive discharge summary shall be placed in the client's record and it shall contain:

1. Client's admission date;
2. Client's discharge date;
3. Name of client's case coordinator, if assigned;
4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
5. Summary of the client's progress since admission;
6. Reasons for discharge; and
7. Follow-up and referral plans and requirements.

Article 21. Health Care Procedures.

§ 5.48. Facilities shall have written policies and procedures for the prompt provision of emergency medical or dental services.

§ 5.49. A well stocked first aid kit, approved by the local rescue squad or Red Cross, shall be maintained and readily accessible for minor injuries and medical emergencies.

§ 5.50. At all times that staff is required to be present, there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (multimedia, personal safety, or standard first aid modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse or certified emergency medical technician (EMT) is present at the facility.

§ 5.51. At all times that staff is required to be present there shall be at least one staff member on the premises who has received a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

§ 5.52. Within 90 days after employment each staff member of a day support program who provides direct care to clients receiving ambulatory detoxification services other than detoxification and treatment with the controlled substance methadone (see Part VII) shall successfully complete a training course for social setting detoxification workers approved by the department.

§ 5.53. The following written information concerning each client shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician or dentist to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy or Medicaid number;
4. Information concerning:
 - a. Use of medication;
 - b. Medication allergies;
 - c. Any history of substance abuse; and
 - d. Significant medical problems;
5. Written consent authorizing the facility to transport the client to receive emergency medical or dental services; and
6. Written permission for emergency medical or dental care.

Article 22. Physical Examination for Clients.

§ 5.54. Each client accepted for services in day support programs, other than those clients accepted for emergency services, diagnostic services, ambulatory detoxification services, or for detoxification and treatment with the controlled drug methadone, shall have an assessment of his current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5.14 or a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report of a physical examination performed within the preceding 12 months by a state hospital or facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia shall be acceptable.

§ 5.55. Each physical examination report shall include:

1. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
2. Allergies, chronic conditions, and handicaps, if any;
3. Restriction of physical activities, if any;
4. Recommendations for further treatment, immunizations, and other examinations indicated;

5. The date of the physical examination; and

6. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article 23.

Use of Tobacco Products and Other Substances.

§ 5.56. No client under age 16 shall be permitted to purchase, possess or use tobacco products.

§ 5.57. Each facility shall have a written policy addressing the use of alcoholic beverages.

§ 5.58. Each facility shall have a written policy addressing the possession or use of illegal drugs.

Article 24. Medication.

§ 5.59. As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic or adverse drug reactions.
3. Ineffective medication therapy.

§ 5.60. There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by clients. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked storage area and properly labeled.
2. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.
3. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications may be delivered by any designated employee for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee shall have successfully completed a medication assistance training program endorsed by the Virginia Board of Nursing.
4. Only those clients judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication and this

shall be documented in the client's record.

5. Controlled substances brought into the program by clients shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.

6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

7. Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

8. Each program shall have written policies and procedures regarding the review of medication therapy which shall insure and provide for a quarterly review of the individual client's therapy plan by a physician (in conjunction with program staff when needed) shall include:

- a. Documentation of the need for continued use of medication therapy including multiple drug usage, with evidence that treatment strategies other than medication therapy are under consideration.
- b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that clients or a legally authorized representative are informed of the potential side effects of prescribed medication.

11. All staff who supervise clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

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Article 25. Nutrition.

§ 5.61. If food is served, provision shall be made for each client to have nutritionally balanced meals.

§ 5.62. Menus shall be planned at least one week in advance.

§ 5.63. The menus, including any deviations, shall be kept on file for at least two months.

§ 5.64. The daily diet for clients shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation)

Article 26. Behavior Management.

§ 5.65. Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasis positive approaches;
2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;
3. Specify the staff members who may authorize the use of each technique;
4. Specify the process for implementing such policies and procedures;
5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and
6. Specify the methods for documenting their use.

§ 5.66. In the list required by § 5.65-2 of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

§ 5.67. A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any client until the local human rights committee has determined:

1. That the client or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;
2. That the proposed intrusive aversive therapy has

been recommended by a licensed clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk or physical or psychological injury or discomfort to the client than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the client;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness;

9. That the promotion is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person.

§ 5.68. The local human rights committee having made the determinations required by § 5.67 shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in § 5.67.

§ 5.69. The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

§ 5.70. The client subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and local human rights committee review of the necessity and propriety of their use at any time.

Article 27. Prohibited Means of Punishment.

§ 5.71. The following methods of punishment, whether spontaneous or deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks, or meals;
2. Prohibition of contracts and visits with attorney, probation officer, or placing agency representative;
3. Prohibition of contracts and visits with family or legal guardian except where specifically permitted by other applicable regulations;
4. Delay or withholding of incoming or outgoing mail except where specifically permitted by other applicable regulations;
5. Any action which is humiliating, degrading, harsh, or abusive;
6. Corporal punishment as defined in these regulations;
7. Subjection to unclean and unsanitary living conditions;
8. Deprivation of opportunities for bathing and access to toilet facilities;
9. Deprivation of health care including counseling; and
10. Administration of laxatives, enemas, or emetics.

Article 28.
Chemical or Mechanical Restraints.

§ 5.72. The use of mechanical or chemical restraints is prohibited unless such use is specifically permitted by other applicable regulations.

Article 29.
Physical Restraint.

§ 5.73. A client may be physically restrained only when the client's uncontrolled behavior would result in harm to the client or others and when less restrictive interventions have failed.

§ 5.74. The use of physical restraint shall be only that which is minimally necessary to protect the client or others.

§ 5.75. If the use of physical restraint is unsuccessful in calming and moderating the client's behavior the client's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

§ 5.76. Any application of physical restraint shall be fully documented in the client's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article 30.

Seclusion.

§ 5.77. Seclusion of a client in a room with the door secured in any manner that will prohibit the client from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 31.
Time-out Procedures.

§ 5.78. Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.79. When a client is placed in a time-out room, the room shall not be locked nor shall the door be secured in any manner that will prohibit the client from opening it.

§ 5.80. Any client in a time-out room shall be able to communicate with staff.

§ 5.81. The use of time-out procedures shall not be used for periods of longer than 15 consecutive minutes.

§ 5.82. Written documentation shall be maintained verifying that each client placed in a time-out room has been checked by staff at least every 15 minutes.

§ 5.83. A client placed in a time-out room shall have bathroom privileges according to need.

§ 5.84. If a meal is scheduled while a client is in time-out, the meal shall be provided to the client at the end of the time-out procedure.

PART VI.
DISASTER OR EMERGENCY PLANS

Article 1.
Disaster or Emergency Procedures.

§ 6.1. Established written procedures shall be made known to all staff and clients, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuations

Article 2.
Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of

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the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and clients with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of clients with special needs (i.e. deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and clients.

Article 3.

Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which clients participate in programs.

Article 4.

Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or a post where they are clearly visible and so that the top is

not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5.

Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source;
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspection.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by clients.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Specific tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other;

7. Summary; and

8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drill are conducted at the times and intervals required by these regulations and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;
3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and clients on topics in fire prevention and fire safety.

Article 7. Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more clients.

§ 6.27. Clients shall be oriented as to fire procedures at time of admission.

Article 8. Poison Control.

§ 6.28. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which clients participate in programs.

§ 6.29. At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 9. Use of Vehicles and Power Equipment.

§ 6.30. Any transportation provided for or used by clients

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shall be in compliance with state and federal laws relating to:

1. Vehicle safety maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 6.31. There shall be written safety rules for transportation of clients, including handicapped clients appropriate to the population served.

§ 6.32. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10. Control of Deviant or Criminal Behavior.

§ 6.33. The person in charge of the facility shall take all reasonable precautions to assure that no client is exposed to, or instigates such behavior as might be physically, emotionally or morally injurious to himself or to another person.

§ 6.34. Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

PART VII. METHADONE TREATMENT FACILITIES.

Article 1. Applicability.

§ 7.1. Compliance with the regulations in Part VII is required for the licensure of day treatment/partial hospitalization programs providing methadone treatment. These requirements are in addition to those requirements in Parts II through VI when treatment facilities utilize the narcotic drug methadone as part of a substance abuse treatment and rehabilitation program because such a program requires more stringent admission procedures and criteria; drug administration procedures; record content and procedures; and services provided.

Article 2. Definitions.

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

"Licensed methadone treatment facility" means a person, partnership, governmental agency, corporation or association, licensed by the Commissioner to operate a

methadone treatment program.

"Methadone treatment program" means a person or organization furnishing a comprehensive range of services using methadone for the detoxification or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations.

"Detoxification treatment using methadone" means the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drug from the use of these drugs. A repeat episode of detoxification may not be initiated until one week after the completion of the previous detoxification.

"Maintenance treatment using methadone" means the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drug, for an individual dependent on heroin.

"State Methadone Authority" means the Commissioner of the department or his designee.

Article 3. Program Objectives.

§ 7.3. The objectives of a methadone treatment facility shall be:

1. To enable drug dependent patients to become productive citizens;
2. To promote the eventual withdrawal of patients from drug dependency;
3. To protect patients and society from any harmful effects of drug misuse;
4. To evaluate the effects of methadone in the treatment and rehabilitation of drug dependent patients; and
5. To promote the safe and controlled use of methadone according to sound medical practice and to prevent abuse or misuse of methadone.

Article 4. Program and Services.

§ 7.4. A licensed methadone treatment facility shall include facilities, resources and staff adequate to provide and shall provide or make appropriate arrangements for providing the following services:

1. Medical care; a written agreement with a hospital for the purpose of providing necessary emergency, inpatient, or ambulatory care for facility patients must be provided;
2. Individual or group therapy and family therapy;
3. Vocational rehabilitation services;
4. Educational services;
5. Counseling;
6. Other services should include social services and recreational therapy; and
7. Urinalysis - Random urine samples shall be collected from each prospective methadone client for analysis as part of the admission procedure to the program. Upon active methadone clients, at least 8 additional random urinalysis shall be performed during the first year in maintenance treatment and at least quarterly random urinalysis shall be performed on each client in maintenance treatment for more than one year, except that a random urinalysis shall be performed monthly on each client who receives a 6-day supply of take-home medication. Specimens shall be collected from each client in a manner that minimizes falsification. Urine collected shall be qualitatively analyzed for the morphine radical, other opiates, cocaine, methadone, barbiturates, amphetamines, and quinine, as well as other drugs as indicated. The results of this urinalysis is necessary for the overall treatment planning for individual clients receiving services and shall not be used in a punitive manner except to reduce or discontinue take home privileges.

Article 5. Admissions.

§ 7.5. A patient may be admitted to a licensed facility only upon approval of the facility director following evaluation and examination.

§ 7.6. Each person selected as a patient for a maintenance program regardless of age, shall be determined by a facility physician to be currently physiologically dependent upon a narcotic drug and must have first become dependent at least one year prior to admission to a maintenance program except that:

1. A person who has resided in a penal or chronic care institution for one month or longer may be admitted to methadone maintenance treatment within 14 days prior to release or discharge or within three months after release from such an institution without evidence to support findings of psychological dependence, provided the person would have been eligible for admission prior to incarceration or institutionalization. Documented evidence of the prior

residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine such findings shall be recorded in the patient's record by the admitting physician or by program personnel supervised by the admitting physician.

2. Pregnant patients, regardless of age or prior addition history, who are otherwise eligible for methadone maintenance treatment, may be admitted to a maintenance regimen provided the medical director of the facility certifies in his judgment that such treatment is medically justified. Notification and justification for this patient's admission to methadone treatment will be communicated to the State Methadone Authority. Within six weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment into the patient's record indicating whether she should remain in a maintenance treatment or be detoxified. Pregnant patients shall be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. This shall be documented in the patient's record.

3. A patient who has been treated and subsequently detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment without evidence to support findings of current psychologic dependence up to six months after discharge provided that prior methadone maintenance treatment of six months or more is documented from the program attended and that the admitting program physician, in his reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified.

§ 7.7. The safety and effectiveness of methadone when used in the treatment of patients under 18 years of age has not been proved by adequate clinical study. Special procedures are, therefore, necessary to assure that patients under age 16 years will not be admitted to maintenance treatment and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

§ 7.8. Patients between 16 and 18 years of age who are admitted and under treatment in approved programs on the effective date of these regulations may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a methadone treatment program unless a parent, legal guardian, or legally authorized representative signs form FD-2635, "Consent to Methadone Treatment". Methadone maintenance treatment of new patients between the age of 16 and 18 years will be permitted only with (i) a documented history of two or more unsuccessful attempts at detoxification, (ii) a documented history of dependence on heroin or other morphine-like drugs beginning one year or more prior to application for treatment, and (iii) approval of such action by the State Methadone Authority.

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No patient under age 16 may be continued or started on maintenance treatment, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Persons under 16 years of age may be admitted to methadone maintenance treatment in certain rare cases if prior approval is obtained from both the Food and Drug Administration and State Methadone Authority.

§ 7.9. Patients under age 18 who are not admitted to maintenance treatment may be detoxified. Detoxification may not exceed three weeks. A repeat episode of detoxification may not be initiated until four weeks after the completion of the previous detoxification.

§ 7.10. The following patients shall not be admitted to a licensed methadone program without prior approval of the State Methadone Authority:

1. Patients with serious concomitant physical illness may be included in methadone maintenance treatment only when comprehensive medical care is available. Such patients require careful observation for any adverse effects of methadone and interactions with other medications. The physician should promptly report adverse effects and evidence of interactions to the Food and Drug Administration.

2. Psychotic patients may be included in methadone maintenance treatment when adequate psychiatric consultation and care is available. Administration of concomitant psychotropic agents requires careful observation for possible drug interaction. Such occurrences should be promptly reported to the Food and Drug Administration. Medical directors who intend to include in their program patients in categories 1 and 2 should so state in their protocols and give assurances of appropriate precautions.

§ 7.11. In exercising his professional judgment, the medical director, clinical director, or supervising clinician may refuse a particular person admission to treatment even if that person meets the admission requirements. The exclusion of the patient from treatment and the justification for such action shall be documented in the person's intake record by the medical director, clinical supervisor, or supervising clinician. However, it is the responsibility of the facility to recommend alternative treatment referrals for persons who have been denied admission.

§ 7.12. On admission to a licensed methadone facility, and periodically thereafter, each patient must provide information and data or submit to evaluations including, but not limited to the following:

1. Social history, including:
 - a. Age;
 - b. Sex;

- c. Educational history;
 - d. Employment history;
 - e. History of substance abuse of all types;
 - f. Prior substance abuse treatment history;
 - g. Current legal problems, if any;
 - h. Criminal history, if any;
 - i. Contact person to notify in case of emergency;
2. Medical history and history of psychiatric illness;
 3. Formal psychiatric examination of patients with a prior history of psychiatric treatment and in those whom there is a question of psychosis or competence to give informed consent;
 4. Assessment of the degree of physical dependence on, and psychic craving for, narcotics and other drugs;
 5. Evaluation of attitudes and motivations for participation in the program;
 6. Physical examination and any laboratory or other special examinations indicated in the judgment of the medical director;
 7. Tuberculin test;
 8. Serologic test for syphilis;
 9. Bacteriological culture for gonorrhea;
 10. Recommended lab exam:
 - a. Complete blood count;
 - b. Routine and microscopic urinalysis;
 - c. Liver functions profile;
 - d. When tuberculin test is positive, chest x-ray;
 - e. Australian antigen Hb ag. Testing (Haa testing);
 - f. When clinically indicated, and EKG; and
 - g. Pregnancy test for females and a pap smear when appropriate.

§ 7.13. Each person shall be informed concerning the possible risks associated with the use of methadone. Participation in the program shall be voluntary. The facility director shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under 18) shall sign, with knowledge and

understanding of its contents, the first part of Form FD 2635 "Consent to Methadone Treatment". Parents or guardians of patients under age 18 shall also sign the second part of this form. Form 2635 shall be signed again for each readmission if a two-week lapse in treatment has preceded the readmission.

§ 7.14. Each patient shall be provided with a written statement describing the program. The patient shall sign a statement to the effect that he accepts and understands the program and will:

1. Present himself daily for medication. Such medication shall be taken orally in front of a licensed practitioner (registered nurse, licensed practical nurse, physician, or pharmacist);
2. Behave according to designated treatment requirements;
3. Attend such classes, group sessions or interviews to which he is assigned;
4. Not use illicit substances; and
5. Give a urine sample in front of an attendant regularly, when requested.

Article 6. Dismissal From Program.

§ 7.15. Patients may be dismissed from the program at the discretion of the director when he determines that the program or the patient's treatment will be adversely affected by the conduct of the patient, such as:

1. Continued illegal use of narcotics or other drugs;
2. Conviction of a misdemeanor or felony;
3. Failure to cooperate with the program;
4. Repeated failure to keep appointments in the treatment program;
5. Repeated failure to take medication as directed; or
6. Conduct which adversely affects the patient, other patients or the program.

§ 7.16. Patients who are dismissed from the program for misconduct may appeal the dismissal decision through a formal appeals procedure that has been developed by the program. Decisions of these appeal proceedings shall be recorded in the patient's records.

§ 7.17. Before leaving the program, a patient shall be given the opportunity for detoxification from methadone according to a plan approved by the medical director of the program.

§ 7.18. A patient from one methadone facility must be properly identified before starting treatment at any other methadone facility. A letter of transfer from the medical director, including a description and photograph of the patient, summary of pertinent clinical information, shall be received by the receiving methadone facility within two weeks of the patient receiving methadone. A confirming telephone conversation with a licensed practitioner concerning the current dosage, a particular medical problems and reason for transfer must be documented in the patient's chart prior to his receiving methadone.

§ 7.19. Consideration may be given to discontinuing methadone for participants who have maintained satisfactory adjustment over an extended period of time. In such cases, follow-up evaluation is to be obtained periodically.

Article 7. Dosage and Dosage Administration.

§ 7.20. All take-home doses of methadone or oral administration in liquid form shall be prepared under the immediate supervision of a licensed pharmacist or physician and shall be in a suitable vehicle formulated to minimize misuse by parenteral and accidental ingestion.

§ 7.21. Take-home medication shall be labeled under the direct supervision of the pharmacist or physician.

§ 7.22. All methadone for outpatient use shall be dispensed in containers whose composition is chemically and physically compatible with methadone and its vehicle so as to maintain the integrity and effectiveness of the container and its contents. These containers shall be glass, light resistant and tightly closed with child-resistant effectiveness of not less than 85%, without a demonstration and not less than 80% after a demonstration of the proper means of opening such special packaging.

§ 7.23. Methadone shall be administered by a physician licensed and registered under state and federal law to prescribe narcotic drugs for patients or by an agent of the physician supervised by and pursuant to the order of the physician. Such agent shall be limited to a pharmacist, a registered nurse, or a practical nurse, all licensed by the Commonwealth of Virginia. The licensed physician assumes responsibility for the amounts of methadone administered or dispensed. All changes in dosage schedule shall be recorded and signed by the physician.

Article 8. Maintenance Treatment.

§ 7.24. The usual initial dose is 20-40 milligrams. Subsequently, the dosage may be adjusted individually as tolerated and required to a maintenance level of approximately 40-120 milligrams daily.

§ 7.25. For daily dosages above 100 milligrams patients shall ingest medication under observation six days per

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week. These patients may be allowed take-home medication for one day per week only.

§ 7.26. A daily dose of 100 milligrams or more shall be justified in the medical record. For daily dosages above 100 milligrams or, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the State Methadone Authority.

Article 9. Frequency of Attendance.

§ 7.27. For detoxification, the drug will be administered daily under close observation.

§ 7.28. For maintenance initially, the patient shall receive the medication under observation daily for at least six days a week.

§ 7.29. In maintenance treatment, after demonstrating satisfactory adherence to the program requirements for at least three months by participating actively in the program activities or by participating in educational, vocational and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the time when they must ingest the drug under observation. Such patients shall receive no more than a two day take-home supply.

Article 10. Take-home Medications.

§ 7.30. With continuing adherence to the program's requirements and progressive rehabilitation for at least two years after entrance into the program, such patients may be permitted twice weekly visits to the facility for methadone ingestion under observation with a three day take-home supply.

§ 7.31. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded in the patient's record.

§ 7.32. Additional take-home medication may be provided at the discretion of the medical director in exceptional circumstances such as illness, family crisis or necessary travel where hardship would result from requiring the customary daily observed medication intake for the specific period in question. However, under no circumstances shall take home dosage exceed a two-week supply.

Article 11. Security Measures.

§ 7.33. Security measures shall be taken to prevent diversion of methadone into illicit channels. Stocks of methadone shall be kept at the minimum quantity consistent with the needs of the patient population.

Security measures shall be outlined by the program director in the license application form.

Article 12. Patient Records.

§ 7.34. Director of accredited methadone programs are required to maintain detailed patient records which shall include but not be limited to:

- Preliminary intake interview;
2. Social history;
3. Physical and psychological evaluation;
4. Patient consent form;
5. Current treatment plan accompanied by progress recordings. Initial treatment plan shall be documented in each patient's record within four weeks after admission;
6. Laboratory report;
7. Amount of methadone administered or dispensed;
8. Results of urinalysis;
9. Patient attendance record;
10. Detailed account of any adverse reaction, deaths, premature births, or adverse reactions displayed by a newborn which, in the opinion of the attending physician, are due to methadone shall be reported within one month to the Food and Drug Administration and State Methadone Authority on Form FD-1639 "Drug Experience Report";
11. An evaluation of the patient's treatment and progress shall be carried out at least quarterly by the primary counselor. A review of client progress by clinical staff supervisors or consultants will be undertaken at least semi-annually. These evaluations shall be documented in the patient's records.

Article 13. Program Records.

§ 7.35. Each licensed methadone facility shall be registered with the Drug Enforcement Administration under the category which applies to its business activity.

§ 7.36. Methadone shall be obtained only by use of DEA Form 222 from a Drug Enforcement Administration registered manufacturer or wholesaler and delivered directly to the facility or procured by the program pharmacist from the wholesaler.

§ 7.37. The facility shall keep accurate records of receipt and disbursement as required by the Drug Enforcement

Administration and the Virginia State Board of Pharmacy.

Article 14. Confidentiality of Patient Records.

§ 7.38. Disclosure of patient records maintained by any facility shall be governed by 42 CFR Part 2 of the Code of Federal Regulations (7/1/75) and every program shall comply with the provisions contained therein. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by federal and state controlled substances laws; but use or disclosure of records identifying patients shall be limited to actions involving the facility or its personnel.

§ 7.39. Every licensed facility may protect the privacy of patients therein by withholding from all persons not employed by such facility or otherwise connected with the conduct of the facility operations, the names or other identifying characteristics of such patients where the facility director has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of the patient. Facilities may not be compelled in any federal, state or local, civil, criminal, administrative or other proceedings to furnish such information. This does not require the withholding of information authorized to be furnished pursuant to 42 CFR Part 2, nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Furthermore, a licensed facility shall permit a duly authorized employee of the Food and Drug Administration or the State Methadone Authority to have access to and copy all records relating to the use of methadone in accordance with the provisions of 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

§ 7.40. The following records are to be maintained on file at a license methadone treatment facility:

1. FD-2632 Application for approval of use of methadone in a treatment program;
2. FD-2633 Medical responsibility statement for use of methadone in a treatment program;
3. FD-2634 Annual report for treatment program using methadone NDATUS;
4. FD-2636 (if hospital) Hospital request for methadone for detoxification treatment;
5. FD-1639 Drug Experience Report.

Article 15. Evaluation.

§ 7.41. Evaluation of the safety of methadone administered over prolonged periods of time is to be based on results of physical examinations, laboratory examinations, adverse reactions, and results of special procedures when such

have been carried out.

§ 7.42. Evaluation of effectiveness of rehabilitation is to be based upon, but not limited to, such criteria as:

1. Social adjustment verified whenever possible by family members of other reliable persons;
2. Withdrawal from methadone and achievement of an enduring drug-free status;
3. Assessment of progress in meeting current treatment plan;
4. Occupational adjustment verified by employees or record of earnings;
5. Extent of drug abuse;
6. Extent of alcohol abuse; and
7. Arrest records.

Article 16. Special Conditions for Use of Methadone in Hospitals for Detoxification and Treatment.

§ 7.43. The following words and terms, when used in this article, shall have the following meaning, unless the content clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering of methadone as a substitute narcotic drug in decreasing doses to reach a drug-free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of such drugs.

"Temporary maintenance treatment" means (i) treatment of an opiate-addicted patient hospitalized for medical or surgical problems other than opiate addiction; and (ii) emergency treatment of an opiate-addicted person on an inpatient or outpatient basis for not more than 72 hours for such addiction.

§ 7.44. Methadone may be administered or dispensed in a hospital in either oral or parenteral form.

§ 7.45. Temporary maintenance treatment may be instituted in a hospital for an opiate-addicted patient for a medical or surgical problem (other than the addiction) which would be complicated by the patient's not receiving maintenance doses of an opiate. In such instances, the patient may be treated with methadone during the critical period of his hospital confinement. Such patient need not be currently enrolled in a licensed methadone treatment program.

§ 7.46. An opiate-addicted patient may be treated on an emergency inpatient or outpatient basis for not more than 72 hours until he can be admitted to a licensed

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methadone treatment facility. This 72 hour emergency treatment may be given to a patient who has no medical or surgical problem other than opiate addiction. This treatment shall not be renewed or extended for any given patient. Methadone shall be dispensed and administered daily by the hospital. No take-home doses shall be allowed for this treatment regimen.

§ 7.47. If the hospital is located in the same locality as a licensed methadone treatment facility, the facility may provide the methadone for a patient who is hospitalized for treatment for a condition other than narcotic addiction and who is presently enrolled in the methadone treatment program, provided:

1. A licensed practitioner from the facility (registered nurse, pharmacist, physician or licensed practical nurse) shall administer the methadone directly to the patient on a daily basis.

2. No hospital personnel shall administer the methadone to the patient if the methadone facility's drug supply is used.

3. The facility shall not leave a stock of doses for the patient within the hospital. The hospital may use its own stock of methadone in any available formulation if it so elects. Medical personnel within the hospital may then administer the drug to the patient.

4. Hospitals which wish to provide detoxification or maintenance of an opiate addicted persons who has been admitted solely for his addiction problem shall submit FDA Form 2636, "Hospital Request for Methadone for Analgesia in Severe Pain, and Detoxification and Temporary Maintenance Treatment" as well as registering with the Drug Enforcement Administration on Form DEA 363 "New Application for Registration Under Narcotic Addict Treatment Act of 1974."

DEPARTMENT FOR RIGHTS OF THE DISABLED (BOARD FOR)

Title of Regulation: VR 602-01-1. Public Participation Guidelines.

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

Public Hearing Date: July 29, 1987 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Board for Rights of the Disabled will use Public Participation Guidelines to solicit and promote the participation of all interested and affected parties in the development, formulation, and adoption of such

regulation(s) as the board may promulgate under the authority established by the law of the Commonwealth of Virginia.

VR 602-01-1. Public Participation Guidelines.

§ 1. Generally.

In developing any regulation(s) which they propose, the Board for Rights of the Disabled is committed to soliciting input and comments from interested citizens and private and public associations. The board shall actively solicit such input and participation.

Any person who is interested in participating in the regulation(s) development process should notify the board in writing. Such notification should be sent to Systems Advocacy Attorney, Department for Rights of the Disabled, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia 23219.

§ 2. Notice.

A. Notice required.

The board shall prepare a Notice of Intended Regulatory Action prior to the development of any regulation(s). The notice shall identify the subject matter and propose for the development of the new regulation(s) and shall specify deadlines for receipt of responses from interested persons. The notice shall provide for a comment period of at least 30 days.

B. Dissemination.

1. The methods for disseminating notice to the public shall include publishing notice in the Virginia Register of Regulations; and

2. The board shall publish the notice in at least four regional newspapers throughout the Commonwealth.

3. The board shall also mail individual notices to all persons identified as parties interested in the development and promulgation of regulation(s) by the board. For purposes of the preceding sentence, "person" includes public or private agencies which have exhibited an interest in the rights of persons with disabilities. The board shall develop the list of interested persons by:

a. Utilizing department subject matter files to identify parties who have previously expressed an interest in the subject matter under consideration;

b. Utilizing a standing list, compiled by the department, of persons who have previously participated in public proceedings of similar subject matter; and

c. Other appropriate methods.

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§ 3. Public participation.

A. Regulation development.

1. *Initial comment.* After interested parties have responded to the notice, the board will analyze the level of interest. If sufficient interest exists, the board may schedule informal meetings prior to the development of any regulation(s) to determine the specific areas of interest and concern and to get actual information relative to the subject matter of the regulation(s). Alternatively, the board may elect to request that persons who have responded to the notice make written submittals of comments, concerns and suggestions relative to the proposed regulation(s).

2. *Preparation of working draft.* Subsequent to initial public input in the development of any regulation(s) the board shall develop a working draft of the proposed regulation(s). A copy of this draft will be furnished to all persons who responded to the notice indicating an interest in the proposed regulation(s) and to those persons participating in the initial comment stage of the development phase. Audio tapes may be sent to persons with visual disabilities upon request. The board will invite such persons to submit written or taped comments on the draft.

C. Submission of proposed regulation(s) under the Administrative Process Act.

Upon conclusion of the development process, the board shall prepare the proposed regulation(s) for submission to the Registrar of Regulations under the provisions of the Administrative Process Act. The board shall furnish to all persons identified as having a potential interest in the subject matter, a copy of the proposed regulation(s) as submitted to the Registrar of Regulations together with a copy of the general public notice of opportunity for oral or written submittals as to that proposed regulation(s). A cover letter accompanying those documents shall explain the deadlines for submitting formal public comments under the Administrative Process Act. In some cases, the public opportunity to comment may be limited to written submittals. This election shall be clearly set forth in the notice. The public notice shall clearly specify the date and place to which submittals shall be made. Where a public hearing is to be held, the public notice shall clearly specify the time, date, and place. Additionally, the public notice shall designate the date by which persons intending to participate in a public hearing should notify the board of their interest. Persons who will participate will be encouraged to submit written or taped copies of their comments in advance or at the public hearing in order to ensure that all comments are accurately reflected in the formal transcript of the hearing.

D. Review process.

After the end of the comment period, the board shall carefully review all comments submitted and where

appropriate shall incorporate the comments in the final draft.

E. Adoption period.

Upon issuing an order adopting the proposed regulation(s) the board, at its discretion, may send the participants a copy of the proposed regulation(s) as adopted, together with its response to comments made during the public hearing or in a written submittal.

F. Publication of final regulation.

When any regulation is published, the board shall print and distribute such regulation(s).

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-50-4. Family Based Social Services.

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

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

This regulation establishes the philosophy of service delivery in serving families by local social service agencies. It identifies the board services to be provided to families and identifies target populations to be served. This regulation also sets forth certain requirements for local social service agencies and the Virginia Department of Social Services in family based social service delivery.

VR 615-50-4. Family Based Social Services.

PART I. DEFINITIONS AND PHILOSOPHY.

§ 1.1. Definitions.

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

"Adult" means any individual age 18 or over.

"Benefit programs" means services which provide direct cash aid, medical care aid, and aid for food, fuel, and home heating repairs.

"Child/children" means any individual under age 18.

"Department" means the Virginia Department of Social Services.

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"Family" means any adult, adult(s) or children related by blood, marriage, adoption, or a feeling of kinship who consider themselves a family unit.

"Family based" means an approach to social service delivery where the focus of service is on the family unit, not just individual members viewed in isolation.

"Local agency" means any local department of social services/welfare in the Commonwealth of Virginia.

"Service programs" means services which provide an assessment and a full array of service activities to meet family needs.

"State board" means the Virginia Board of Social Services.

§ 1.2. Philosophy.

The philosophy of social service practice of the department and local agencies shall be family based, as follows:

The family is and should continue to be the central structure around which a caring and self-sufficient society must be built. The family is the best environment for raising children and caring for vulnerable members.

When intervention into a family's life by a local agency is necessary, the following beliefs shall direct that intervention:

1. The family is to be the basic unit for social service delivery.
2. Every effort should be made to maintain the family as a functioning unit and to prevent its breakup.
3. Children should be protected from serious harm and to do so may necessitate temporary or permanent separation from certain family members.
4. The worker/family relationship is a primary vehicle for change.
5. Positive change is possible.
6. The most effective way to address a family's needs is to recognize and support its strengths and enhance its integrity and self-esteem.
7. Services are successful by virtue of how they are presented, understood, and used by the family.
8. Services should empower families to function independently of the social service system.
9. Services should preserve and protect, whenever appropriate, an individual's right to self-determination.

PART II. SERVICE PROGRAMS.

Article 1. Services.

§ 2.1. Intake services.

A. Intake services are designed to provide a timely, coordinated transition for the family to needed services and sufficient information or services to enable a family to utilize personal or community resources.

B. Target population required to be served includes:

Anyone eligible for Medicaid who is seeking assistance in arranging for family planning or early periodic screening, diagnosis, and treatment (EPSDT) for children.

C. Target population encouraged to be served to the extent funds are available includes:

Anyone seeking the services of the local agency.

§ 2.2. Adult services.

A. Adult services are designed to allow the adult to remain in the least restrictive setting and function as independently as possible by establishing and strengthening appropriate family and social support systems.

B. Target population required to be served includes:

Any impaired adult who requests home based services or nursing home preadmission screening.

C. Target population encouraged to be served to the extent funds are available includes:

1. Any adult who, upon emancipation from a local agency's custody, is assessed to be in need of services.

2. Any impaired adult who is in need of services to prevent abuse, neglect, or exploitation and requests services.

3. Any impaired adult who is in need of alternate living arrangements to avoid inappropriate institutionalization and requests services.

4. Any impaired adult who is in need of community based care to avoid institutionalization and requests services.

D. Target population to be served at the option of the local agency:

Any family with no minor children in the home who requests services.

§ 2.3. Prevention and support services for families.

A. Prevention and support services for families are designed to strengthen the family's ability to function more effectively and independently in order to prevent family breakup or family violence.

B. Target population required to be served includes:

1. Family with a child who is likely to enter foster care unless services are provided, and who are not already being served under child protective services.
2. Family referred by the court for an adoptive home study.
3. Child and family where a referral or placement has been made through interstate compact and a home study or supervision is required.

C. Target populations encouraged to be served to the extent funds are available include:

1. Family receiving benefit programs or with low income based on the department's adopted levels, who request services to enhance their parental capacities to care for and nurture a child.
2. Family with a child formerly in a local agency's custody when the assessment indicates a need for services and services are requested.
3. Family referred by the court for a custody study or other service ordered by the court.

D. Target population to be served at the option of the local agency:

Any family with minor children in the home who requests services.

§ 2.4. Adult protective services.

A. Adult protective services are designed to establish or strengthen appropriate family and social support systems in order to protect adults who are at risk of abuse, neglect, or exploitation.

B. Target population required to be served includes:

1. Any incapacitated adult 18 years of age and over, and any adult 60 years of age and over on whose behalf a complaint of abuse, neglect, or exploitation is made.
2. Any adult identified above who is determined to need adult protective services, if the adult is willing to accept services or if these services are ordered by the court.

§ 2.5. Child protective services.

A. Child protective services are designed to protect the child at risk of abuse or neglect, reestablish a successful parent-child relationship, and allow the child to remain in his own home whenever possible.

B. Target population required to be served includes:

1. Any child on whose behalf a complaint of abuse/neglect is made.
2. Any child, his siblings, and his family where a complaint is determined to be founded or unfounded/reason-to-suspect, and the child remains at risk of abuse or neglect.

C. Target population encouraged to be served to the extent funds are available includes:

An abuser/neglector, once the investigation is complete, who requests services and is not a member of the family unit.

§ 2.6. Foster care and adoption services.

A. Foster care and adoption services are designed to reunite a child in a local agency's custody with his own family or to establish another permanent family for the child when successful reunification is not possible.

B. Target population required to be served includes:

1. Any child entrusted or committed to the local agency's board, or for whom after care supervision has been delegated by the court.
2. Birth family of a child in custody.
3. Foster family with whom a child in custody is placed.
4. Relatives of a child in custody if the goal is to place the child with these relatives.
5. Adoptive parents of a foster child if the goal is adoption by these parents.

§ 2.7. Employment services.

A. Employment services are designed to establish the family's ability to be financially self-supporting and to strengthen the self-esteem of family members responsible for supporting other members.

B. Target population required to be served:

1. Any applicant or recipient of certain benefit programs, based on the local agency's employment plan, who does not meet criteria for exempt status.
2. Any applicant or recipient of certain benefit programs, based on the local agency's employment

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plan, who is exempt from mandatory registration but who requests the service.

3. Any child of a recipient of aid to dependent children (ADC) who needs child day care in order for the parent/guardian to continue employment, obtain education or training leading to employment, or seek employment.

C. Target population encouraged to be served to the extent funds are available include:

Any family requesting child day care services related to employment or training.

D. Target population to be served at the option of the local agency:

Any family requesting the assistance of the local agency with problems related to employment.

Article 2. Activities.

§ 2.8. Array of service activities.

Various activities may be utilized in providing any of the board services and in developing strategies and interventions with families which best meet the needs of the family. These include assessment and referral, service planning, case work and group work, intensive services, emergency shelter and other emergency needs, home based services, day and residential care, education and training, and other activities to aid the family.

These activities may be provided directly by local agency staff or volunteers, purchased from approved providers, or provided through referral to community resources.

PART III. BENEFIT PROGRAMS.

§ 3.1. Preliminary assessment and referral.

This social service, performed during the process of gathering data for benefit programs, includes the gathering of information relevant to the family's situation in order to screen for indicators of risk of abuse, neglect exploitation, risk or placement, or need for service programs. If indicators are present, a referral of the family will be made for appropriate services or resources within the agency or community.

PART IV. REQUIREMENTS.

§ 4.1. The state board and department shall promote and advocate for the development of family based social services. Specific activities shall include:

1. Allocating available funds and seeking additional funding for family based social services;

2. Permitting flexible social service delivery within current state law and federal laws and regulations; and

3. Granting policy waivers when feasible.

§ 4.2. To assure the success of family based social services, the department and local agencies shall coordinate the planning, development and implementation of:

1. Benefit and service programs; and

2. State/community resources.

§ 4.3. The department and local agencies shall assure that their organization and administrative practices support and reinforce family based social services.

§ 4.4. The department shall assure that policy development and any training and orientation shall reflect the philosophy of family based social services.

§ 4.5. Each local agency shall develop and implement an agency-wide service delivery plan which demonstrates the philosophy of family based social services. The department shall review and approve local agency plans.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

~~Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.~~

STATE BOARD OF ACCOUNTANCY

Title of Regulation: VR 105-01-2. Rules and Regulations of the State Board of Accountancy.

Statutory Authority: § 54-84 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The amendments to the Virginia State Board of Accountancy Rules and Regulations were necessary for compliance with Senate Bill 631 which amended the Code of Virginia by adding in Title 54 a chapter numbered 5.3, consisting of sections number 54-102.24 through 54.102.35.

The regulations apply directly to approximately 9,000 certified public accountants and 250 professional corporations.

VR 105-01-2. Rules and Regulations of the State Board of Accountancy.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Accredited institution" means any four-year degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following:

1. Middle States Association of Colleges and Secondary Schools;
2. New England Association of Schools and Colleges;
3. North Central Association of Colleges and Secondary Schools;
4. Northwest Association of Schools and Colleges;
5. Southern Association of Colleges and Schools; and
6. Western Association of Schools and Colleges.

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

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

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

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

"Compilation of financial statements" means presenting in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements.

"Financial statements" means a presentation of financial data, including but not limited to, accompanying notes derived from accounting records, that purport to show financial position at a point in time or changes in that period of time. It includes statements which use a cash or other incomplete basis of accounting. The term includes balance sheets, statements of income, statements of retained earnings, statements of changes in financial position, and statements of changes in owners' equity. The term does not include either tax returns and supporting schedules, or incidental financial data included in management advisory services reports to support recommendations to a client.

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

"Individual firm name" means a name different from the name in which the individual's license is issued.

"Jurisdiction" means another state, territory, the District of Columbia, or Puerto Rico.

"License" means permission to a natural person to practice as a certified public accountant as part of a firm.

"Practice of public accountancy" means to certify, render, or disclaim an opinion that financial data comply with standards of practice with which regulants are required to comply in Part 3 of these regulations; or use language in a report on which third parties might rely so similar thereto that a reasonably prudent person would be

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likely to consider it the same as the required language, including use of the terms "audit," "examination," "review," "in conformity with generally accepted accounting principles," or "in accordance with generally accepted auditing standards".

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

"Professional association" means a firm organized in accordance with Chapter 25 of Title 54 of the Code of Virginia.

"Professional services and engagements" means the association between a client and the firm to perform, or offer to perform, public accounting services by the firm for the client.

"Professional staff" means employees of a firm engaged in the practice of public accountancy and who make decisions relating to their work, but excludes employees performing routine bookkeeping services.

"Regulant" means any certificate holder, licensee, professional corporation or firm. (§ 54-1-28.5 of the Code of Virginia)

§ 1.2. Fees.

Fees are required as follows and will not be prorated:

CPA Examination	\$90.00
CPA Reexamination	\$90.00
Out-of-State Proctoring Fee	\$75.00
CPA License Original	\$75.00
CPA License Renewal (Biennial)	\$50.00
CPA Certificate Original	\$25.00
CPA Certificate of Maintenance Fee (Biennial) ..	\$20.00
CPA Professional Corporation License Registration Certificate	\$50.00
CPA Professional Corporation License Registration Certificate Renewal (Biennial)	\$50.00
Certificate by Endorsement	\$90.00

§ 1.3. Renewal of licenses and registration.

Each license, certificate or registration of a professional corporation shall expire on September 30, of each even-numbered year and will be renewed upon receipt of the appropriate renewal application and fee. Failure of the regulant to receive written notice of expiration does not relieve him from the requirement to renew the license, certificate or registration.

Any person may renew an expired license, certificate or registration within six months after expiration by submitting the required renewal fee equal to 1 1/2 times the fee. If the regulant fails to renew within six months following expiration, he will be required to apply for reinstatement. The applicant will be required to present reasons for reinstatement, and the board, in its discretion,

may grant reinstatement or require a requalification and/or reexamination. The application fee for reinstatement shall be an amount equal to twice the license fee. (§ 54-1-28.4 of the Code of Virginia)

§ 1.4. Notification of change of address.

Every regulant shall notify the board within 30 days of any change of address or name. (§ 54-1-28.5 of the Code of Virginia)

§ 1.5. Appeals.

Any person aggrieved by any case decision of the board may appeal any decision in accordance with the Administrative Process Act and the Department of Commerce Agency Rules of Practice for Hearing Officers. (§ 54-1-28.5 of the Code of Virginia)

§ 1.6. License required, renewal.

Any person holding a Virginia certificate shall either maintain a Virginia license to practice public accounting, or file biennially as a certificate holder not engaged in the practice of public accountancy and pay the required renewal fee. (§ 54-1-28.3 of the Code of Virginia)

§ 1.7. License required; exception.

Only a certified public accountant, holding a valid license, may engage in the practice of public accountancy in Virginia, provided this does not :

- 1- prohibit any person from affixing his signature to any statement or report for internal or management use designating the position, title, or office of the person ; or .
2. Prohibit the act of any public official or public employee in the performance of his duties; or
3. Prohibit the performance by any person of services involving the use of accounting skills, rendering tax services, management advisory or consulting services, the keeping of books of account and related accounting records, and the preparation of financial statements without the expression of an opinion or assurance. (§ 54-84 of the Code of Virginia)
4. Prohibit the issuance by any person or persons of a compilation report provided this report does not use any form of language conventionally used by licensees with respect to a compilation of financial statements.

§ 1.8. Use of term Certified Public Accountant.

Only a person holding a valid certificate in Virginia, or other jurisdiction, shall use or assume the title or designation "certified public accountant," or "public accountant," the abbreviations of that, or any title, designation, word, card, or device tending to indicate that

the person is a certified public accountant or public accountant in Virginia. (§ 54-1.84 of the Code of Virginia)

No licensee or certificate holder in Virginia shall use or assume the titles or designations "certified public accountant," "public accountant," "CPA," or any other titles, designations, phrases, acronyms, abbreviations, signs, cards or devices tending to indicate the practice of public accountancy in his firm name unless all principals of that firm who work in Virginia or who have substantial contact with work in Virginia are licensed as CPAs in this state. (§ 54-1.84 of the Code of Virginia)

§ 1.9 . Regulant accountable for services rendered.

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

PART II.
ENTRY.

§ 2.1. General.

Any person applying for certification as a certified public accountant shall meet the requirements of good character, education, and shall have passed an examination. Any person applying for a license to practice public accounting in Virginia shall hold a Virginia certificate as a certified public account and must meet the experience requirement. (§ 54-1.28.1 of the Code of Virginia)

§ 2.2. Good character.

Each applicant shall have fiscal integrity and a lack of history of acts involving dishonesty or acts which would constitute a violation of these regulations. The board may deny certification upon a finding supported by clear and convincing evidence of a lack of good character. (§ 54-1.28.1 of the Code of Virginia)

§ 2.3. Education required.

Each applicant shall have earned one of the following:

1. A baccalaureate or higher degree with either a major in accounting or a concentration in accounting from an accredited institution as defined in § 1.1;
2. One hundred twenty semester hours of earned credit from an accredited institution, which must include the following business related courses or their equivalent:

Semester
Hours

Principles of Accounting	6
Principles of Economics	3
Principles of Marketing	3
Principles of Management	3
Finance	3
Information Systems	3
Statistics	3
Business Policy	3
Financial Accounting and Accounting Theory	6
Cost/Managerial Accounting	3
Auditing	3
Taxation	3
Commercial Law (not to exceed six semester hours)	3
Business Electives	15
Total	60

3. Completion of a written examination approved by the board demonstrating that the applicant has obtained the knowledge, skill or ability equivalent to a bachelor's degree and 27 semester hours in accounting subjects from an accredited institution, which must include courses in accounting, auditing, cost accounting and not more than six semester hours in commercial law;

4. Until July 31, 1988, the education requirements will be satisfied with an earned baccalaureate or higher degree from an accredited institution or completion of a written examination approved by the board demonstrating that the applicant has obtained the knowledge, skill or ability equivalent to a bachelor's degree; and completion of 27 semester hours in accounting subjects from an accredited institution, which shall include courses in accounting, auditing, cost accounting and shall not include more than six semester hours in commercial law.

§ 2.4. Evidence of education.

Each applicant shall submit evidence of having obtained required education in the form of official transcripts transmitted directly from the accredited institution. In unusual circumstances other evidence of education may be accepted when deemed equivalent and conclusive. (§ 54-1.28.1 of the Code of Virginia)

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§ 2.5. Education prerequisite to examination.

The educational requirements shall be met prior to examination, provided, however, an applicant may be admitted to the examination, when the applicant has filed evidence of enrollment in the required courses. He may be admitted to a May examination if he will meet education requirements by June 30, and to a November examination if he will meet education requirements by December 31. (§ 54-1.28.2 of the Code of Virginia)

§ 2.6. Basic examination.

Each applicant for an original certificate to practice public accountancy in Virginia shall pass a basic four-part written national uniform examination in auditing, business law, theory of accounting, and accounting practice. Each part of the basic examination must be passed with a grade of 75 percent. The board is authorized to make use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy to assist it in performing its duties. (§ 54-1.28.2 of the Code of Virginia)

§ 2.7. Examination credits.

Credit will be given for basic examination parts passed through five successive offerings subsequent to the first occasion when credit is earned, provided:

1. No credit will be allowed until accounting practice or two other parts are passed at a single sitting; and
2. When two or three parts are failed at a single sitting; a minimum grade of 50 is achieved on each of those failed parts; and
3. An applicant sits for all part not credited. (§ 54-1.28.2 of the Code of Virginia)

§ 2.8. Extension of unexpired credits.

The board may extend earned basic examination credits to any applicant who has been on active duty in the armed forces for a period of six months immediately prior to an examination month. Request for extension shall be made in writing within six months of completion of active duty but no later than ten years from the date the last credit was earned. (§ 54-1.28.2 of the Code of Virginia)

§ 2.9. Conduct in basic examination.

A. An admittance card with recent photograph permanently attached shall be presented to sit for the examination.

Identification numbers assigned by the board shall be use in lieu of name on all papers submitted.

B. No resource or reference material, unless specified by the board is permitted in the examination site.

C. Work on each examination must be completed within the time specified.

D. All writing must be clear and legible.

E. No communication between examinees is permitted during the examination.

F. Each applicant shall honestly represent only his own personal knowledge, skill, or ability in answering questions. (§ 54-1.28.2 of the Code of Virginia)

G. Each applicant shall agree to submit to an inspection if required to enforce compliance with these regulations.

§ 2.10. Loss of credit or eligibility.

Any applicant found in violation of regulations governing conduct in examination will lose established eligibility to be admitted or credit for examination parts earned. (§ 54-1.28.2 of the Code of Virginia)

§ 2.11. Application deadline.

Application to sit for the basic examination shall be made on a form provided by the board and shall be filed with all required documents by the first Friday in March for the May examination and by the first Friday in September for the November examination. (§ 54-1.28.2 of the Code of Virginia)

§ 2.12. Failure to appear; excused examination.

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

The board may excuse an applicant for an examination until the next examination for military service when documented by orders or a letter from the commanding officer; or for serious injury, illness, or physical impairment, any of which must be documented by a statement from the treating physician; or for other good cause of similar magnitude approved by the board.

§ 2.13. Ethics examination.

In addition to the basic examination, prior to obtaining a certificate, each applicant may be required to pass an examination in ethics. (§ 54-1.28.2 of the Code of Virginia)

§ 2.14. Experience required.

Subject to the foregoing, an individual will be eligible for licensure if he possesses one of the following:

1. Two years of experience in accounting with the

attest function and/or the review function constituting not less than 800 hours of that experience; or

2. Three years of experience in accounting in its broadest sense. For those with more than a four-year lapse between completion of the CPA Examination and submission of the experience application, continuing professional education will be required. Such education may include courses in auditing, accounting and tax; or

3. Four years of diversified teaching experience in accounting subjects at an institution recognized by the board in conjunction with no less than five months experience with a public accounting firm with at least 600 hours of the work in auditing and preparation of financial statements.

"Diversified teaching experience" as used above means upper level courses in accounting, auditing and taxation.

§ 2.15. Education substituted for experience.

An applicant having an undergraduate degree in accounting will be credited with one year of required experience for completion of a master's degree at an accredited institution, which shall include 15 semester hours in graduate level accounting subjects. (~~§ 54-1-28.2 of the Code of Virginia~~)

§ 2.16. Certificate by endorsement.

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

1. The applicant meets all current requirements in Virginia at the time application is made; or (~~§ 54-1-28.3 of the Code of Virginia~~)
2. At the time the applicant's certificate was issued in the other jurisdiction, the applicant met all requirements then applicable in Virginia; or (~~§ 54-1-28.3 of the Code of Virginia~~)
3. The applicant has met all requirements applicable in Virginia except the education requirement, or has passed the examination under different credit provisions, and either:
 - a. The applicant has five years of experience in the practice of public accountancy within the 10 years prior to application, or
 - b. The applicant has five years of experience in the practice of public accountancy, one year of which was immediately prior to application, and has completed 15 semester hours of accounting, auditing, and related subjects in an accredited institution. (~~§~~

~~54-1-28.1 of the Code of Virginia~~)

PART III. STANDARDS OF PRACTICE.

§ 3.1. Sole proprietor name.

A sole proprietor shall use his own name as the firm name except that a proprietor surviving the death or withdrawal of all other partners may continue using the names of those partners for not more than two years after becoming a sole proprietor. (~~§ 54-1-28.5 of the Code of Virginia~~)

§ 3.2. Partnership name.

A licensee shall not practice in a partnership that includes a fictitious name, indicates specialization, or includes the terms "company" or "associates" or any similar term unless used to designate at least one unnamed, currently licensed partner, provided, that the name of one or more past partners or shareholders of a predecessor corporation may be included in the firm name of the successor partnership. (~~§ 54-1-28.5 of the Code of Virginia~~)

§ 3.3. Corporate names.

A licensee shall not practice in a corporation the name of which indicates fields of specialization, or includes the terms "company," "associates," or similar terms or derivatives unless used to designate at least one unnamed shareholder, or which constitutes a fictitious name. Names of one or more past shareholders or partners in a predecessor partnership may be included in the corporate name. The shareholder surviving the death or withdrawal of all other shareholders may use the names of those past shareholders or partners for up to two years after death or withdrawal. ~~The corporate name must always be followed by the designation "a professional corporation."~~ (~~§§ 54-1-28.5 and 54-01.1 of the Code of Virginia~~)

§ 3.4. Notification of changes in firms.

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

1. The admission of any new shareholder or partner; or
2. The retirement or death of a copartner or shareholder; or
3. A change in the name of any partnership or professional corporation; or
4. The termination of any partnership or professional corporation; or
5. The change in the supervisor of any branch office; or

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6. The change in the number or location of Virginia offices; or

7. Any event which would cause the partnership or professional corporation not to be in conformity with the provisions of these regulations. (~~§ 54-1-28.5 of the Code of Virginia~~)

§ 3.5. Mandatory use of "CPA."

The term "certified public accountant(s)," or the abbreviation "CPA," shall appear with the name of a certified public accountant when used in connection with an expression of opinion. (~~§ 54-1-28.5 of the Code of Virginia~~)

§ 3.6. Sharing in office.

When sharing office facilities with any person who is not in the same firm, the licensee shall use practices and procedures which enable a reasonable person clearly to distinguish between the practice of the licensee and the operation of the other occupation or business. (~~§ 54-1-28.5 of the Code of Virginia~~)

§3.7. Resident manager in Virginia in charge of branch office.

Each branch office of a firm shall be managed by a certified public accountant licensed in Virginia. No licensed certified public accountant shall manage more than one office until such time as the licensee can provide, and the board approve, management plan to provide supervision and quality control over the work product of all offices under the supervision of the licensee. (~~§ 54-1-28.5 of the Code of Virginia~~)

§ 3.8. Misleading firm name.

Nothing shall be contained in the name, styling, or letterhead of any firm which implies an ability, relationship, or condition that does not exist. (~~§ 54-1-28.6 of the Code of Virginia~~)

§ 3.9. Independence.

A regulant shall not express an opinion on financial statements of an entity in such a manner as to imply that its licensees are acting in an independent capacity when the licensee has any of the following interests in that entity:

1. Commitment to acquire any direct or material indirect financial interest; or
2. Position as trustee, executor, or administrator of any estate if such trust or estate is committed to acquire any direct or material indirect financial interest; or
3. Ownership of any joint closely-held business investment with the entity or any officer, director, or

principal stockholder thereof which was material in relation to the net worth of the licensee; or

4. Relationship with the entity as a promoter, underwriter, or voting trustee, director, or officer, or in any capacity equivalent to that of a member of management or of an employee; or

5. Having any loan to or from the entity, or from any officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm of its licensees. (~~§ 54-1-28.9 of the Code of Virginia~~)

§ 3.10. Integrity and objectivity.

A licensee shall not knowingly misrepresent facts or subordinate his judgement to others. In tax practice, a licensee may resolve doubt in favor of his client when there is reasonable support for the position. (~~§ 54-1-28.9 of the Code of Virginia~~)

§ 3.11. Commissions.

A regulant shall not pay a commission to obtain a client, or accept a commission for a referral to a client of products or services of another. Payments for the purchase of all, or part, of an accounting practice, retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons are permitted. (~~§ 54-1-28.9 of the Code of Virginia~~)

§ 3.12. Contingent fees.

A regulant shall not offer or perform the practice of accounting for a fee which is contingent upon the findings or results of these services. This regulation does not apply either to services involving taxes in which the sole findings are those of the tax authorities or to professional services for which the fees are to be fixed by courts or other public authorities. (~~§ 54-1-28.9 of the Code of Virginia~~)

§ 3.13. Incompatible occupations.

A regulant shall not concurrently engage in any other business or occupation which impairs his independence or objectivity in the practice of public accounting. (~~§ 54-1-28.9 of the Code of Virginia~~)

§ 3.14. Competence.

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

54-1-28.9 of the Code of Virginia)

§ 3.15. Auditing standards.

A regulant shall not permit his name to be associated with financial statements involving the attest function in a manner that might be construed to imply he is acting as an independent public accountant unless he has complied with applicable, generally accepted auditing standards in use in Virginia at the time his name is so associated. Departures from compliance with generally accepted auditing standards must be justified. (§ 54-1-28.9 of the Code of Virginia)

§ 3.16. Accounting principles.

A regulant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if the financial statements contain any departure from generally accepted accounting principles in current use in Virginia, which has a material effect on the statement as a whole. Any departure is permissible only if the regulant can demonstrate that, by reason of unusual circumstances, the financial statements would otherwise be misleading. In such a case, the regulant's report shall describe the departure, the approximate effects, if practicable, and the reasons that compliance with the generally accepted accounting principle would result in a misleading statement. (§ 54-1-28.9 of the Code of Virginia)

§ 3.17. Other technical standards.

A regulant shall comply with other technical standards pertaining to accounting, tax services and management advisory services that are current practices in Virginia. (§ 54-1-28.9 of the Code of Virginia)

§ 3.18. Forecasts or projections.

No regulant shall vouch for the achievability for any forecast or projection. (§ 54-1-28.9 of the Code of Virginia)

§ 3.19. Confidential client information.

A regulant shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of the practice of public accounting, except in response to a subpoena or summons enforceable by order of a court, in response to any inquiry made by the board or its agents, by a government agency, or by a recognized organization of certified public accountants, or by the client himself or his heirs, successors or authorized representative, or in connection with a peer review of the regulant's practice. (§ 54-1-28.9 of the Code of Virginia)

§ 3.20. Client's records.

A regulant shall furnish to its client or former client, regardless of any payment due the firm, within a

reasonable time upon request:

1. A copy of a the client's tax return; or
2. A copy of any report, or other document, issued by the regulant to or for the client and not formally withdrawn by the regulant prior to the request; or
3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant removed from the client's premises or had received for the client's account; or
4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. (§ 54-1-28.9 of the Code of Virginia)

§ 3.21. Acting through others.

A regulant shall not permit others to carry out on his behalf, acts which, if carried out by the regulant, would place him in violation of these regulations. A regulant shall not perform services for a client who is performing the same or similar services for another, if the firm could not perform those services under these rules. (§ 54-1-28.9 of the Code of Virginia)

§ 3.22. Advertising.

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

1. A misrepresentation of fact; or
2. Failure to make full disclosure of any relevant fact; or
3. Representations of services of exceptional quality not supported by verifiable facts; or
4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results. (§ 54-1-28.9 of the Code of Virginia)

§ 3.23. Solicitation.

A regulant shall not by any direct personal communication solicit an engagement to perform professional services if the communication is overreaching or contains use of coercion, duress, compulsion, intimidation, threats, or harassment. (§ 54-1-28.9 of the Code of Virginia)

§ 3.24. Response to board communication.

A regulant shall respond by registered or certified mail within 30 days of the mailing of any communication from the board when requested. (§ 54-1-28.6 of the Code of

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Virginia)

§ 3.25. Revocation, suspension, and fines.

The board may suspend, deny renewal, or revoke any certificate, or license, or may fine the holder thereof, upon a finding of :

1. Any fraud or misrepresentation in obtaining a certificate, or license; or
2. Cancellation, revocation, suspension, or refusal to renew authority to engage in the practice of public accountancy in any other jurisdiction for any cause; or
3. Suspension or revocation of the right to practice before any state or federal agency; or
4. Dishonesty, fraud, or negligence in the practice of public accountancy; or
5. Violation of or noncompliance with any of the provisions of these regulations; or
6. Conviction of a felony or of any crime an element of which is dishonesty or fraud, under the laws of the United States or of any jurisdiction; or
7. Any conduct reflecting adversely upon the regulant's fitness to engage in the practice of public accountancy ; or .
8. Violation of any of the provisions of Chapter 1.1 or Chapter 5 of Title 54 of the Code of Virginia. (§ 54-1.28.7 of the Code of Virginia)

§ 3.26. Practice inspection and continuing professional education.

In lieu of, or in addition to, any remedy provided in § 3.26, the board may require an inspection of a firm's practice or a completion of specified continuing education. (§ 54-1.28.7 of the Code of Virginia)

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

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

taken; the offense for which the petitioner was disciplined; the petitioner's activities prior to the imposition of the penalty; the petitioner's rehabilitative efforts and restitution to damaged parties; and the petitioner's general reputation for truth and professional ability. (§ 54-1.28.5 of the Code of Virginia)

§ 3.28. Single act evidence.

Evidence of the commission of a single act prohibited by these regulations shall be sufficient to justify a finding of violation, without evidence of a general course of conduct. (§ 54-1.28.5 of the Code of Virginia)

§ 3.29. Ownership of records.

All statements, records, schedules, working papers, and memoranda made by a regulant incident to rendering services to client in the practice of public accountancy, shall become the property of the regulant absent an express agreement between the firm and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client to anyone other than a regulant. (§ 54-101 of the Code of Virginia)

§ 3.30. Severability.

If any provisions of these regulations be held invalid, other provisions shall not be affected. (§ 54-1.28.5 of the Code of Virginia)

DEPARTMENT OF COMMERCE
 VIRGINIA STATE BOARD OF ACCOUNTANCY
 3600 West Broad Street
 Richmond, Virginia 23220-4917
 (804) 257-6505
 Toll Free: (1800) 552-3016

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APPLICATION FOR EXAMINATION

PLEASE TYPE OR PRINT

1. Name: Last _____ First _____ Middle _____ Social Security Number _____
 Home Address _____ Date of Birth (/ /) _____ Telephone Number _____
 Zip _____

2. College Address (include only if current) _____ Telephone Number () _____ Zip _____

3. Business Address _____ Telephone Number () _____ Zip _____

Colleges Attended	Location	Attended From	To	Degree	Date of Degree

5. Have you taken the CPA Examination before? Yes ___ No ___ If you have taken the CPA Examination before, did you sit as a Virginia candidate? Yes ___ No ___ If so give the last date you have valid credits from another state? Yes ___ No ___ If so, ask other Board to send us your complete examination history.
6. Has your name ever been changed? Yes ___ No ___ If so, please give former name _____
7. Have you ever been convicted of a felony? Yes ___ No ___ or misdemeanor? Yes ___ No ___ If answer to either is yes, attach full details.
8. Please indicate order of preference of examination site, NO SITE GUARANTEED
 (A) _____ (B) _____ (C) RICHMOND (D) ROANOKE

FOR BOARD USE ONLY

Conditions _____ Staff Approval _____
 Date: _____ Date: _____
 Board Approval _____ Board Approval _____

THIS APPLICATION MUST BE ENDORSED BY FIVE REPUTABLE CITIZENS, PREFERABLY VIRGINIA RESIDENTS

Each of the undersigned hereby certifies that he/she is personally acquainted with, but not related to, the applicant, that he/she believes him/her to be of good moral character, and that he/she unreservedly recommends him/her to the Virginia State Board of Accountancy.

SIGNATURE	PRINTED NAME	OCCUPATION	MAILING ADDRESS	YEARS KNOWN TO APPLICANT

I hereby apply for permission to take the Uniform CPA Examination. I certify under oath that the picture of me attached to this application is of recent date and of reasonable likeness; that all the representations contained herein or attached hereto are, to the best of my knowledge, true and correct; that I have read the full text of the Virginia Law and the Rules and Regulations of the Virginia State Board of Accountancy, and that I agree to abide by them. I understand that if I am approved to sit for this examination and fail to do so, for whatever reason, my fee will be forfeited.

SIGNATURE OF APPLICANT _____
 DATE _____

AFFIDAVIT:
 State of _____
 County/City of _____
 Sworn and subscribed to before me this _____ day of _____, 19____
 Notary Public _____
 My Commission expires _____

I UNDERSTAND THAT IN THE EVENT OF LOSS OF EXAMINATION PAPERS, THE BOARD OF ACCOUNTANCY'S LIABILITY IS LIMITED TO PROVIDING AN OPPORTUNITY TO RETAKE THE EXAMINATION

VIRGINIA STATE BOARD OF ACCOUNTANCY
CERTIFICATION OF EXAMINATION SUBJECTS

Print or type all information
MUST BE COMPLETED AND SENT WITH APPLICATION

Name of Applicant _____
Baccalaureate degree received _____ expected _____
on _____ month, year from _____ College or University

This form must have a transcript (official or student copy) attached. For any courses which are not descriptive, attach course description.

Foreign applicants attach letter evaluating courses complete in foreign schools.

PART I (Applicable Until July 31, 1988)

1. Baccalaureate degree received _____ expected _____
on _____ month, year from _____ College or University

2. Specify twenty-seven semester hours or equivalent in quarter hours in accounting subjects which must include courses in accounting, auditing, and cost accounting. Do not include more than six semester hours in commercial law. Financial accounting includes principles of accounting.

List complete accounting courses below:

COURSE TITLE	NO. OF HOURS SEMESTER OR QUARTER	COLLEGE OR UNIVERSITY
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____
13. _____	_____	_____
14. _____	_____	_____
15. _____	_____	_____

PART II (Effective March 1, 1986)

I am an eligible candidate to take the Uniform CPA Examination by meeting either of the following requirements.

1. Baccalaureate degree, with either major in accounting or a concentration in accounting, received _____ expected _____
on _____ month, year from _____ College or University

2. I have earned one hundred twenty semester hours of earned credit from an accredited institution(s) which include the following courses or their equivalent:

<u>REQUIRED</u> Course Title	<u>COMPLETED</u>		<u>COLLEGE OR UNIVERSITY</u>
	<u>Semester Hours</u>	<u>Semester or Quarter Hrs.</u>	
Principles of:			
Accountancy	6	_____	_____
Economics	3	_____	_____
Marketing	3	_____	_____
Management	3	_____	_____
Finance	3	_____	_____
Information Systems	3	_____	_____
Statistics	3	_____	_____
Business Policy	3	_____	_____
Financial Acct. and Acct. Theory	6	_____	_____
Cost/Managerial Acct.	3	_____	_____
Auditing	3	_____	_____
Taxation	3	_____	_____
Commercial Law (not to exceed 6 semester hrs.)	3	_____	_____

FEE: \$90.00
(Make Check Payable to Treasurer of Virginia)

VIRGINIA STATE BOARD OF ACCOUNTANCY
Department of Commerce
3600 West Broad Street
Richmond, VA 23230-4917
(804) 257-8505
Toll Free: 1(800)552-3016

APPLICATION FOR REEXAMINATION

PLEASE TYPE OR PRINT

1. Name _____
Last First Middle Social Security Number
Home Address _____
Date of Birth _____
()
Telephone Number _____
2. Employing Firm _____
Address _____
Telephone Number () _____
3. Have you ever been convicted of a felony or misdemeanor since date of original application? Yes _____ No _____. If answer yes, attach full details.
4. I hereby make application for reexamination in the following subjects:
____ Auditing ____ Law ____ Theory ____ Practice
to be given during the month of _____, 19____.
5. I last sat for the Virginia examination during the month of _____, 19__.
6. Please indicate order of preference of examination site. NO SITE GUARANTEED
____ Norfolk
____ Northern Virginia
____ Richmond
____ Roanoke

FOR BOARD USE ONLY

Condition(s), if any: _____

APPROVAL

Date _____
Authorized Initials _____
Examination Site Assigned _____

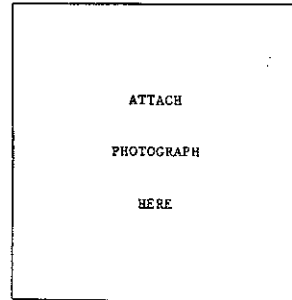
I hereby apply for permission to take the Uniform CPA Examination. I certify under oath that the picture of me attached to this application is of recent date and of reasonable likeness, and that all the representations contained herein or attached hereto are, to the best of my knowledge, true and correct. I understand that if I am approved to sit for this examination and fail to do so, for whatever reason, my fee will be forfeited.

Signature of Applicant

Date

Affidavit:
State of _____
City/County of _____
Sworn and subscribed to before me this ____ day of _____, 19__.

Notary Public
My commission expires _____



I UNDERSTAND THAT IN THE EVENT OF LOSS OF EXAMINATION PAPERS, THE BOARD OF ACCOUNTANCY'S LIABILITY IS LIMITED TO PROVIDING AN OPPORTUNITY TO RETAKE THE EXAMINATION.

FEE: \$25.00
(Make check payable
to the Treasurer
of Virginia)

VIRGINIA STATE BOARD OF ACCOUNTANCY
DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917
(804) 257-8505
TOLL FREE: 1 (800) 552-3016

APPLICATION FOR ORIGINAL CERTIFICATION AS A CPA IN VIRGINIA

PLEASE TYPE OR PRINT

NAME: _____
(Use name as you wish it to appear on certificate)

Social Security Number _____

ADDRESS: _____

(ZIP) Telephone Number

BUSINESS ADDRESS: _____
(Please include
firm name)

(ZIP) Telephone Number

Date of completion of Uniform CPA Examination _____
Give Month and Year

Date of completion of Ethics Examination _____
(Attach copy of grade sheet or certificate) Month and Year

Have you ever been convicted of a felony? Yes ___ No ___ or misdemeanor?
Yes ___ No ___ If answer to either questions is yes, attach full details.

I hereby declare that I am not now in the practice of public accountancy on my own
and that I will not do so in Virginia without first making application for license to
the Virginia State Board of Accountancy, completing the prescribed continuing pro-
fessional education courses, if required, and paying the required fee.

Date _____ Signature _____

AFFIDAVIT:

State of _____

City/County of _____

This statement was signed and sworn to before me this _____ day of

_____ 19 _____

Notary Public

My commission expires _____

FOR BOARD USE ONLY

Certificate Number _____ Staff approval _____ Board Approval _____

Date _____ Date _____ Date _____

FEE: \$75.00
(Make check payable
to Treasurer of
Virginia)

COMMONWEALTH OF VIRGINIA
Department of Commerce
Virginia State Board of Accountancy
3600 West Broad Street
Richmond, Virginia 23230-4917
Telephone: (804) 257-8505
Toll Free: 1 (800) 552-3016

APPLICATION FOR LICENSE AS A CERTIFIED PUBLIC ACCOUNTANT IN VIRGINIA

MUST BE TYPED OR PRINTED

NAME Last First Middle Social Security Number
()

HOME ADDRESS Street number and name Telephone Number
()

City State Zip Code

EMPLOYER _____

BUSINESS ADDRESS _____
Street number and name Telephone Number
()

City State Zip Code

Date CPA Examination Completed _____

AICPA Ethics Examination Completed _____

Have you ever been convicted of a felony? Yes ___ No ___;

or misdemeanor? Yes ___ No ___

Former name if different when you were certified _____

FOR BOARD USE ONLY

Certificate Number _____ Board Approval _____ Conditions, if any: _____

Date _____ Date: _____

Reviewed for Completeness Member: _____

By _____ on _____ Member: _____

By _____ on _____

TO: DEPARTMENT OF COMMERCE
 VIRGINIA STATE BOARD OF ACCOUNTANCY
 3600 WEST BROAD STREET
 RICHMOND, VIRGINIA 23220-4917

FROM: NAME OF FIRM _____

RE: APPLICANT FOR LICENSURE _____

RECORD OF EXPERIENCE

(Refer to Section 2.14 of the Rules and Regulations on Experience Requirements)

A. AUDIT EXPERIENCE

FIRM NAME _____ LOCATION _____ TO _____ EXACT DATES _____
 TO _____

B. GENERAL ACCOUNTING EXPERIENCE

FIRM NAME _____ LOCATION _____ TO _____ EXACT DATES _____
 TO _____

C. TEACHING EXPERIENCE

INSTITUTION _____ LOCATION _____ TO _____ EXACT DATES _____
 TO _____

D. Credit under Section 2.15 requested? Yes No
 Document with authenticated transcript showing master's degree if not previously submitted.

All experience, including current experience, must be documented by your employer(s) using Form VSA-6. If necessary, the information given on the form may be amplified by an accompanying letter on letterhead, signed by the employer, and notarized.

I hereby apply to the Virginia State Board of Accountancy for a license as a Virginia certified public accountant and certify under oath that I have read, and agree to abide by, the Virginia CPA Law and the Rules and Regulations of the Board, that all statements contained in this application and the statement(s) thereto are correct, to the best of my knowledge and belief, and that I have withheld no information which might reasonably be expected to cause the Board to deny this application.

DATE _____ SIGNATURE OF APPLICANT _____

AFFIDAVIT:

State of _____

City or County of _____

Subscribed and sworn to before me this _____ day of _____, 19____.

My commission expires _____

Notary Public

1. Exact dates of employment: From _____ To _____

2. Reason for leaving, if applicable: _____

3. Was employment full-time? Yes No

If part-time, please indicated total number of hours worked: _____

4. Did the applicant's experience include emphasis on the independent examination and/or review of financial statements involving the applicable performance of either the audit or review functions? Yes No

How many hours of the applicant's time was so engaged? _____

Were generally accepted auditing standards or, were applicable, standards for accounting and review services applied? Yes No

Was third party reliance on the financial statements involved? Yes No

List the types of organizations audited: _____

Describe the types of work assigned to the applicant: _____

5. Please describe the supervision provided the applicant. (Has the supervisor CPA?) Yes No

6. Please evaluate the quality of the applicant's performance: _____

COVER

VSA-4

COMMONWEALTH OF VIRGINIA
 Department of Commerce
 Virginia State Board of Accountancy
 3600 West Broad Street
 Richmond, Virginia 23230-4917
 Telephone: (804) 257-8505
 Toll Free: 1 (800) 552-3016

APPLICATION FOR A VIRGINIA CPA CERTIFICATE BY ENDORSEMENT

MUST BE TYPED OR PRINTED

NAME _____ Social Security Number _____
 Last First Middle ()
 HOME ADDRESS _____ Telephone Number _____
 Street number and name

EMPLOYER _____
 City State Zip Code _____

BUSINESS ADDRESS _____ Telephone Number _____
 Street number and name ()

LENGTH OF RESIDENCE OR EMPLOYMENT IN VIRGINIA _____
 City State Zip Code _____

PLACE OF BIRTH _____
 Have you ever been convicted of a felony? Yes _____ No _____ or has your right to practice accountancy in any jurisdiction ever been suspended or revoked? Yes _____ No _____
 If your answer is "YES," attach a statement providing all relevant details.

ORIGINAL CERTIFICATE NUMBER _____ ISSUED BY _____ ON _____ DATE _____
 JURISDICTION

(CPAs submit Form R-2 and VSBA-7. Non-certified applicants, submit Form VSBA-7 re Endorsement of Grades)

ETHICS:

Have you satisfactorily completed the AICPA Course in Ethics? Yes _____ No _____; if "YES" provide evidence; if "NO," see memorandum)

BOARD USE ONLY _____ Date: _____

Reviewed By _____ Certificate No. _____ Member: _____

Date _____ Date of Issuance _____ Member: _____

7. Do you consider the applicant qualified by experience and demonstrated competence to become a CPA and to independently exercise the attest function? Yes _____ No _____

8. What were the applicant's job titles while with your organization? _____
 Title _____ Time Period _____

9. If applicant is no longer with your organization, is there any reason you would be unwilling to rehire him/her should a suitable opening become available? _____

Signature of Employer _____

Title _____

Firm or Agency Name _____

Address _____

Telephone Number _____ Zip _____

Affidavit:

State of _____

City/County of _____

This statement was signed and sworn before me this _____ day of _____, 19____.

Notary Public _____

My Commission expires _____



COMMONWEALTH of VIRGINIA

Department of Commerce

3000 WEST BROAD STREET, RICHMOND, VIRGINIA 23220 - 4917

TELEPHONE: (804) 257-3500
TOLL FREE: (800) 552-2019

DAVID R. HATHCOCK
Director

TO: Roberts L. Banning, Assistant Director
Virginia State Board of Accountancy

FROM: _____
Name of Board transferring grades

RECORD OF EXPERIENCE (Refer to Section 2.14 of the Rules and Regulations on Experience Requirements)

A. AUDIT EXPERIENCE

FIRM NAME _____ LOCATION _____ to _____
EXACT DATES _____ to _____

B. GENERAL ACCOUNTING EXPERIENCE

FIRM NAME _____ LOCATION _____ to _____
EXACT DATES _____ to _____

C. TEACHING EXPERIENCE

INSTITUTION _____ LOCATION _____ to _____
EXACT DATES _____ to _____

D. Credit under Section 2.15 requested? Yes _____ No _____
Document with authenticated transcript showing master's degree if not previously submitted.

All experience, including current experience, must be documented by your employer(s) using Form VSBA-6. If necessary, the information given on the form may be amplified by an accompanying letter on letterhead, signed by the employer, and notarized.

I hereby apply to the Virginia State Board of Accountancy for a license as a Virginia certified public accountant and certify under oath that I have read, and agree to abide by, the Virginia CPA Law and the Rules and Regulations of the Board, that all statements contained in this application and the statement(s) thereto are correct, to the best of my knowledge and belief, and that I have withheld no information which might reasonably be expected to cause the Board to deny this application.

DATE _____ SIGNATURE OF APPLICANT _____

AFFIDAVIT:

State of _____

City or County of _____

Subscribed and sworn to before me this _____ day of _____, 19____.

My commission expires _____ Notary Public _____

I certify that _____ sat for the Uniform CPA Examination under our jurisdiction on the dates listed below, with the results noted:

DATE	I.D. NO.	AUDITING	LAW	THEORY	PRACTICE

These grades were furnished by the Advisory Grading Service of the AICPA and we recommend that they be accepted.

CERTIFICATION

I certify that the foregoing statements are correct to the best of my knowledge and belief.

Signature of Authorized Person _____

S E A L

O F

B O A R D

Title _____

Date _____

VSBA-7
03-86



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-8500
TOLL FREE: 1 (800) 552-3016

TO: _____
Name of Board which issued applicant's original certificate

FROM: Roberta L. Banning, Assistant Director
Virginia State Board of Accountancy

The application for a Virginia CPA certificate submitted by _____
_____ states that his or her original certificate
was issued by your Board.

We would very much appreciate it if you would provide us with the following
information.

1. Certification Number _____ was issued on _____,
19 ____.
2. The basis (or bases) for certification were those checked below:
 a written examination prepared by this Board.
 grades reported by the Advisory Grading Service for the Uniform
 CPA Examination.
 Other

CERTIFICATION

I certify that the foregoing statements are correct to the best of my
knowledge and belief.

S E A L
O F
B O A R D

Signature of Authorized Person

Title

Date

VSBA R-2
03-86

VIRGINIA STATE BOARD OF ACCOUNTANCY

Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230
(804) 257-8505
Toll Free: 1(800)552-3016

TO THE ENDORSER OF AN APPLICANT FOR A VIRGINIA CPA CERTIFICATE BY ENDORSEMENT

The applicant named below has applied for a Virginia CPA Certificate by Endorsement.
You have been named as one of the applicant's endorsers, and the Virginia State Board
of Accountancy would very much appreciate your frank answers to the following
questions. Any other comments you care to make regarding this applicant would also
be of value.

ENDORSEMENT

1. Applicant's name _____
2. What type of relationship have you had with applicant? (Business, professional
or social?) _____
3. Number of years you have known applicant: _____
4. Is he/she of good moral character? _____
5. To the best of your knowledge, has he or she been employed as an accountant and,
if so, for how long? _____
6. If the answer to Number 5 is in the affirmative, what is his or her professional
reputation? _____
7. Are you aware of any facts which might negatively affect the Board's con-
sideration of this application? If so, please specify. _____
8. Your comments or recommendations: _____

Continue on reverse side if necessary.

Signature _____

Name (Printed) _____

Address: _____

Occupation: _____

Date: _____

VSBA R-3
3/86

Final Regulations

TO: DEPARTMENT OF COMMERCE
 VIRGINIA STATE BOARD OF ACCOUNTANCY
 3600 WEST BROAD STREET
 RICHMOND, VIRGINIA 23230-4917

FROM: NAME OF FIRM _____

RE: APPLICANT FOR LICENSURE _____

1. Exact dates of employment: From _____ To _____
2. Reason for leaving, if applicable: _____
3. Was employment full-time? Yes _____ No _____
 If part-time, please indicate total number of hours worked: _____
4. Did the applicant's experience include emphasis on the independent examination and/or review of financial statements involving the applicable performance of either the audit or review functions? Yes _____ No _____
 How many hours of the applicant's time was so engaged? _____
 Were generally accepted auditing standards or, were applicable, standards for accounting and review services applied? Yes _____ No _____
 Was third party reliance on the financial statements involved? Yes _____ No _____

List the types of organizations audited: _____

 Describe the types of work assigned to the applicant: _____

5. Please describe the supervision provided the applicant. (Was the supervisor a CPA?) Yes _____ No _____

6. Please evaluate the quality of the applicant's performance: _____

VSBA-6 (OVER)

7. Do you consider the applicant qualified by experience and demonstrated competence to become a CPA and to independently exercise the attest function? Yes _____ No _____

8. What were the applicant's job titles while with your organization?

Title _____ Time Period _____

9. If applicant is no longer with your organization, is there any reason you would be unwilling to rehire him/her should a suitable opening become available?

Signature of Employer _____

Title _____

Firm or Agency Name _____

Address _____

Zip _____

Telephone Number _____

Affidavit:

State of _____

City/County of _____

This statement was signed and sworn before me this _____ day of _____, 19____.

Notary Public _____

My Commission expires _____

FEE: \$50.00
 (Make check payable to Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 Department of Commerce
 Virginia State Board of Accountancy
 3600 West Broad Street
 Richmond, Virginia 23230-4917
 Telephone: (804) 257-8505
 Toll Free: 1 (800) 552-3016

APPLICATION FOR REGISTRATION UNDER THE PROFESSIONAL DESIGNATION
 "CERTIFIED PUBLIC ACCOUNTANT(S)" OR "PUBLIC ACCOUNTANTS"
 AS A CORPORATION.

CORPORATE NAME _____
 ADDRESS OF MAIN OFFICE _____
Number and Street City or Town State Zip
 MAILING ADDRESS _____

OFFICERS OF CORPORATION

Name of Each Officer	Title	Legal Residence Address in Full	Va. Cert. No.

BOARD OF DIRECTORS

Name of Each Director	Legal Residence Address in Full	No. Shares Stock Owned	Va. Cert. No.

THE FOLLOWING QUESTIONS MUST BE ANSWERED IN DETAIL:

- Number of Shares of Stock Authorized to be Issued _____
- Number of Shares of Stock Issued and Outstanding _____

LIST BELOW THE NAMES OF EACH OWNER OR CAPITAL STOCK IN THE CORPORATION

Name of Each Owner	Legal Residence Address in Full	No. Shares Stock Owned	Va. Cert. No.

TOTAL (Must agree with Item 2 above) _____

CERTIFICATION

I, _____, president of the aforementioned corporation, do solemnly swear and affirm that the answers herein are true to the best of my knowledge and belief, that Chapter 5 of Title 54 and Chapter 7 of Title 13.1, Code of Virginia, as amended, and all applicable rules and regulations have been adhered to, and that this application is made for the purpose of including the issuance of authority to practice under the professional designation "Certified Public Accountant(s)" or "Public Accountant(s)" as a corporation.

 President

Attested to before me, the secretary of the corporation, this _____ day of _____, 19 _____.

 Secretary

AFFIDAVIT

STATE OF _____ ss.
 COUNTY OR CITY OF _____

Sworn and subscribed to before me at _____ this _____ day of _____, 19 _____.

 Notary Public

PLEASE NOTE: Refer to Chapter 5 of Title 54 (Section 54-91.1) and Chapter 7 of Title 13.1, (Sections 13.1-542 through 13.1-556) Code of Virginia, 1950, as amended, and to the rules and regulations dealing with Professional Practice and Corporate Practice.

FOR STATE BOARD OF ACCOUNTANCY USE ONLY

Corporation organized under Virginia law? _____

All Directors, Shareholders and Chief Executive Officers hold valid Virginia certificates? _____



COMMONWEALTH of VIRGINIA

DAVID R. HATHCOCK
Director

Department of Commerce
3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE (804) 257-8500
TOLL FREE: 1 (800) 552-3216

MEMORANDUM

TO: CPA Candidates
FROM: Roberta L. Banning, Assistant Director
Virginia State Board of Accountancy
SUBJECT: Ethics Examination

Attached is an order form for AICPA's "Professional Ethics for Certified Public Accountants," a self-study course required of all candidates for a Virginia original or reciprocal certificate. A grade of at least 90 must be achieved in order for you to be eligible for certification.

The Institute is responsible for grading the self-administered exam, the results of which will then be sent to you and to the Board.

The course is not required prior to taking the Uniform CPA Examination, but evidence of its satisfactory completion must be provided to the Board for certification and licensure.

R. L. B.

RLB:pjs

Attachment

VSBA
A-8
2/86

ORDER FORM

TO: American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, New York 10036

Enclosed is my payment for the self-study course and examination,
"Professional Ethics for Certified Public Accountants -- No. 723992."

I understand that my payment covers the cost of the course materials, examination grading, and notification of successful completion to me and to the Virginia State Board of Accountancy.

My check in the amount of \$45.00, made payable to the AICPA, is enclosed.

NAME: _____
ADDRESS: _____
CITY: _____
STATE: _____

Code 1534J

VIRGINIA EMPLOYMENT COMMISSION

Title of Regulation: VR 300-01-1. Virginia Employment Commission Regulations and General Rules - Definitions and General Provisions.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

This regulation expands former Regulation I by including definitions previously found in other regulations so as to follow the requirements of the Virginia Register Forms, Style and Procedure Manual by consolidating all definitions at the beginning of the agency's Regulations and General Rules. The definition of "wages" has been eliminated since that term is adequately defined in § 60.2-229 of the Code of Virginia. Definitions have been added for "additional claim," "continued claim," "initial claim," "new claim," and "severance and dismissal pay," since these terms have been previously interpreted through agency practice and a formal definition of them is deemed appropriate. The definitions of "benefits," "cash value of remuneration," "partially unemployed individual," and "part-total unemployment" have been modified slightly to eliminate unnecessary language or to resolve ambiguities. Additionally, the section relating to the development of regulations has been restructured in accordance with the Virginia Register Form, Style, and Procedure Manual with only minor housekeeping changes in the text. A third section concerning the review of regulations has been added in response to the requirements mandated by Executive Order Number 5, dated January 30, 1986.

VR 300-01-1. Virginia Employment Commission Regulations and General Rules - Definitions and General Provisions.

Pursuant to the authority contained in Section 60.1-1 through Section 60.1-134 of Title 60.1, Code of Virginia (1950), as amended, the Virginia Employment Commission adopts the following rules and regulations, effective June 1, 1978:

Regulation 1 - Definitions Generally

A. As used in these rules and regulations:

§ 1. Definitions.

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

1 "Act" shall mean means the Virginia Unemployment Compensation Act as defined in set out in Title 60.2 Section 60.1-1 (§ 60.2-100 et seq.) of the Code of Virginia (1950) as amended .

"Additional claim" means a claim for unemployment compensation benefits filed within an existing benefit year by a claimant who has had an intervening period of employment since filing a prior claim.

"Agent state" means any state in which an individual files a claim for benefits from another state.

"Agency" means any officer, board, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

"Area of high unemployment" means that geographic area of Virginia including all cities and counties served by a particular full-service unemployment office where the average unemployment rate as determined by the Commission has been 10% or more during the first four of the last five completed calendar quarters.

"Benefits" means the compensation payable to an individual, with respect to his unemployment, under the unemployment insurance law of any state or under any federal program in which such compensation is payable in accordance with applicable state law.

2 "Cash Value of Remuneration" shall mean:

(a) If board, lodging, or any other payment in kind, considered as payment for services performed by a worker, is in addition to or in lieu of (rather than a deduction from) money-wages, the Commission may determine or shall approve the cash value of such payment in kind, and the employer shall use these cash values in computing contributions due under the law.

(b) As to rent, housing, lodging and board the value thereof shall be the amount agreed upon between the employer and worker at the time of entering into the contract of hire, if there be an agreement; or if there be no such agreement, then the value thereof shall be an amount equal to a fair estimate of what the worker would, according to his custom and station, pay for similar accommodations in the same community at premises other than those provided by the employer. For the purpose of computing contributions, the estimate on the items of lodging and board should not be less than the following rates:

Full board and room, weekly	\$38.50
Meals, per week	22.50
per week	2.50
per meal	1.50
Lodging, per week	16.00
per day	2.50

Final Regulations

"Cash value of remuneration" means with respect to rent, housing, lodging, board, or any other payment in kind, considered as payment for services performed by a worker, in addition to or in lieu of (rather than a deduction from) money wages, the value agreed upon between the employing unit and the worker at the time of entering into the contract of hire or as mutually agreed thereafter. If there is no such agreement, the value thereof shall be an amount equal to a fair estimate of what the worker would, according to his custom and station, pay for similar goods, services, or accommodations in the same community at premises other than those provided by the employing unit.

"Combined-wage claimant" means a claimant who has covered wages under the unemployment compensation law of more than one state and who has filed a claim under the Interstate Arrangement for Combining Employment and Wages.

§ "Commission" shall mean means the Virginia Employment Commission as defined in Section ~~60.1-31~~ § 60.2-108 of the Code of Virginia (1950), as amended.

"Continued claim" means a request for the payment of unemployment compensation benefits which is made after the filing of an initial claim.

"Initial claim" means any new, additional, or reopened claim for unemployment compensation benefits.

"Interstate Benefit Payment Plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

"Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the Commission finds that this exclusion would create undue hardship on such claimants in specified areas.

"Interested jurisdiction" means any participating jurisdiction to which an election submitted under regulation VR 300-01-2, Part V, is sent for its approval and "interested agency" means the agency of such jurisdiction.

"Jurisdiction" means any state of the United States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, or with respect to the federal government, the coverage of any federal unemployment compensation law.

"Liable state" means any state against which an individual files, through another state, a claim for benefits.

"Mass separation" means a separation (permanently or for an indefinite period or for an expected duration of

seven days or more) at or about the same time and for the same reasons (i) of 20%, or more, of the total number of workers employed in an establishment, or (ii) of 50%, or more, of the total number of workers employed in any division or department of any establishment, or (iii) notwithstanding any of the foregoing, a separation at or about the same time and for the same reason of 25 or more workers employed in a single establishment.

"New claim" means a claim for unemployment compensation benefits filed in person at an unemployment insurance office or other location designated by the Commission by an individual who does not have an existing benefit year established.

"Partially unemployed individual" means an individual who during a particular week (i) had earnings, but less than his weekly benefit amounts, (ii) was employed by a regular employer, and (iii) worked, but less than his normal customary full-time hours for such regular employer because of lack of full-time work.

"Participating jurisdiction" means a jurisdiction whose administrative agency has subscribed to the Interstate Arrangement for Combining Employment and Wages and whose adherence thereto has not terminated.

"Part-total unemployment" means the unemployment of any individual in any week of less than full-time work in which he earns some remuneration (but less than his weekly benefit amount) and during which he is not attached to a regular employer; or, in any week in which he has wages such as holiday or vacation pay which are less than his weekly benefit amount, but where no actual work has been performed regardless of his attachment to a regular employer.

"Paying state" means (i) the state in which a combined-wage claimant files a combined-wage claim, if the claimant qualifies for unemployment benefits in that state on the basis of combined employment and wages, and combining will increase either the weekly benefit amount or the maximum benefit amount, or (ii) if the state in which a combined-wage claimant files a combined-wage claim is not the paying state under the criterion set forth in (i) above, or if the combined-wage claim is filed in Canada or the U.S. Virgin Islands, then the paying state shall be that state where the combined-wage claimant was last employed in covered employment among the states in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages.

"Reopened claim" means the first claim for unemployment compensation benefits filed within an existing benefit year after a break in the claim series caused by any reason other than intervening employment.

"Services customarily performed by an individual in more than one jurisdiction" means services performed in more than one jurisdiction during a reasonable period, if

the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

"Severance and dismissal pay" means for the purpose of taxation and benefits, all payments made by an employer at or within 30 days of his separation. Such payments may be allocated by the employer for up to 30 days following separation, and will in such cases be deemed to have been paid in those weeks covered by the allocation. If no allocation is made by the employer, such payments will be deemed allocated to the last day of work.

"State" means one of the United States, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.

"Total unemployment" means the unemployment of an individual in a week regardless of whether he is separated or attached to an employing unit's payroll, when he performs no work and has no wages payable to him.

"Transferring state" means a state in which a combined-wage claimant had covered employment and wages in the base period of a paying state, and which transfers such employment and wages to the paying state for its use in determining the benefit rights of such claimant under its law.

4. "Wages" shall mean all remuneration payable for personal services as defined in Section 60-1-26 of the Code of Virginia (1950), as amended, in addition to wages paid for employment during all pay periods:

(a) Effective July 1, 1978, all tips or gratuities paid to an employee and reported by the employee to the employer for the purposes of taxation shall be considered "wages" for purposes of both contributions and benefits.

B. § 2. Development of regulations.

1 A. Pursuant to § 9-6.14:7.1 of the Code of Virginia, the Commission shall solicit the input of interested parties in the formulation and the development of its rules and regulations. The following public participation guidelines shall be used for this purpose.

2 B. Interested parties for the purpose of this regulation shall be:

A 1. The Governor's Cabinet Secretaries.

B 2. Members of the Senate Committee on Commerce and Labor.

C 3. Members of the House Committee on Labor and Commerce.

D 4. Members of the State Advisory Council Board .

E 5. Special interest groups known to the Virginia Employment Commission.

F 6. Any individual or entity requesting to be an interested party.

G 7. Those parties who have expressed an interest in VEC regulations through oral or written comments in the past.

3 C. Prior to the formulation of a proposed regulation, notice of an intent to draft a regulation shall appear in a Richmond newspaper and may appear in any newspaper circulated in localities particularly affected by the proposed regulation. Other media may also be utilized where appropriate, including but not limited to, trade or professional publications. Notice of an intent to draft a regulation shall also be mailed to all interested parties and shall be posted in all VEC offices across the state Commonwealth . These individuals, groups and the general public shall be invited to submit written data, views, and arguments on the formulation of the proposed regulation to the Commission at 703 East Main Street, its administrative office in Richmond, Virginia 23211 .

4 D. Publication of the intent to draft a regulation, as well as, the proposed regulation may shall also appear in the Virginia Register of Regulations.

5 E. The State Advisory Council Board and special interest groups, including but not limited to, the A.F.L.-C.I.O., Virginia Manufacturers' Association, Retail Merchants' Association, State Chamber of Commerce, [the Virginia Poverty Law Center,] and the State Employer Advisory Council Committee , shall be invited by mail to submit data, views and arguments orally to the Commission.

6 F. Failure of any interested party to receive notice to submit data, views, or oral or written arguments to the Commission shall not affect the implementation of any regulation otherwise formulated, developed and adopted pursuant to the Administrative Process Act , Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia .

7 G. The public participation guidelines of this regulation shall not apply to emergency regulations or those regulations excluded or exempted by any section of the Administrative Process Act.

8 H. Once the public participation guidelines have been implemented, the Commission may draft a regulation and proceed with adoption in accordance with the Administrative Process Act. During the formal procedures required by the Administrative Process Act, input will be solicited from the interested parties and the general public in writing to the Commission and at public hearings held at Richmond and, in the discretion of the Commission, at other locations.

Effective Date: October 1, 1984

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§ 3. Review of regulations.

At least yearly, or more often as may be mandated by statute or Executive Order, a regulatory review committee consisting of one member from each division of the Commission shall meet to review these regulations and general rules. The committee shall recommend the retention, deletion, and amendment of the existing rules and regulations in light of their impact upon the general public and employers with emphasis upon the requirements of the Paperwork Reduction Project as mandated by Executive Order. The committee shall also recommend additions to the regulations and general rules under the same criteria.

Title of Regulation: VR 300-01-2. Virginia Employment Commission Regulations and General Rules - Unemployment Taxes.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

This regulation consolidates and restructures six former regulations concerning various aspects of unemployment taxes or payments in lieu thereof. A seventh, former Regulation VII dealing with the required posting of notices by employers found to be liable for taxes or payments in lieu thereof, has been eliminated, since that subject is adequately covered in § 60.2-106 of the Code of Virginia. All definitions found in the six former regulations have been removed to the definition section of VR 300-01-1 in accordance with the mandates of the Virginia Register Form, Style, and Procedure Manual. Throughout the new regulation, the words "tax" or "taxes" have been substituted for "contributions" in order to conform to the change in language made by the General Assembly in the recodification found in Title 60.2 of the Code of Virginia.

With otherwise minor technical changes, Part I embodies former Regulation II involving employers' liability for taxes or payments in lieu thereof and Part II encompasses former Regulation III relating to records required to be maintained by employing units. Part III covers reports which must be submitted by employers as found in former Regulation IV with the deletion of language relating to seasonal workers and workers covered under the Comprehensive Employment and Training Act (CETA). Deletions were made because the General Assembly has repealed the seasonality provisions of the Virginia Unemployment Compensation Act and Congress has repealed the CETA law. Part IV sets forth the requirements and procedures for establishing employer group accounts as previously found in Regulation V, as well as the

requirements and procedures for establishing joint accounts for governmental entities as found in former Regulation VI. Finally, Part V deals with the Interstate Reciprocal Coverage Arrangement by which certain employers can elect to pay unemployment taxes to one state when work has been performed in more than one state. This language was formerly set out in Regulation XII.

VR 300-01-2. Virginia Employment Commission Regulations and General Rules - Unemployment Taxes.

Regulation II - Contribution by Employers

PART I. LIABILITY FOR TAXES OR PAYMENTS IN LIEU THEREOF.

§ 1.1. Taxable employers.

A. Contributions Taxes shall become due and be payable quarterly on the last day of the month next following the end of the calendar quarter for which the contributions they have accrued by all employers except the State Commonwealth of Virginia, Governmental entities and those nonprofit organizations which have elected to finance their benefit costs on a reimbursable basis, pursuant to the provisions of Section ~~60-1-80~~ §§ 60.2-501 through Section ~~60-1-80-2~~ 60.2-507 of the Act Code of Virginia.

B. The first contribution tax payment of an employer who becomes liable for contributions taxes in any year because of employment performed for him shall become due and be payable on the next due date of contributions following the month wherein in which he became subject to this Act the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) of Code of Virginia. The first payment of such an employer becoming liable in the course of a calendar year, shall include contributions taxes with respect to all wages payable for employment for each such employing unit from the first day of the calendar year.

C. The first contribution payment of an employer who becomes liable for contributions in any year in any other manner shall become due and be payable on the next due date of contributions following the months wherein each such employing unit became an employer. The first payment of such an employer shall include contributions with respect to all wages payable for employment for each such employing unit since the first day of the calendar year.

D. C. The payment for each of said quarters shall include contributions taxes with respect to wages payable for employment in all pay periods (weekly, biweekly, semi-monthly, monthly) ending within each such calendar quarter.

E. D. Upon written request of any employer filed with the Commission on or before the due date of any

contribution tax payment, the Commission for good cause may grant in writing an extension of time for the payment of such contributions taxes, but ~~(1)~~ (i) no extension of time shall exceed thirty days, and ~~(2)~~ (ii) no extension shall postpone payment beyond the last date for filing tax returns under the Federal Unemployment Tax Act ~~(3)~~, and (iii) If an employer who has been granted an extension fails to pay his contribution on or before the termination of the period of such extension, interest as provided in § 60.2-519 of the Code of Virginia shall be payable from the original due date as if no extension had been granted.

§ 1.2. Reimbursable employers.

F. A. Bond to be furnished by reimbursable employers.

All nonprofit organizations, pursuant to the provisions of Section ~~60.1-89~~ § 60.2-501 of the Act Code of Virginia shall file with the Chief of Contributions Tax at the Commission's administrative office a surety bond equal to 1.0% of the employer's taxable payroll wages, as defined in § 60.2-229 of the Code of Virginia, for the most recent four calendar quarters prior to the election to make payments in lieu of contributions taxes, such bond to be executed by an approved bonding company. Any such nonprofit organization having made the election to make payments in lieu of contributions taxes prior to the effective date of these rules and regulations shall file with the Chief of Contributions Tax at the Commission's administrative office a surety bond equal to 1.0% of the employer's taxable payroll for the most recent four calendar quarters prior to the effective date of these rules and regulations. If the nonprofit organization did not pay wages in each of such four calendar quarters the amount of the bond or deposit shall be 1.0% of the taxable payroll estimated for four calendar quarters from any such quarters in which the organization did pay wages. If the nonprofit organization did not pay wages in any quarter, then the amount of bond or deposit shall be 1.0% of taxable payroll estimated by the organization, such estimate to be adjusted at the end of four calendar quarters by the Commission.

B. Deposit in lieu of bond.

Any nonprofit organization may elect to deposit with the Commission money or securities equal to 1.0% of the employer's taxable payroll for the most recent four calendar quarters prior to the election to make payments in lieu of contributions taxes rather than filing the above mentioned bond. Any deposit of money or securities shall be retained in an escrow account until liability is terminated at which time it shall be returned to the organization less any deductions. The Commission may deduct from the money or sell the securities to the extent necessary to satisfy any due and unpaid payments in lieu of contributions taxes or any unpaid taxes and any applicable interests and penalties. Within thirty days following any such deduction the employer must deposit sufficient additional money or securities to make whole its

deposit at the prior 1.0% level.

If any nonprofit organization fails to file such bond with the Commission within thirty days after such election ~~for the effective date of these Rules and Regulations if such election was prior to the effective date~~, the Commission may terminate such the organization's election to make payments in lieu of contributions taxes.

Regulation III - Employing Unit Records

PART II. REQUIRED RECORDS AND REPORTS.

§ 2.1. Employing unit records.

A. Each employing unit as defined under Section ~~60.1-13~~ § 60.2-211 of the Virginia Unemployment Compensation Act Code of Virginia having services performed for it, shall maintain records reasonably protected against damage or loss as hereinafter indicated and shall preserve such records. These records shall include for each worker:

1. Name Full legal name;
2. Social security account number;
3. State or states in which his services are performed; and if any of such services are performed outside this state the Commonwealth of Virginia not incidental to the services within the state Commonwealth of Virginia, his base of operations with respect to such services (or if there is no base of operations then the place from which such services are directed or controlled) and his residence (by state). Where the services are performed outside the states United States, the country in which performed;
4. The date on which he was hired, rehired, or returned of hire, rehire, or return to work after temporary lay-off;
5. The date when work was terminated by lay-off quit, discharge or death, ceased and the reason for such termination cessation;
6. Scheduled hours (except for workers without a fixed schedule of hours, such as those working outside their employer's establishment in such a manner that the employer has no record or definite knowledge of their working hours);
7. ~~(a)~~ a. Wages earned in any week of partial unemployment as such week is defined in Section A(2) of Regulation IX VR 300-01-1;
 - ~~(b)~~ b. Whether any week was in fact a week of less than full-time work;
 - ~~(c)~~ c. Time lost, if any, by each such worker, and the reason therefor;

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8. ~~His money~~ Total wages in each pay period and his the total wages payable for all pay periods ending in each quarter showing separately ~~(1)~~ (i) money wages, including tips and dismissal or severance pay and ~~(2)~~ (ii) the cash value of other remuneration. ~~(determined in accordance with rules prescribed by the Commission);~~

9. Any special payments for service other than those rendered exclusively in a given quarter, such as annual bonuses, gifts, prizes, etc., showing separately, ~~(1)~~ (i) money payments, ~~(2)~~ (ii) other remuneration, and (iii) nature of said payments;

10. Amounts paid each worker as advancement, allowance or reimbursement for traveling or other business expenses, dates of payment, and the amounts of expenditures actually incurred and accounted for by such worker;

11. Location in which his the worker's services are performed within or outside of the United States and dates such services are performed out of the United States. For the purposes of this subsection, "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the U. S. Virgin Islands.

B. Records required by this regulation to be maintained by employing units under the Act *Virginia Unemployment Compensation Act* (§ 60.2-100 et seq.) of the Code of Virginia shall be preserved for four years from the date of payment of the tax based thereon and shall be subject to examination and audit by the Commission.

C. If such records are not maintained, there shall be a presumption in favor of the party making an allegation, and the burden of overcoming such presumption by clear and convincing evidence shall rest upon the party which has failed to maintain the required records.

Regulation IV - Employer Reports

PART III. EMPLOYER REPORTS.

§ 3.1. Required reports.

A. Each employer as defined in Section ~~60.1-12~~ § 60.2-210 of the ~~Virginia Unemployment Compensation Act Code of Virginia~~, as amended 1977, shall report to the Commission for each calendar quarter all the information concerning the number of workers subject to the Act *Virginia Unemployment Compensation Act* (§ 60.2-100 et seq.) of the Code of Virginia and the total wages payable with respect to employment in pay periods ending within each such quarter. Upon request, each such employer shall furnish the Commission a supplemental report additional information revealing the wages earned by an individual in his employment during the time intervening between the last pay period for which wages were paid in any

quarter and the end of such quarter.

B. Each employer shall report quarterly, not later than the last day of the month succeeding following the end of the calendar quarter, on forms prescribed by the Commission the following:

1. Employer's name, address, and any registration number assigned to him by the Commission;
2. The quarterly period covered by the report;
3. The social security account numbers of the workers;
4. The full legal names of workers with surnames last;

NOTE: The word "SEASONAL" or the letter (S) in parenthesis must be typed or printed after the surname of each employee who performed services in any department which was declared seasonal by the Commission. If the employee worked during the quarter in a nonseasonal as well as a seasonal department, then his wages must be separated indicating seasonal and nonseasonal.

5. Each worker's gross earnings total wages paid for the quarter. Such reports shall be submitted for each of the calendar quarters of each year.

6. Covered employers with public service employees under the Comprehensive Employment Training Act (CETA/PSE) will be assigned two numbers, and will receive two quarterly reports each quarter. Participants under the CETA/PSE program will be reported on the report marked "Public Service Employment."

C. An employer shall immediately notify the Commission of the filing of any voluntary or involuntary petition in bankruptcy or other proceeding under the Federal Bankruptcy Act Code and, also, of the commencement of any receivership or similar proceeding, or of any assignment for benefit of creditors, and of any order of court under the laws of Virginia with respect to the foregoing.

D. Employing unit reports.

1. Each employing unit shall make such reports as the Commission may require and shall comply with instructions printed upon any report form issued by the Commission pertaining to the preparation and return of such report.

2. Any employing unit which becomes an employer shall give notice to the Commission of that fact within thirty days. Such The notice shall contain the employer's name, home address, business address, and name of business, if any.

3. Any employer who terminates his business for any reason or transfers or sells the whole or any part of

his business or changes the name or address, or both, of his business shall within thirty days of such action give notice of such fact in writing to the Commission. The notice shall contain the employer's name, address, and account number along with the name, address, and account number of any new owner or part owner.

E. Officers of Corporation.

An officer of a corporation to be considered as being in the employment of a corporation must (1) perform services, and (2) these services must be performed either (a) for remuneration or (b) under a contract of hire.

Every corporation shall file with the Commission a verified list of its officers; and registered agent. Where it is claimed that any of the officers are not in the corporation's employment, a complete statement of the reasons must shall be presented with said list.

An officer of a corporation to be considered as being in the employment of a corporation shall perform services, and these services shall be performed either (i) for remuneration or (ii) under a contract of hire.

Regulation V - Group Accounts

PART IV. COMBINED EMPLOYER ACCOUNTS.

§ 4.1. Group accounts for employers.

A. All applications for the establishment of a group account pursuant to the provisions of Section 60.1-89(6) § 60.2-505 of the Act Code of Virginia shall show:

1. Name, address, and established account number of member employing units;
2. Name and address of the authorized group representative;
3. Signature of authorized representative of each employing unit;
4. An authorization for the representative named by the group to act for the group.

B. Approval of an application for a group account shall be contingent upon the active employing unit account of each proposed member being currently paid with no existing delinquencies.

C. A group account shall:

1. Become effective after approval by the Commission, as of the first day of the calendar year succeeding the year in which the application is received by the Commission; however, such application must shall be received by the Commission not later than 30 days prior to the beginning of the calendar year in which

the joint account becomes effective;

2. Remain in effect for not less than two calendar years;

3. Be terminated upon written request received by the Commission no later than 30 days prior to the beginning of the calendar year for which such termination shall be effective, or at the discretion of the Commission.

D. An active employing unit which is a member of a continuing group account may withdraw from such group account effective January 1, or other date at the discretion of the Commission.

1. Any employing unit which is a member of a group account may apply for withdrawal from such group account upon written notice to the Commission not less than 60 days prior to the desired date of withdrawal.

2. Within 10 days of receipt of such notice, the Commission shall approve or deny such application and give notice thereof to the employing unit and the group account.

3. If the withdrawal will eliminate the group account, notice will be given to the account by the Commission and the account will be terminated effective as of the date of withdrawal.

4. If there are two or more employers who will remain in the group account after the effective date of such withdrawal, the authorized representative shall submit an amended application pursuant to subsection A of this part section not less than 30 days prior to the effective date of the withdrawal.

5. Upon approval of such application for withdrawal, the withdrawal from such group account shall become effective January 1, or such other date as determined by the Commission.

E. An active employer may be added to an existing authorized group account provided that the authorized representative submits an amended application to the Commission for approval 30 days prior to the effective date. (Effective January 1, or other date at the discretion of the Commission.)

F. Initial responsibility to the Commission for payment of the quarterly cumulative billing shall rest with the authorized representative of the group account; however, if he does not meet that responsibility within 30 days from the date the billing was mailed to him by the Commission, each member of the group shall be liable for payments in lieu of contributions taxes in accordance with Section 60.1-89(6) § 60.2-505 of the Virginia Unemployment Compensation Act Code of Virginia.

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G. Past due or unpaid amounts in lieu of ~~contributions taxes~~ by a group account are subject to the same interest, penalty, assessment, or other collection provisions of the Act as apply to employer ~~contributions taxes~~ pursuant to ~~Chapter 6, Article 3 §§ 60.2-513 and 60.2-519 through 60.2-524~~ of the *Aet Code of Virginia*. Although responsibility for payment of the group account to the Commission shall rest with the authorized representative of the group account, each member of the group account continues to be legally liable for his part of the group account until it is paid.

H. The representative shall file, within 30 days after the end of each calendar quarter, the wage reports of each member of the group on forms furnished by the Commission; ~~provided, however, that the failure to furnish such forms shall not relieve the representative from filing such reports.~~

I. The Commission shall issue a quarterly billing for each group account with respect to the combined benefit charges of all members of the group and shall mail such billing to the last known address of the authorized representative of ~~said the group.~~

Regulation VI – Joint Accounts for Governmental Entities

§ 4.2. Joint accounts for governmental entities.

A. All applications for the establishment of a joint account pursuant to the provisions of ~~Section 60.1-89.2 § 60.2-507~~ of the *Aet Code of Virginia* shall show:

1. Name, address, and established account number of member employing units;
2. Name and address of the authorized joint account representative;
3. Signature of authorized representative of each employing unit;
4. An authorization for the representative named by the member units to act for the joint account.

B. Approval of an application for a joint account shall be contingent upon the active employing unit account of each proposed member being currently paid with no existing delinquencies.

C. A joint account shall:

1. Become effective after approval by the Commission, as of the first day of the calendar year succeeding the year in which the application is received by the Commission; however, such application must be received by the Commission not later than 30 days prior to the beginning of the calendar year in which the joint account becomes effective;
2. Remain in effect for not less than two calendar

years;

3. Be terminated upon written request received by the Commission no later than 30 days prior to the beginning of the calendar year for which such termination shall be effective, or at the discretion of the Commission.

D. An active employing unit which is a member of a continuing joint account may withdraw from such joint account effective January 1, or other date at the discretion of the Commission, provided that:

1. Any employing unit which is a member of a joint account may apply for withdrawal from such joint account upon written notice to the Commission not less than 60 days prior to the desired date of withdrawal.

2. Within 10 days of receipt of such notice, the Commission shall approve or deny such application and give notice thereof to the employing unit and the joint account.

3. If the withdrawal will eliminate the joint account, notice will be given to the account by the Commission and the account will be terminated effective as of the date of withdrawal.

4. If there are two or more employers who will remain in the joint account after the effective date of such withdrawal, the authorized representative shall submit an amended application pursuant to paragraph A of this Regulation ~~part~~ not less than 30 days prior to the effective date of the withdrawal.

5. Upon approval of such application for withdrawal, the withdrawal from such joint account shall become effective January 1, or such other date as determined by the Commission.

E. An active employer may be added to an existing authorized joint account provided that the authorized representative submits an amended application to the Commission for approval 30 days prior to the effective date. (Effective January 1, or other date at the discretion of the Commission.)

F. Each joint account may elect to finance benefits to its employees by either ~~contributions taxes~~, (as set forth in ~~Section 60.1-79 §§ 60.2-526 through Section 60.1-86 60.2-533~~ of the *Aet Code of Virginia*), or payments in lieu of ~~contributions taxes~~ as set forth in ~~Section 60.1-80 § 60.2-501~~ of the *Aet Code of Virginia*. Such election shall be made upon forms provided by the Commission and shall become effective on the first day of the calendar year succeeding such election and shall remain effective for at least one calendar year. Such election shall be received by the Commission at least 30 days prior to the date on which the election becomes effective.

Nothing contained in this paragraph subsection shall prevent a joint account which has elected a method for financing benefits to its employees from electing to finance benefits by the alternative method during any subsequent year.

G. Prior to January 1, 1978, any joint account electing to finance benefits to its employees by contributions shall be assigned a contribution rate of 1%. Subsequent to January 1, 1978, any joint account electing to finance benefits to its employees by contributions taxes shall receive a contribution tax rate computed, pursuant to the provisions of Section 60.1-79 §§ 60.2-526 through Section 60.1-86 60.2-533 of the Act Code of Virginia, on the combined experience of each of its member units.

H. Initial responsibility to the Commission for payment of the quarterly cumulative billing shall rest with the authorized representative of the joint account; however, if he does not meet that responsibility within 30 days from the date the billing was mailed to him by the Commission, each member of the joint account shall be liable for payments in lieu of contributions taxes in accordance with Section 60.1-89(6) § 60.2-505 of the Virginia Unemployment Compensation Act Code of Virginia. Past due or unpaid amounts in lieu of contributions taxes by a joint account are subject to the same interest, penalty, assessment, or other collection provisions of the Act Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) of the Code of Virginia as apply to employer contributions taxes pursuant to Chapter 5, Article 3 §§ 60.2-513 and 60.2-519 through 60.2-524 of the Act Code of Virginia.

I. Any joint account electing to finance benefits to its employees by contributions taxes pursuant to Section 60.1-79 §§ 60.2-526 through Section 60.1-86 60.2-533 of the Act Code of Virginia shall follow the procedures set forth in Regulation H, paragraphs (A) through (D) Part I, § 1.1 of these regulations.

J. The representative shall file, within 30 days after the end of each calendar quarter, the wage reports of each member of the joint account on forms furnished by the Commission; provided, however, that the failure to furnish such forms shall not relieve the representative from filing such reports.

K. The Commission shall issue a quarterly billing for each joint account with respect to the combined benefit charges of all members of the joint account and shall mail such billing to the last known address of the authorized representative of said joint account.

Regulation VII - Notices

A. Posting of Notices

Every employer (including every employing unit which has become an employer by election under the provisions of the Act) shall post and maintain printed notices to his workers informing them that he has been determined

liable for contributions under the Virginia Unemployment Compensation Act. Such notices shall be furnished by the Commission in such number as it may determine to be necessary and shall be posted and maintained in conspicuous places as near as practicable to the actual locations where the workers' services are performed. No such notice shall be posted or maintained by any person or employing unit to whom an unemployment compensation account number has not been assigned by the Commission or who has ceased to be an employer.

PART V.

EMPLOYER ELECTIONS TO COVER MULTI-STATE WORKERS.

§ 5.1. Interstate Reciprocal Coverage Arrangement.

A. The following regulations This section shall govern the Commission in its administrative cooperation with other states subscribing to the Interstate Reciprocal Coverage Arrangement pursuant to Title 60.2 of the Code of Virginia, hereinafter referred to as "the Arrangement."

B. Definitions: As used in this regulation, unless the context clearly indicates otherwise:

1. Jurisdiction means any state of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands, or with respect to the Federal Government, the coverage of any Federal Unemployment Compensation law.
2. Participating jurisdiction means a jurisdiction whose administrative agency has subscribed to the Arrangement and whose adherence thereto has not terminated.
3. Agency means any officer, board, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.
4. Interested jurisdiction means any participating jurisdiction to which an election submitted under this regulation is sent for its approval and "interested agency" means the agency of such jurisdiction.
5. Services "customarily performed" by an individual in more than one jurisdiction means services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

C. B. Submission and approval of Coverage Elections Under coverage elections under the Interstate Reciprocal Coverage Arrangement is made as follows:

1. Any employing unit may file an election on Form

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~~RC-1~~ to cover under the law of a single participating jurisdiction all of the services performed for him by an individual who customarily works for him in more than one participating jurisdiction.

Such an election may be filed, with respect to an individual, with any participating jurisdiction in which ~~(1)~~ (i) any part of the individual's services are performed, ~~(2)~~ (ii) the individual has his residence, or ~~(3)~~ (iii) the employing unit maintains a place of business to which the individual's services bear a reasonable relation.

2. The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election.

If such agency approves the election, it shall forward a copy thereof to the agency of each other participating jurisdiction specified thereon under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election, as promptly as practicable and shall notify the agency of the elected jurisdiction accordingly.

In case its law so requires, any such interested agency may, before taking action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in the election.

3. If the agency of the elected jurisdiction or the agency of any interested jurisdiction disapproved the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and reasons therefor.

4. Such an election shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. An election thus approved shall take effect, as to any interested agency, only if it is approved by such agency.

5. In case any such election is approved only in part or is disapproved by some of such agencies, the electing employing unit may withdraw its election within 10 days after being notified of such action.

D. Effective Period of Elections.

C. Effective period of elections.

1. Commencement.

An election duly approved under this ~~regulation~~ section shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election as approved, specifies the beginning of a different calendar quarter.

If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay ~~contributions~~ taxes for the earlier period in question.

2. Termination.

~~(a)~~ a. The application of any election to any individual under this ~~regulation~~ section shall terminate if the agency of the elected jurisdiction finds the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one participating jurisdiction. Such termination shall be effective as of the close of the calendar quarter in which notice of such finding is mailed to all parties affected.

~~(b)~~ b. Except as provided in subparagraph ~~(a)~~ a, each election approved hereunder shall remain in effect through the close of the calendar year in which it is submitted and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

~~(c)~~ c. Whenever an election under this ~~regulation~~ section ceases to apply to any individual under subparagraph ~~(a)~~ a or ~~(b)~~ b, the electing unit shall notify the affected individual accordingly. -

E. Reports and Notices by the Electing Unit.

D. Reports and notices by the electing unit.

1. The electing unit shall promptly notify each individual affected by its approved election, on the form supplied by the elected jurisdiction and shall furnish the elected agency a copy of such notice.

2. Whenever an individual covered by an election under this ~~regulation~~ section is separated from his employment, the electing unit shall again notify him forthwith as to the jurisdiction under whose unemployment compensation law his services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify him as to the procedure for filing interstate benefit claims.

3. The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

F: Approval of Reciprocal Coverage Elections.

E. Approval of reciprocal coverage elections.

The authority to approve or disapprove reciprocal coverage elections in accordance with this regulation section shall be vested in the Commissioner or his duly authorized representative .

Regulation VIII – Total and Part total Unemployment

A: Definitions:

1: Total Unemployment.

“Total Unemployment” occurs with respect to a week whenever an individual, regardless of whether he or she is separated or attached to an employing unit’s payroll, performs no work and has no wages payable to him. An individual who performs any service in self-employment during any week shall not be considered as unemployed during such week.

2: Part total Unemployment.

The term “part-total unemployment” means the unemployment of any individual in any week of less than full-time work in which he earns some remuneration (but less than his weekly benefit amount) and during which he is not attached to a regular employer.

REGISTRAR’S NOTICE: Due to the large number of forms filed by the Virginia Employment Commission, the forms are not being published in the Virginia Register. However, each form referenced in the regulation is listed below and is available for public inspection at the office of the Registrar of Regulations and at the Virginia Employment Commission, 703 East Main Street, Richmond, Virginia 23219.

- FC-10A Employer’s Quarterly Payroll Report
- FC-16 Information for Use in Determining Whether Employee/Employer Relationship Exists for Purposes of State Unemployment Taxes
- FC-20 Quarterly Payroll Report
- FC-24 Voluntary Election to Become an Employer Under the Virginia Unemployment Compensation Act
- FC-29 Tax Rate Notice
- FC-27 Report to Determine Liability

- FC-34 Statement to Correct Wage Information Previously Reported to VEC
- FC-45 Division of Taxable Payroll Partial Acquisitions
- FC-47 Election by Nonprofit Organizations, Government Agencies or Political Subdivisions
- FC-53 Notice to Appear in Lieu of Summons
- FC-48 Notice to Employer of Tax Liability
- FC-60 Request for Employment Data

Title of Regulation: VR 300-01-3. Virginia Employment Commission Regulations and General Rules - Benefits.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

This regulation consolidates and restructures five former regulations, all dealing with unemployment compensation benefits. A sixth, former Regulation XV, involving governmental subrogation in cases of benefit overpayments has been eliminated since the General Assembly has repealed the language in the Virginia Unemployment Compensation Act under which subrogation was permitted. Definitions formerly found in the individual regulations have been removed to the definition section in VR 300-01-1 in accordance with the requirements of the Virginia Register Form, Style, and Procedure Manual.

Part I covers total and part-total unemployment, the topic of former Regulation VIII. Continued claim filing requirements have been changed to emphasize the fact that reporting by mail is now the norm with reporting in-person being the exception. The paragraph on the late filing of continued claims has been changed to clarify the ambiguity found in the language “date of his last claim filed” and to emphasize that a failure to file within the specified period will require a claimant to report back to his local unemployment insurance office in person if he wishes to claim additional benefits. Also added is a subsection, concerning the work search requirement, applicable to claimants who are totally unemployed which codifies what had formerly been agency policy. The subsection on “adjustment to work search requirement” makes permanent the deletion of language formerly

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accomplished through an emergency regulation.

Part II encompasses former Regulation IX relating to claims for partial unemployment compensation. The only substantive change is the addition of a subsection on work search requirements to codify what had previously been agency policy.

Part III sets out the cooperative agreement by which the agency handles interstate claims and there is virtually no change from former Regulation X.

Similarly, Part IV covering the cooperative agreement by which the agency transfers or receives wage credits and pays benefits to certain claimants who have worked in more than one state was formerly found in Regulation XIII.

Finally, Part V sets forth the miscellaneous benefit provisions of former Regulation XIV. The payment of benefits due a deceased claimant is made dependent upon proof of death and any check will be made payable to the decedent's estate rather than the personal representative. Training approval has been limited to situations not involving two federal laws which have requirements to be met specifically set out in § 60.2-613 of the Code of Virginia, and claimants in approved training are given the responsibility of periodically reporting their attendance to the agency.

VR 300-01-3. Virginia Employment Commission Regulations and General Rules - Benefits.

PART I.

TOTAL AND PART-TOTAL UNEMPLOYMENT.

§ 1.1. Claimant and employer responsibilities.

2- A. Week of total or part-total unemployment.

(a) 1. An individual's week of total or part-total unemployment shall consist of the seven-consecutive-day period beginning with the Sunday prior to the first day he files his claim and registers at an employment office, except as provided in subsections paragraphs (b) 2 ; (e), and (d) 3 of this section subsection ; and, thereafter, the seven-consecutive-day period following any week of such unemployment, provided the individual reports as required by Section subsection C of this Regulation section .

(b) 2. A week of total or part-total unemployment of an individual located in an area served only by the itinerant service of the Commission shall consist of the seven-consecutive-day period beginning with the Sunday prior to the first day of such individual's unemployment, provided that such individual registers in person with such itinerant service at the first available opportunity next following the commencement of his total or part-total unemployment

except as provided in subsection (e) paragraph 3 of this section subsection ; and, thereafter, the seven-consecutive-day period following any week of such unemployment provided the individual reports as required by Section subsection C of this Regulation section.

(c.) A week of total or part-total unemployment of an individual who fails to so register as hereinabove provided, for reasons found by the Commission to constitute good cause shall consist of the 7-consecutive-day period beginning with the Sunday prior to the first day of such individual's unemployment provided that he registers in person at an employment office within a period of 7 days after such first day of his unemployment, or with the itinerant service at the next available opportunity therefor after such first opportunity and, thereafter, the 7-consecutive-day period following any week of total or part-total unemployment provided the individual reports as required by Section C of of this Regulation.

(d) 3. A week of total or part-total unemployment of an individual affected by a mass separation or a labor dispute with respect to which arrangements are made for group reporting by the employer as provided in Section B3 below, shall consist of the seven-consecutive-day period beginning with the Sunday prior to the first day of his unemployment provided that notice thereof is filed by the individual the group reporting is conducted within 13 days next following the first day of unemployment.

4. Mass Separation: The term "mass separation" means a separation (permanently or for an indefinite period or for an expected duration of seven days or more) at or about the same time and for the same reasons (1) of twenty or more percent of the total number of workers employed in an establishment, or (2) of fifty or more percent of the total number of workers employed in any division or department of an establishment, or (3) notwithstanding any of the foregoing, a separation at or about the same time and for the same reason of twenty-five or more workers employed in a single establishment.

B. Employer Responsibility - Furnishing Employment Separation and Wage Reports Upon Request of the Commission:

B. Employer to furnish employment separation and wage reports upon request of the Commission.

1. Total Unemployment - All Types: Cases of total unemployment. Whenever an employing unit receives a Notice, Form VEC B 10(b), together with Employer's Report of Separation and Wage Information, Form VEC B 10(e), an Employer's Report of Separation and Wage Information [form] from the Commission informing it that an individual has filed a

claim for benefits, such employing unit shall within five calendar days after receipt of such information [form] complete the **Employer's Report of Separation and Wage Information, Form VEC B 10(e) report** and return it to the office from which the informatory notice was sent. That portion of the Employer's Report of Separation and Wage Information to be completed by the employing unit shall set forth:

- (a) a. The date the worker began working;
- (b) b. The last day on which he actually worked;
- (c) c. A check mark in the block indicating the reason for separation and a brief statement of the reason for the separation;
- (d) d. Such other information as is required by such form. The employing unit's official name and account number, if any, assigned to such the employing unit by the Commission shall appear on the signed report.
- [e. The name and title of the official signing the report shall be provided as well as certification that the information contained in the report is accurate and complete to the best knowledge of that official.]

2. Mass Separation. Cases involving a mass separation.

- (a) a. In lieu of furnishing the Commission an individual separation report for each employee filing a claim as otherwise provided in this Regulation section, an employer shall file a list of workers involved in the mass separation with the office nearest such workers' place of employment within 24 hours of the date of separation (except as provided in subsection (b) of this Regulation subdivision b below). Such list shall include the workers' social security account numbers.
- (b) b. ~~Strike, lock-out, or other labor dispute.~~ Where the total unemployment is due to a ~~strike, lock-out, or other labor dispute~~, the employer shall file with the Commission unemployment insurance office nearest his place of business, in lieu of a mass separation notice or individual workers separation notices, a notice setting forth the existence of such dispute and the approximate number of workers affected. Upon request by the Commission, such employer shall furnish to ~~said~~ the Commission, the names and social security account numbers of the worker ordinarily attached to the department or the establishment where unemployment is caused by a ~~strike, lock-out, or other labor dispute~~.

C. Procedure for worker to follow in filing a claim for benefits.

1. Each claimant shall appear personally at the

Commission unemployment insurance office most accessible to him or at a location designated by the Commission, and shall there file a claim for benefits setting forth ~~(1)~~ (i) his unemployment and that he claims benefits, ~~(2)~~ (ii) that he is able to work and is available for work, and ~~(3)~~ (iii) such other information as is required thereby. A claim for benefits, when filed, may also constitute both the individual's registration for work and his claim for benefits or waiting period credits.

2. Except as otherwise provided in this Regulation section the claimant shall continue to report as directed during a continuous period of unemployment. The Commission, however, for reasons found to constitute good cause for any claimant's inability to continue to report to the office at which he registered and filed his claim for benefits, may permit such claimant to report to any other Employment Service unemployment insurance office.

The Commission shall permit continued claims to be filed by mail on a bi-weekly basis in any of the following circumstances unless special conditions require in-person reporting. Such special conditions may include:

- (a) a. He is located in an isolated area requiring the expenditure of an unreasonable amount of time or money in traveling to the nearest local office to file claims in person. When a claimant is reporting back to claim his first week(s) after filing an initial, additional, or reopened claim and he has not returned to work in the meantime;
- (b) b. Conditions make it impracticable for the Commission to take claims in person. When a claimant needs assistance in order to completely and accurately fill out his claim forms so as to avoid delays in processing his claims by mail;
- (c) c. He has returned to full-time work on or before the scheduled date for his filing a claim. When, in the opinion of the local unemployment insurance manager or deputy, there is a question of eligibility or qualification which must be resolved through an in-person interview;
- (d) d. The Commission finds that he has good cause for failing to file a claim in person. When a claimant who would normally be reporting by mail receives no additional claim cards and he wishes to continue claiming benefits.

e. When a claimant requests to report in person due to problems associated with the receipt of mail.

3. ~~Late Filing of Total or Part-total New or Additional Claims. Late filing of total or part-total claims.~~ All initial total or part-total unemployment claims ~~(initial or additional)~~ shall be effective on the Sunday of the

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week in which an individual reports to a Commission local office or a location designated by the Commission to file a claim. The only exceptions to the above are:

(a) a. The Commission is at fault due to a representative of the Commission giving inadequate or misleading information to an individual about filing a claim;

(b) b. A previous claim was filed against a wrong liable state;

(c) c. Filing delayed due to circumstances attributable to the Commission;

(d) d. Transitional claim filed within ~~fourteen~~ 14 days from the date the Notice of Exhaustion, Form VEC-B-3(a), was mailed to the claimant by the Commission;

(e) e. When claiming benefits under any special unemployment insurance program, the claimant becomes eligible under for regular unemployment insurance program when the calendar quarter changes;

(f) f. When the wrong type of claim was taken by a local office.

[g. With respect to reopened or additional claims only, when the claimant can show circumstances beyond his control which prevented or prohibited him from reporting earlier.]

4. **Late Filing of Continued Claims.** *Late filing of continued total and part-total claims.* An individual who [; for reasons found to constitute good cause, is unable to report as directed in Section C2 of this Regulation and has otherwise satisfied the eligibility requirements;] shall be deemed to have reported at the proper time if he claims benefit rights within ~~twenty-eight~~ 28 days after the date calendar week ending date of his last continued claim filed , or the calendar date on which the initial [; additional; or reopened] claim was filed. If the 28th day falls upon a date when the local unemployment insurance office is closed, the final date for late filing shall be extended to the next day the office is open. Failure to file within the time limit shall automatically suspend the claim series and the claimant must file an additional or reopened claim in accordance with subdivision C 3 of this section in order to begin a new claim series.

D. Work search requirement.

Normally, all claimants whose unemployment is total or part-total must make an active search for work by contacting prospective employers in an effort to find work during each week claimed in order to meet the eligibility

requirements of § 60.2-612 of the Code of Virginia. A claimant who is temporarily unemployed with an expected return to work date within a reasonable period of time as determined by the Commission which can be verified from employer information may be considered attached to his regular employer so as to meet the requirement that he be actively seeking and unable to find suitable work if he performs all suitable work which his regular employer has for him during the week or weeks claimed while attached. Attachment will end if the claimant does not return to work as scheduled or if changed circumstances indicate he has become separated.

D E. Adjustment to work search requirement.

In areas of high unemployment as determined by the Commission, defined in § 1 of VR 300-01-1 the Commission has the authority, in the absence of federal law to the contrary, to adjust the work search requirement of the Act Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) of the Code of Virginia. For purposes of this adjustment, the following definitions will apply: Any adjustment will be made quarterly within the designated area of high unemployment as follows:

Area

An area, for the purposes of Section 60.1-52(g) of the Act, shall be that geographical area (cities and counties) served by an unemployment insurance full-service office.

High Unemployment

High unemployment shall be an average unemployment rate of 10 percent or more during the first four of the last five completed calendar quarters. The designator will be computed quarterly, therefore, an adjustment to the search for work requirement may be made quarterly. The adjustment continues in effect until the next quarter computation. The designator will not be computed when the average state total unemployment rate during the measurement period equals or is less than the average state total unemployment rate during the preceding 60-month period.

Adjustment

1. The adjustment will be implemented by requiring claimants filing claims for benefits through the full-service unemployment insurance office serving an area experiencing a total unemployment rate of ~~10.0%~~ 10% - 19.9% to make one job contact with an employer each week.

2. The adjustment will be implemented by waiving the search for work requirement of all claimants filing claims for benefits through the full-service unemployment insurance office serving an area experiencing a total unemployment rate of ~~20.0%~~ 20% or more.

3. No adjustment will be made for claimants filing claims for benefits through the full-service unemployment insurance office serving an area experiencing a total unemployment rate below ~~10.0%~~ 10% .

Effective April 1, 1984.

Regulation IX - Partial Unemployment

A. Definitions.

1. Partially Unemployed Individual.

A "partially unemployed individual" is one who, during a particular week (1) had earnings, but less than his weekly benefit amount, (2) was employed by a regular employer and (3) worked less than his normal customary full-time hours for such regular employer because of lack of full-time work.

PART II. PARTIAL UNEMPLOYMENT.

§ 2.1. Claimant and employer responsibilities.

2- A. Week of partial unemployment.

With respect to a partially unemployed individual a week of partial unemployment shall consist of a calendar week beginning on Sunday and ending at midnight on Saturday. Total wages ~~paid~~ payable to partially unemployed workers are to be reported on a calendar week basis.

B. Employer responsibility after the initiation of a first claim for partial benefits.

Upon filing of a first new claim for partial benefits in each claimant's benefit year the Commission shall promptly notify the employer of such claimant's weekly benefit amount, the date on which his benefit year commenced, and the effective date of the claim for partial benefits. Similar notice shall likewise be given at least once during the claimant's benefit year to each subsequent employer to whom the claimant is attached during a period of partial unemployment for which he claims benefits. Upon receipt thereof of the notice the employer shall record this information for use in the preparation of the evidence he is required to furnish periodically as required in Section subsection C below.

C. Employer to furnish evidence of partial unemployment.

1. After the employer has been notified of the benefit year, the weekly benefit amount, and the effective date of the claim for partial benefits of any worker in his employ (Section subsection B above) such the employer shall, within seven days, furnish such the employee with written evidence concerning any week

or weeks of partial unemployment which ended on or before the receipt of such notice and which began on or after the effective date of such the employee's claim for partial benefits. Such The employer, until otherwise notified, shall, within 14 days after the termination of any pay period which includes a week or weeks of partial unemployment, and which ends after the date of receipt of such notification, furnish such the employee with written evidence concerning his partial unemployment with respect to such week or weeks. Written evidence of partial unemployment required by this subsection may shall be furnished by means of a Statement of Partial Unemployment, Form VEC-B-31, or other suitable medium approved by the Commission.

Such evidence need not be furnished, however, where the worker's earnings for a week of partial unemployment equals or exceeds his weekly benefit amount.

2. The information contained on such medium shall be in ink or typewritten and shall show:

(a) a. The name of the employer and registration employer account number;

(b) b. The name and social security account number of the worker;

(c) c. The date delivered to worker;

(d) d. The calendar week ending date of such week ;

(e) e. The gross amount of wages earned in such week , by day ;

(f) f. The reason and the number of days or hours involved where the worker's earnings were reduced for any cause other than lack of work;

(g) g. The following certification, or one similar:

"During the week or weeks covered by this report, the worker whose name is entered worked less than full-time and earned less than his weekly benefit amount for total unemployment because of lack of work, or otherwise shown. I certify that to the best of my knowledge, this information is true and correct";

(h) h. A signature (actual or facsimile) by the employer to the above certification or other identification of the authority supplying the evidence.

D. Registration and filing of claim for partial unemployment.

The new claim for benefits for partial unemployment shall be dated to the first day of the beginning of the

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individual's week of partial unemployment as defined in ~~Section A2 of this Regulation subsection A of this section~~ . provided, However, that in no event shall such new claim be backdated to include a week which ended more than 28 days prior to the date the individual was furnished the Statement of Partial Unemployment, Form VEC-B-31, or other written evidence concerning his partial unemployment as provided in ~~Section subsection C~~, by the employer.

E. Claimant to present evidence of partial unemployment.

1. Upon filing a claim as specified in ~~Section subsection D~~, the Commission shall cause the notice referred to in ~~Section subsection B~~ to be sent to the employer. Thereafter, the employer shall make available to the claimant the Statement of Partial Unemployment, Form VEC-B-31, or other written evidence concerning his partial unemployment, as provided in ~~Section subsection C~~. Such written evidence of partial unemployment ~~must shall~~ be presented to the local office within 14 days after it is delivered to him by the employer, and failure to do so, within that time, shall render the claim invalid as to the week or weeks to which the statement or other evidence relates.

2. For each subsequent week the partial claim is continued the employer shall furnish the claimant with the evidence of partial unemployment as provided in ~~Section subsection C~~ and the claimant ~~must shall~~ continue to present such evidence to the local office within 14 days after it is delivered to him by the employer. Failure to do so shall render the claim invalid with respect to the week or weeks to which the statement or other evidence relates.

3. Notwithstanding the provisions of ~~subsections paragraphs 1 and 2 of this section subsection~~ , the Commission shall permit the claimant to file a continued claim by mail in [any of the following circumstances: the same circumstances applicable to a claimant for total or part-total unemployment compensation.]

(a) [a. He is located in an isolated area requiring the expenditure of an unreasonable amount of time or money in traveling to the nearest local office to file claims in person;

(b) b. Conditions make it impracticable for the Commission to take claims in person;

(c) c. He has returned to full-time work on or before the scheduled date for his filing a claim;

(d) d. The Commission finds that he has good cause for failing to file a claim in person.]

F. Claimant's search for work.

With respect to any week claimed, a partially unemployed claimant shall be deemed to be actively seeking work if he performs all suitable work offered to him by his regular employer.

Regulation X - Interstate Claimants

PART III. INTERSTATE CLAIMS.

§ 3.1. Cooperative agreement.

A. The following regulation This section shall govern the Commission in its administrative cooperation with other states adopting a similar regulation for the payment of benefits to interstate claimants.

B. Definitions.

As used in this regulation unless the context clearly requires otherwise:

1. "Interstate Benefit Payment Plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

2. "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the Commission finds that this exclusion would create undue hardship on such claimants in specified areas.

3. "State" includes Puerto Rico, Virgin Islands, and the District of Columbia.

4. "Agent state" means any state in which an individual files a claim for benefits from another state.

5. "Liable state" means any state against which an individual files, through another state, a claim for benefits.

6. "Benefits" means the compensation payable to an individual, with respect to his unemployment, under the unemployment insurance law of any state.

7. "Week of employment" includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

B. Week of unemployment.

A week of unemployment for an interstate claimant shall consist of any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

C. Registration for work.

1. Each interstate claimant shall be registered for work through any public employment office in the agent state when and as required by the law, regulations, and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

2. Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state.

D. Benefit rights of interstate claimants.

If a claimant files a claim against any state and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits. For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable or whenever benefits are affected by the application of the a seasonal restriction.

E. Claims for benefits.

1. Claims for benefits or a waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the Interstate Benefit Payment Plan. Claims shall be filed and processed in accordance with the type of week in use in the agent state.

2. Claims shall be filed in accordance with agent state regulations for intrastate claims in local ~~employment~~ *unemployment insurance* offices or at an itinerant point or by mail.

a. With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one week or one reporting period late. If a claimant files more than one reporting period late, an initial claim shall be used to begin a claim series and no continued claim for a past period ~~must~~ *shall* be accepted.

b. With respect to weeks of unemployment during

which an individual is attached to his regular employer, the liable state shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent state.

F. Determination of claims.

1. The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state. *The liable state may utilize the telephone or mail to directly ascertain facts from the parties.*

2. The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim.

G. Appellate Procedure Interstate appeals.

1. The agent state shall afford all reasonable cooperation in the holding of hearings in connection with appealed interstate benefit claims.

2. With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state, *or the date it was mailed by the claimant, whichever is earlier.*

H. Extension of interstate benefit payment to include claims taken in and for Canada.

This ~~regulation~~ *section* shall apply in all its provisions to claims taken in and for Canada.

PART IV. COMBINING WAGE CREDITS OF MULTI-STATE CLAIMANTS.

§ 4.1 Interstate cooperation.

A. ~~The following regulation~~ *This section*, approved by the Secretary of Labor pursuant to § 3304(a) (9) (B), Federal Unemployment Tax Act, and adopted under ~~Section 60.1-50 § 60.2-609~~ of the ~~Virginia Unemployment Compensation Act~~ *Code of Virginia* shall govern the Virginia Employment Commission in its administrative cooperation with other states relating to the Interstate Arrangement for Combining Employment and Wages.

A. Definitions

1. ~~Combined wage claimant~~ *means a claimant who has covered wages under the unemployment compensation law of more than one state and who has filed a claim*

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under this arrangement.

2. Paying state defined.

(a) The paying state is the state in which a combined-wage claimant files a combined-wage claim, if the claimant qualifies for unemployment benefits in the state on the basis of combined employment and wages, and combining will increase either the Weekly Benefit Amount or the Maximum Benefit Amount.

(b) If the state in which a combined-wage claimant files a combined-wage claim is not the paying state under the criterion set forth in (a) above, or if the combined-wage claim is filed in Canada or the Virgin Islands, then the paying state shall be that state where the combined-wage claimant was last employed in covered employment among the states in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages.

3. Transferring state means a state in which a combined-wage claimant had covered employment and wages in the base period of a paying state, and which transfers such employment and wages to the paying state for its use in determining the benefit rights of such claimant under its law.

B. Filing of claims.

A claim for benefits shall be filed by a combined-wage claimant in the same manner as by a claimant who is eligible for benefits under the Unemployment Insurance Law of the paying state.

C. Liability for payment of benefits.

Benefits, in all cases, shall be paid to a combined-wage claimant from the unemployment insurance fund of the paying state.

D. Determination of claims.

1. Wages paid to a claimant during the paying state's applicable base period, and wages reported for that period by a transferring state as available for the payment of benefits under the arrangement, shall be included by the paying state in determining such claimant's benefit rights.

2. Wages, once they have been transferred and used in a determination which established monetary eligibility for benefits in the paying state, shall be unavailable for determining monetary eligibility for benefits under the Unemployment Insurance Law of the transferring state, except to the extent that wages are usable for redetermination purposes.

3. A combined-wage claimant's monetary and

nonmonetary benefit rights shall be determined by the paying state as provided by its Unemployment Insurance Law.

E. Reports.

Each state, with respect to any combined-wage claimant, in utilizing forms approved by the Interstate Benefit Payment Committee, shall:

1. Promptly request each state in which the claimant has worked to furnish a report of the claimant's unused covered wages during the base period of the paying state for a combined-wage claimant, and on his current eligibility under the law of such state.

2. When acting as the transferring state, report promptly upon the request of any state the following:

(a) a. The claimant's unused covered wages during the base period of the paying state without restriction for the payment of benefits under the provisions of the paying state's law.

(b) b. The current monetary eligibility of the claimant under the law of the transferring state.

3. When acting as the paying state, send to each transferring state a copy of the initial determination, together with an explanatory statement.

4. When acting as the paying state, send to the claimant a copy of the initial determination, noting his rights to appeal.

5. When acting as the paying state, send to each transferring state a statement of the benefits chargeable to each state. This is done at the end of each quarter in which any benefits have been paid, and each statement shall include the benefits paid during such quarter to such state as to each combined-wage claimant. Each such charge shall bear the same ratio to total benefits paid to the combined-wage claimant by the paying state as his wages reported by the transferring state and used in the paying state's monetary determination bear to the total wages used in such determination.

F. Reimbursement of paying state.

A transferring state shall, as soon as practicable after receipt of a statement as set forth in Section subsection E, reimburse the paying state accordingly.

G. Exception to combining wages.

A claimant's wages shall not be combined, notwithstanding any other provision of this arrangement, if the paying state finds that based on combined wages the claimant would be ineligible for benefits. Wages reported by the transferring state shall in such event be returned to

and reinstated by such state. The provisions of the Interstate Benefit payment arrangement shall apply to each claimant.

H. Relation to interstate benefits payment procedures.

Whenever this plan applies, it will supersede any inconsistent provision of the Interstate Benefit Payment Plan and the regulation thereunder.

Regulation XIV - Benefits

PART V. MISCELLANEOUS BENEFIT PROVISIONS.

§ 5.1. Disposition of benefit checks payable to a deceased claimant.

If a claimant has met the eligibility requirements of the *Aet Virginia Unemployment Compensation Act* (§ 60.2-100 et seq.) of the Code of Virginia and completed all forms prescribed by the Commission prior to his death, upon proof thereof, the check(s) for all benefits due shall be payable to the decedent's personal representative estate.

B. Benefits While Enrolled in Training Approved by the Commission.

§ 5.2. Commission approval of training other than that under § 303 of the Job Training and Partnership Act or § 236 of the Trade Readjustment Act.

‡ A. Training shall be approved for an eligible claimant under the provisions of Section ~~60.1-52.1~~ § 60.2-613 of the Code of Virginia only if the Commission finds that:

(a) 1. Prospects for continuing employment for which the claimant is fitted by training and experience are minimal and are not likely to improve in the foreseeable future in the locality in which he resides or is claiming benefits;

(b) 2. The proposed training course of instruction must be is vocational or technical training or retraining in schools or classes that are conducted as programs designed to prepare an individual for gainful employment in the occupation for which training is applicable. The training course must shall require a minimum of 30 hours attendance each week;

(c) 3. The proposed training course has been approved by an appropriate accrediting agency or, if none exist in the state, the training complies with quality and supervision standards established by the Commission, or is licensed by an agency of the state in which it is being given.

(d) 4. The claimant has the required qualifications and aptitude to complete the course successfully.

(e) 5. Approved The training shall does not include

programs of instructions for an individual which are primarily intended to lead toward a baccalaureate or higher degree from institutions of higher education.

‡ B. Benefits may be paid to an otherwise eligible claimant while he is attending training only if the Commission finds with respect to each week that the claimant is enrolled in and regularly attending the course of instruction approved for him by the Commission.

C. A claimant shall request training approval on forms provided by the Commission. The claimant's enrollment and attendance shall be reported to the Commission periodically as directed by the local office to which he reports.

REGISTRAR'S NOTICE: Due to the large number of forms filed by the Virginia Employment Commission, the forms are not being published in the Virginia Register. However, each form referenced in the regulation is listed below and is available for public inspection at the office of the Registrar of Regulations and at the Virginia Employment Commission, 703 East Main Street, Richmond, Virginia 23219.

- B-3
Continued Claim for Benefits
- B-3a
Notice of Exhaustion
- B-10a
Claim for Benefits
- B-10D
Claimant Notice of Predetermination Proceeding
- B-10E
Employer Notice of Predetermination Proceeding
- B-10-ADDM/P
Claim for Benefits (Mass/Partial)
- B-11
Claimant Questionnaire
- B-29
Notice to Workers Poster
- B-30
Monetary Determination
- B-31
Statement of Part. Unemployment (Card)
- B-40
UI Programs in Virginia (Pamphlet)
- B-54d / B-54dd / B-54e
Notice of Deputy Determination

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Record of Fact forms

- B-60.1 – Voluntary Quit
- B-60.2 – Discharge
- B-60.3 – Domestic Responsibility
- B-60.4 – Pregnancy
- B-60.5 – Able and Available
- B-60.6 – Job Refusal/Referral
- B-60.7 – Training Approval
- B-60.8 – Voluntary Quit - Illness

- B-46
Quarterly Charge Statement

- B-47
Reimbursable Statement

- ES-931
Information - Ex-federal Employees

- BPC-45A
Request for Wage Information

- BPC-65
Form Letter - Verification of Wages

- BPC-54
Deputy's Determination - Overpayment

- IVB-1/IB-1A
Initial Interstate Claim

- IB-1SF
Instructions for Self-filing Interstate Claim

- IB-1C
Interstate Claim Continuation

- IB-2 Green
Continued Interstate Claim

- IB-2 Buff
Continued Interstate Claim (Transient)

- IB-2 Trans.
Continued Interstate Claim

- IB-3
Claimant/Employer Separation Statement

- IB-4
Request for Transfer of Wages

- IB-7
Interstate-Internet Information Sheet

- IB-10
Interstate Claim Supplement

- IB-7A
Instructions for Completing IB-2

- IB-10B
Job Search Verification

- IB-11
Fact Finding Report

- IB-11S
Separation Fact Finding Report

- IB-12
Interstate Tracer

- IB-13
Interstate Memorandum

- IB-14
Request for Reconsideration for Monetary
Determination/Wage Credits

- IB-15
Request for Claim Status Information

- IB-16
Interstate Change of Address

- IB-101
Notice of Interstate Appeal

- CW-30
Notice of Combined Wage Claimants

- CW-54
Notice of Wage Transfer Determination

* * * * *

Title of Regulation: VR 300-01-4. Virginia Employment Commission Regulations and General Rules - Adjudication.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Effectove Date: July 1, 1987

Summary:

This regulation concerns the agency's unemployment claims adjudication procedures and replaces former Regulation XI which dealt only with appeals. The first section covers deputy's determinations which are the first step in the process and which were not covered in the former regulation. The procedures set out conform to those followed previously by the agency and emphasize that any proceedings before the deputy are informal in nature with only documentary evidence or notes serving to record that they have taken place. Once a written determination has been rendered, any aggrieved party in interest may appeal, thereby entering the process described in the next section.

Section 2 has been rewritten to clarify the language of the former regulation in a number of respects. Telephonic hearings are specifically authorized and notice requirements are set forth in more detail. Standards are established for granting requests for postponements, continuances, reopenings, and withdrawals. The conduct of a hearing before an appeals examiner is set out in more detail with emphasis being placed on creating a complete record without overburdening it, while insuring that the parties receive a fair hearing. The exclusion of witnesses, status of employer representatives, admission of observers, and the authority of the appeals examiner to control and conduct the hearings are clarified. The section goes on to detail the procedures for challenging the interest of an appeals examiner and sets out the standards for the written decision and its distribution.

The third section concerns the second level of administrative appeals; that to the Commission level. Language concerning the acquisition of jurisdiction, the dismissal of untimely appeals and the procedure for handling requests to reopen an appeals examiner's hearing is virtually unchanged. Added are the standards for taking additional testimony and evidence at the hearings. Subsections concerning requests for reopening a Commission hearing and challenges to the interest of the Commission are not changed.

The fourth section enumerates which officials have the power to act in specified ways, describes the process for obtaining subpoenas, and sets forth the compensation which may be sought by an individual who has been subpoenaed to a hearing.

VR 300-01-4. Virginia Employment Commission Regulations and General Rules - Adjudication.

Regulation XI - Appeals

A. Appeals to Appeal Tribunals:

1. **Filing of Appeal.** The claimant or his last thirty-day employing unit may appeal from a decision of the deputy within fourteen calendar days after the delivery of notice of such decision or within fourteen calendar days after such notice was mailed.

The party appealing shall file with the Commission through the office where the claim was filed or with the deputy who rendered the decision or at the Central Office of the Commission in Richmond, either personally or by mail, a notice of appeal which shall be in writing and should set forth the grounds upon which the appeal is sought. Any document in writing signed by an individual or his authorized representative which expresses a desire to appeal shall be sufficient to institute an appeal. If further information as to the reason for an appeal seems desirable, it may be requested but failure to furnish

such information shall not invalidate an appeal. Agency personnel shall furnish such individual or his authorized representative whatever assistance is necessary in filing an appeal or in complying with a request for additional information with respect to the reason for the appeal.

2. **Time and Place of Hearing Notices.** Upon the filing of an appeal, the record in connection with the claim together with the notice of appeal shall be forwarded to an appeal tribunal consisting of a salaried examiner only, who, upon finding that the appeal should not be denied because not filed within the time prescribed by law, shall docket the case and shall, as soon as practicable, fix the time and place for the hearing of the appeal. Should the examiner find that the appeal was not filed within the time prescribed by law, a hearing shall be scheduled on the procedural issue of timeliness and on good cause for lateness.

The hearing shall be in the city or town where the claim was filed or at such other convenient place as the appeals examiner may select, but shall not be at such a distance from the office where the claim was filed as to cause undue hardship or increase traveling expenses to the claimant. Cases shall be placed upon the docket in the order in which the appeal is filed.

Notice of the time and place of the hearing shall be mailed to the claimant, the last thirty-day employing unit, and the deputy at least seven days before the date of such hearing.

If any of the parties cannot reasonably attend the hearing at the scheduled time or place, he should so inform the appeals examiner. Upon receipt of such notice, the appeals examiner shall decide whether or not a postponement will be granted.

In case of emergency, any party may request a postponement by notifying the Chief Appeals Examiner in writing with a copy to the local office, at least three days prior to its hearing date; or, if this is not possible, by telephone or telegram to the Chief Appeals Examiner. The appeals examiner may, on his own motion prior to a scheduled hearing, postpone such hearing.

Notice of the time and place of the continued hearing shall be mailed to the parties at least seven days before the date of such hearing.

3. **Hearing.** The appeals examiner, when hearing such appeal, may consider any issue in the claim or question involved therein and may pass upon the same, although such issue or question was not set out in the notice of appeal as one of the grounds upon which the appeal was sought. The claimant and the last thirty-day employing unit who have been given notice shall be ready and present at the time and place specified in such notice. The appeals examiner

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may, on his own motion, adjourn or continue the hearing to such time and to such place as he may specify, such time and place being reasonably convenient to the parties within the guidelines of section 2 above. Notice of the time and place of any adjourned or postponed hearing shall be given to the parties to the proceeding unless the continuance is announced at the time and place set for the hearing, in which case no further notice need be given to the interested parties who were present. All hearings shall be conducted in such manner as to ascertain the substantial rights of the parties and the appeals examiner shall not be bound by the common law or statutory rules of evidence or by technical rules or procedures.

If any party believes that the appeals examiner is not impartial with respect to the case, a challenge to the interest of such appeals examiner shall be made promptly after the discovery of facts on which such challenge is based but not later than the date on which the decision is issued. Unless made at the hearing, such challenge shall be set forth in writing and the reasons therefor, sent to the Chief Appeals Examiner at the Central Office of the Commission in Richmond. If the Chief Appeals Examiner does not disqualify the challenged appeals examiner, the appeals examiner shall continue to participate in the hearing and render a decision in the case. Failure to disqualify shall be subject to review by the Commission on appeal by the aggrieved party, in the same manner as any other issue in the case. If the challenged appeals examiner is disqualified, the case shall be heard and decided by another appeals examiner.

The appeals examiner shall control the order of proof, rule upon the admission of evidence, and may examine and cross-examine witnesses. At any hearing the claimant or any interested party shall have the right to present such testimony as may be pertinent, and the parties to the proceeding may with the approval of the appeals examiner file an agreed stipulation of facts and briefs. The appeals examiner, however, shall have the right to require additional evidence.

The parties to the proceedings shall be given an opportunity to cross-examine witnesses, to inspect documents, and to offer evidence in explanation and rebuttal. Before the hearing is closed, the parties shall be given an opportunity to present oral argument on all the issues of law and fact to be decided. In addition, the appeals examiner may permit the parties to submit written argument.

At any proceeding before an appeals examiner or the Commission, any interested party may appear in person, by counsel, or by an authorized representative.

All testimony at any hearing before an appeals

examiner shall be recorded, but need not be transcribed unless the claim is further appealed.

No testimony shall be taken until an oath or affirmation has been administered by the appeals examiner. Each witness shall be sworn before giving testimony.

4. Decision: The decision of the appeals examiner shall be reduced to writing and shall state the issues, the findings of fact, opinion or reasons for the decision, and final judgment of the appeals examiner. A copy of the decision shall be mailed to each of the interested parties.

5. Right of Reopening: Any party to an appeal who was unable to appear for the scheduled hearing can request a reopening of the case, and reopening will be granted if good cause is shown. The request, together with the reasons for reopening shall be made in writing and sent to the Chief Appeals Examiner in the Central Office of the Commission in Richmond. Where a request for reopening is made before the decision of the appeals examiner is rendered, the appeals examiner shall withhold the decision on the merits of the case. The appeals examiner shall set a hearing at a time and place convenient to the interested parties so that the parties may give reasons to support or oppose such reopening. If the appeals examiner should decide that reopening is warranted, then he shall reopen the case for additional taking of evidence. In any event, the decision concerning the issue of reopening shall be subject to review by the Commission on appeal by the aggrieved party from the appeals examiner's decision on the merits of the case.

A request for reopening after the appeals examiner has rendered his decision on the merits of the case but within the appeal period shall be mailed to the Director of Appeals and shall set forth in writing the reasons for the reopening. If the Commission is of the opinion that the written request establishes good cause for reopening it shall remand the case to the Chief Appeals Examiner. If the Commission is of the opinion that the written request does not set forth good cause for reopening it shall treat the request as an appeal to the Commission on the merits of the case pursuant to Regulation XI (B).

Once a decision is rendered and becomes final, it cannot be reopened for any reason. A request for a reopening after the decision of the appeals examiner has become final shall be treated as an untimely appeal to the Commission pursuant to Regulation XI(B).

B. Appeals to the Virginia Employment Commission

Any party to the proceeding before an appeals examiner, may within fourteen days after the date of

notification or mailing of such decision appeal therefrom. The party appealing shall file with the local office where the claim was filed or with the appeals examiner who rendered the decision, or at the Central Office of the Commission in Richmond, Virginia, either personally or by mail; a notice of appeal which shall be in writing and shall set forth the grounds upon which the appeal is sought.

At any time before the decision of the appeals examiner becomes final, the Commission may on its own motion assume jurisdiction of any case pending before an appeals examiner and place the same on the appeal docket of the Commission. The Commission shall consider and review said case and affirm, modify, or set aside the decision of the appeals examiner on the basis of the evidence previously submitted and as shown by the record or may direct the taking of additional evidence before the Commission or the appeals examiner, but such additional evidence may not be taken unless notice of the time and place of the taking thereof has been mailed to all parties to the case at least seven days before the time fixed for the taking of such evidence.

Untimely Appeals to the Commission. If the appeal to the Commission is not filed within the statutory time limit set forth in Section 60.1-62 of the Code of Virginia of 1950, as amended, the appellant shall set forth in writing the reasons for the late filing. If the reasons set forth, if proven, would show good cause for extending the appeal period, the Commission shall schedule a hearing to take testimony on the issue of good cause for late filing. If the reasons set forth in the notice of appeal are insufficient to show good cause for late filing, the appeal shall be dismissed.

Commission Review. Except as otherwise provided by this rule, all appeals to the Commission shall be decided on the basis of a review of the evidence in the record. The Commission may, in its discretion, direct the taking of additional evidence after giving written notice of such hearing to the parties in accordance with this rule.

Oral Argument. The Commission shall hear oral argument by the parties, provided a petition for oral argument is submitted by either party to the Director of Appeals within fourteen days from the date of mailing of the notice of appeal. The Commission shall notify the parties of the time and place where oral argument will be heard.

A request for postponement of a hearing before the Commission should be filed with the Director of Appeals, at the Commission's Central Office in Richmond, Virginia.

Right of Reopening. Any party to an appeal before the Commission who was unable to appear for the scheduled hearing may request a reopening of the matter. The request shall be in writing to the Director of Appeals and it shall set forth the reasons for the reopening. If the Commission is of the opinion that the reasons given show

good cause to reopen, the request for reopening shall be granted; provided, however, that once a decision is rendered and has become final, the case cannot thereafter be reopened for any reason.

The decision of the Commission affirming, modifying, or setting aside any decision of an appeals examiner shall be in writing and shall be delivered or mailed to each party to the appeal. The date of such notification shall be recorded on the Commission's appeal docket.

Challenge to Interest of the Commission. A challenge to the interest of the Commission may be made orally during a hearing or in writing before or after a hearing, but, if after, only prior to the date the Commission's decision becomes final. The Commission shall promptly hear the challenge, and proceedings with respect to the matter at issue shall not continue until the challenge is decided. In case of a written challenge, the challenge should be addressed to Director of Appeals, at the Commission's Central Office, in Richmond, Virginia.

C. Oaths and Subpoenas

The appeals examiner, the Commission, and the representative thereof shall have the power to administer oaths, take depositions, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records, and to take such action as may be necessary in any hearing.

Subpoenas requiring the attendance of witnesses or the production of books, papers, correspondence, memoranda, and other records at any designated time and place fixed by the appeals examiner for the hearing of a claim or any issue or question involved therein may be issued by the appeals examiner or the Commissioner in the name of the Commission and upon the request of any party to the proceeding. Request for subpoenas *duces tecum* shall be in writing and specify with reasonable certainty the books, papers, correspondence, memoranda, or other records desired.

D. Witness Fees.

Witnesses subpoenaed for appeals before the appeals examiner and/or the Commission shall, upon request, be allowed fees as provided in Section 14.1-190 of the Code of Virginia of 1950, as amended.

§ 1. Deputy's determinations.

A. Investigation of Issues.

Whenever, after a claim is filed, a deputy obtains information from a claimant, employer, or a third party which could affect the claimant's entitlement to benefits further investigation shall be initiated. The deputy may contact the parties in person or by telephone to obtain information. Documentary evidence prepared specifically

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for the claim or for other purposes may be considered by the deputy. Any party to an investigation may be represented by counsel or duly authorized representative. [No information or evidence shall be considered by the deputy unless the claimant has been given the opportunity to see or hear it and comment upon it.] Information concerning eligibility or qualification for benefits shall be entered into Commission records.

B. Predetermination factfinding proceedings.

A predetermination factfinding proceeding may be scheduled by the deputy whenever a request is made by the claimant, his last 30-day employing unit, or his interested subsequent employing unit for the purpose of gathering information to determine benefit eligibility or qualification. Notice of the date, time and location will be mailed to the parties five days before the scheduled proceeding, but such notice may be waived with the parties' consent.

The proceeding may be conducted telephonically or in-person with the deputy presiding. This informal interview shall not be recorded in any way, although notes can be taken by the deputy. Statements made by parties or witnesses shall not be taken under oath and formal examination or cross-examination shall not be permitted. The deputy shall direct questions to the parties and witnesses. The parties may also ask questions of each other and the witnesses. Rebuttal to statements made by opposing parties or witnesses shall be permitted. Any party to a predetermination proceeding may be represented by counsel or other duly authorized agent. The record of facts of the proceeding shall become a part of the Commission's records.

C. Determinations.

As soon as possible following the acquisition of facts necessary to make a determination, either from the parties' submissions or from a predetermination proceeding, the deputy shall render a determination in writing which shall include the effective date of any qualification or disqualification, the dates of any eligibility or ineligibility, the law or regulation upon which the determination is based, and the reasons for the determination together with information concerning the filing of an appeal. This determination shall be promptly mailed to the parties at their last known addresses.

§ 2. Lower authority appeals.

A. Filing an appeal.

The claimant, his last 30-day employing unit, or his subsequent employing unit which is directly interested in a particular issue may appeal from an adverse deputy's determination as specified in § 60.2-619 of the Code of Virginia.

Appeals shall be filed with the Commission through the

local unemployment insurance office where the claim was filed or at the administrative office of the Commission in Richmond either personally or by mail. Appeals shall be in writing and should set forth the grounds upon which they are sought as well as the social security account number of the claimant; however, any document in writing submitted by a party or the authorized representative of a party which expresses a desire to appeal shall be sufficient to initiate an appeal. Agency personnel shall furnish an appellant or his authorized representative whatever assistance is necessary to file an appeal.

B. Scheduling of hearings.

After the filing of an appeal, the record in connection with the claim together with the notice of appeal shall be assigned to an appeal tribunal consisting of a salaried examiner only. Should evidence indicate that the appeal was not filed within the time prescribed by law, the issue of whether the appeal was timely filed or whether good cause exists for extending the appeal period shall be listed as a statutory issue to be considered at the hearing prior to any issues concerning the merits of the case.

An in-person hearing shall be scheduled in the local unemployment insurance office where the claim was filed or at any other convenient place as may be arranged, but shall not be located at such a distance from the claimant's residence as to cause undue hardship or unreasonable traveling expenses. A telephonic hearing in which parties participate by way of a conference call shall be scheduled in cases where the claimant resides outside of Virginia and has filed an interstate claim unless the claimant agrees to appear at an in-person hearing in Virginia. Telephone hearings may also be scheduled in lieu of in-person hearings so long as permission is obtained from the parties. Notice of the time and place of the hearing shall be mailed to the parties and their known authorized representatives at least seven days before the date of the hearing. When the hearing is to be held by telephone, special instructions as to telephonic participation shall be included with the notice. If circumstances requiring telephonic participation arise after the notice of an in-person hearing has been sent, the parties and their known authorized representatives shall be informed of the telephonic procedures orally or by mail as soon as possible.

The notice of hearing shall set forth the particular statutory provisions and points at issue which must be considered to resolve the case. The appeals examiner, when hearing an appeal, may consider any other applicable issues which might be raised or become evident during the course of the hearing, provided that all parties in interest are present and all agree on the record to waive the statutory notice requirement with respect to such new issue. The appeals examiner may refer a new issue back to the deputy if it has not been ruled upon at that level and may, upon his own motion, postpone or continue the case if a new issue has become evident and it is necessary to give proper statutory notice of it in

order to proceed.

C. Postponement of hearings.

The Office of Lower Authority Appeals shall endeavor to schedule hearings as soon as possible in the order in which appeals are received. Special requests regarding dates or times of hearings will be given consideration; however, they need not always be honored. Requests to postpone a scheduled hearing will not be granted unless it is shown that material and substantial harm may result from requiring the scheduled appearance. Any party or authorized representative who feels he cannot attend a hearing must inform the Office of Lower Authority Appeals as soon as possible. Unless specifically informed that a postponement has been granted, all parties and their authorized representatives should prepare to present evidence at the time and place as scheduled. Postponements may be granted only by the Chief Appeals Examiner, the Clerk of the Commission-Lower Authority, the examiner assigned to hear the case, or by an appeals examiner acting in charge of the Office of Lower Authority Appeals, although they may be communicated to the parties by other authorized persons. A postponed hearing may be rescheduled without notice if all parties in interest agree. Otherwise, notice of a postponed hearing shall be given as if it were a new hearing.

D. Continuing a hearing.

Once a hearing has commenced, it can be continued only by the presiding appeals examiner either upon his own motion or that of a party. Continuances may be granted in situations where: (i) there is insufficient time to properly hear the evidence; or (ii) unexpected or unavoidable circumstances arise during the course of a hearing which require a continuance in order to protect the substantive or procedural rights of the parties.

A continued hearing may be rescheduled by the presiding appeals examiner without written notice if all parties in interest are present and all concur. Otherwise, notice of a continued hearing shall be given as if it were a new hearing.

E. Withdrawal of an appeal.

If the appellant wishes to withdraw his appeal, a request together with the reasons therefor must be made in writing and sent to the Clerk of the Commission-Lower Authority at the Commission's administrative office in Richmond. The request will be granted only if the appeals examiner assigned to hear the case is satisfied that:

1. The appellant understands the effect that withdrawal will have upon benefit entitlement, potential benefit charges, or potential overpayment;
2. The request is not the result of any coercion, collusion, or illegal waiver of benefits pursuant to § 60.2-107 of the Code of Virginia; and

3. The appealed determination is not clearly erroneous based upon the existing record.

Once granted, a withdrawal cannot be rescinded unless an evidentiary hearing on the issue of rescission is held before an appeals examiner and the former appellant can show that the appeal should be reinstated because one of the three criteria for withdrawal was incorrectly applied.

F. Conduct of hearing.

In any hearing before an appeals examiner, all testimony shall be taken under oath or affirmation and a record of the proceeding shall be made. The presiding appeals examiner shall record the proceeding and shall inform all parties of this fact. No other recording of the proceedings other than that specifically authorized by the Virginia Unemployment Compensation Act, Chapter 1 (§ 60.2-100 et seq.) of Title 60.2 of the Code of Virginia shall be permitted.

The appeals examiner shall conduct the hearing in such a manner as to ascertain the substantive rights of the parties without having to be bound by common law, statutory rules of evidence, or technical rules of procedure. In addition to testimony, the appeals examiner may accept relevant documents or other evidence into the record as exhibits, upon the motion of a party. [Where a party is unrepresented, the appeals examiner shall assist that party in presenting his case and testing the case of the opposing party.]

At any hearing before an appeals examiner, an interested party may appear in person, by counsel, or by an authorized representative. Persons in these categories will be permitted to attend the entire hearing. [Upon his own motion, or that of any party, the appeals examiner shall exclude witnesses from the hearing until such time as their testimony is to be taken.] An employer shall be permitted one representative in addition to counsel or duly authorized agent who can attend the entire proceeding. [The appeals examiner shall exclude any other witnesses from the hearing until such time as their testimony is to be taken.] Observers may be permitted to attend the hearing so long as there is no objection by a party. The appeals examiner shall control the order of proof, rule upon the admission of evidence, and may examine and cross-examine witnesses. The examiner shall have the authority to maintain order and eject disruptive or unruly individuals.

At a hearing, the parties, counsel, or duly authorized representatives shall be given an opportunity to cross-examine witnesses, to inspect documents, and to offer evidence in explanation and rebuttal. On motion of the appeals examiner alone, documents already in a claimant's file or obtained during the course of a hearing may be admitted into the record as exhibits. Before the hearing is closed, the parties shall be given an opportunity to present oral argument on all the issues of law and fact to be decided. In addition, the appeals examiner may permit the

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parties to submit written argument.

G. Appeals examiner's decision.

The decision of the appeals examiner shall be reduced to writing and shall state the issues, the findings of fact, opinion or reasons for the decision, and final judgment of the examiner. A copy of the decision shall be mailed to each of the interested parties and their known representatives who have requested to be notified of the decision. If the decision is rendered by an appeals examiner other than the one who presided at the hearing, that examiner shall review the record of the hearing and so state in the decision.

H. Challenge to the interest of the appeals examiner.

If any party believes that the appeals examiner is not impartial with respect to the case, a challenge to the interest of such appeals examiner shall be made promptly after the discovery of facts on which such challenge is based but not later than the date on which the decision is issued. Unless made at the hearing, such challenge shall be set forth in writing and the reasons therefor, and sent to the Chief Appeals Examiner at the administrative office of the Commission in Richmond. If the Chief Appeals Examiner does not disqualify the challenged appeals examiner, the appeals examiner shall continue to participate in the hearing and render a decision in the case. Failure to disqualify shall be subject to review by the Commission on appeal by the aggrieved party, in the same manner as any other issue in the case. If the challenged appeals examiner is disqualified, or chooses to withdraw, the case shall be heard and decided by another appeals examiner.

I. Right of reopening.

Any party to an appeal who was unable to appear for the scheduled hearing or who appeared, but wishes to present additional evidence can request a reopening of the case; and reopening will be granted if good cause is shown. The request, together with the reasons for reopening shall be made in writing and sent to the Chief Appeals Examiner in the administrative office of the Commission in Richmond. Where a request for reopening is made before the decision of the appeals examiner is rendered, the appeals examiner shall withhold the decision on the merits of the case. The appeals examiner shall set a hearing at a time and place convenient to the interested parties so that the parties may give reasons to support or oppose such reopening. If the appeals examiner should decide that reopening is not warranted, he shall render such decision along with the decision on the merits of the case. If the appeals examiner should decide that reopening is warranted, then he shall reopen the case for additional taking of evidence. In any event, the decision concerning the issue of reopening shall be subject to review by the Commission on appeal by the aggrieved party from the appeals examiner's decision on the merits of the case.

A request for reopening after the appeals examiner has rendered his decision on the merits of the case but within the appeal period shall be mailed to the Office of Commission Appeals and shall set forth in writing the reasons for the reopening. If the Commission is of the opinion that the written request establishes good cause for reopening it shall remand the case to the Chief Appeals Examiner. If the Commission is of the opinion that the written request does not set forth good cause for reopening it shall treat the request as an appeal to the Commission on the merits of the case pursuant to this part. Once a decision is rendered and becomes final, it cannot be reopened for any reason. A request for a reopening after the decision of the appeals examiner has become final shall be treated as an untimely appeal to the Commission pursuant to this part. In the discretion of the Commission, a hearing on the issue of reopening may be held.

§ 3. Commission review.

A. How jurisdiction is acquired.

1. *Appeal.* Any party to the hearing before an appeals examiner, may appeal the decision within the limit set forth in § 60.2-620 of the Code of Virginia after the date of notification or mailing of such decision. The party appealing shall file with the Commission, through the local office where the claim was filed or at the administrative office of the Commission in Richmond, Virginia, either personally or by mail, a notice of appeal which shall be in writing and should set forth the grounds upon which the appeal is sought.

2. *Removal.* At any time before the decision of the appeals examiner becomes final, the Commission may on its own motion assume jurisdiction of any case pending before an appeals examiner and place the same on the appeal docket of the Commission. The Commission may consider and review the case and affirm, modify, or set aside and vacate the decision of the appeals examiner on the basis of the evidence previously submitted and as shown by the record or may direct the taking of additional evidence before the Commission or the appeals examiner, but such additional evidence may not be taken unless notice of the time and place of the taking thereof has been mailed to all parties to the case at least seven days before the time fixed for the taking of such evidence.

3. *Untimely appeals to the Commission.* If the appeal to the Commission is not filed within the statutory time limit set forth in § 60.2-620 of the Code of Virginia, the appellant shall set forth in writing the reasons for the late filing. If the reasons set forth, if proven, would show good cause for extending the appeal period, the Commission shall schedule a hearing to take testimony on the issue of good cause for late filing. If the reasons set forth in the notice of appeal are insufficient to show good cause for late filing, the appeal shall be dismissed and the decision

of the appeals examiner shall become the final decision of the Commission.

B. Request for hearings before the Commission.

Except as otherwise provided by this rule, all appeals to the Commission shall be decided on the basis of a review of the evidence in the record. The Commission, in its discretion, may direct the taking of additional evidence after giving written notice of such hearing to the parties, provided:

1. It is affirmatively shown that the additional evidence is material and not merely cumulative, corroborative or collateral; could not have been presented at the prior hearing through the exercise of due diligence; and it is likely to produce a different result at a new hearing; or
2. The record of proceedings before the appeals examiner is insufficient to enable the Commission to make proper, accurate, or complete findings of fact and conclusions of law.

A party wishing to present additional evidence or oral argument before the Commission shall make a written request to the Office of Commission Appeals within 14 days from the date of delivery or mailing of the Notice of Appeal. The Commission shall notify the parties of the time and place where additional evidence will be taken or oral argument will be heard. Such notice shall be mailed to the parties and their last known representatives at least seven days in advance of the scheduled hearing. A request to present additional evidence will be granted only if the aforementioned guidelines are met. A request for oral argument will be automatically granted provided it is made in a timely fashion and is not thereafter withdrawn in writing by the party requesting it.

C. Postponements, continuances, and withdrawals.

Postponements, continuances and withdrawals of appeals before the Commission shall be handled in the same manner as previously outlined in this part pertaining to lower authority appeals, except that requests shall be made through the Office of Commission Appeals or through the special examiner assigned to hear the case. Only a special examiner shall have the authority to grant a postponement.

D. Conduct of hearings before the Commission.

Prior to a hearing before the Commission for the purpose of taking additional evidence or for oral argument and upon the request of an interested party, a transcript of the hearing held before the appeals examiner shall be furnished to all interested parties. Where no request for a transcript is made and the hearing lasted less than 45 minutes, the tape may be replayed for the parties prior to the Commission hearing in lieu of furnishing a transcript. A hearing before the Commission for additional evidence

shall be conducted under the same rules as outlined in subsection F of § 2 of this regulation for the conduct of hearings at the lower authority level, except that the party which is being granted the right to present additional evidence shall proceed first. If both parties are allowed to present additional evidence, the appellant shall proceed first. Oral argument shall commence with the appellant, allowing the appellee the chance to respond with oral argument and rebuttal, and close with the appellant in rebuttal.

E. Commission decisions.

The decision of the Commission affirming, modifying, or setting aside any decision of an appeals examiner shall be in writing and shall be delivered or mailed to each party to the appeal as well as to their known representatives who have requested to be notified of the decision. The date of such notification shall be recorded on the Commission's appeal docket.

F. Right of reopening.

Any party to an appeal before the Commission who was unable to appear for the scheduled hearing may request a reopening of the matter. The request shall be in writing to the Office of Commission Appeals, and it shall set forth the reasons for the reopening. If the Commission is of the opinion that the reasons in the request show good cause to reopen, the request for reopening shall be granted. If the Commission is of the opinion that the reasons given in the request do not show good cause, reopening shall be denied. In the discretion of the Commission, a hearing on the issue of reopening may be held. Once a decision is rendered and has become final, the case cannot thereafter be reopened for any reason.

G. Challenge to the interest of the Commission.

A challenge to the interest of the Commission may be made orally during a hearing or in writing before or after a hearing, but, if after, only prior to the date the Commission's decision becomes final. The Commission shall promptly hear the challenge, and proceedings with respect to the matter at issue shall not continue until the challenge is decided. In case of a written challenge, the challenge should be addressed to the Office of Commission Appeals, at the Commission's administrative office in Richmond, Virginia.

§ 4. Oaths and subpoenas.

A. Authority.

The special examiner, the appeals examiner, and the Clerk of the Commission shall have the power to administer oaths, take depositions, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records, and to take such action as may be necessary in any hearing.

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B. Issuance of subpoenas.

Subpoenas requiring the attendance of witnesses or the production of books, papers, correspondence, memoranda, and other records at any designated time and place fixed by the special examiner or the appeals examiner for the hearing of a claim or any issue or question involved therein may be issued by the Clerk of the Commission as is appropriate in the name of the Commission and upon the request of any party to the proceeding. Requests for subpoenas duces tecum shall be in writing and specify with reasonable certainty the books, papers, correspondence, memoranda, or other records desired.

A request for a subpoena may be denied if there is no showing of relevance to the subject of the appeal; if it appears that the request would only produce cumulative evidence or testimony; or if it appears that the request would not serve the interest of the party making it. If a subpoena request is denied, it may be renewed at the hearing and a proffer of evidence of testimony may be made. The appeals examiner or special examiner hearing the case shall continue it if it appears that the subpoena should be issued.

C. Witness expenses.

Witnesses subpoenaed for appeals before the appeals examiner or the Commission, or both, shall, upon request, be allowed expenses as provided in § 14.1-190 of the Code of Virginia.

REGISTRAR'S NOTICE: Due to the large number of forms filed by the Virginia Employment Commission, the forms are not being published in the Virginia Register. However, each form referenced in the regulation is listed below and is available for public inspection at the office of the Registrar of Regulations and at the Virginia Employment Commission, 703 East Main Street, Richmond, Virginia 23219.

Order

Notice to Claimant

VEC-C-1

Notice of Commission Hearing for Oral Argument

VEC-C-1A

Notice of Commission Hearing for Additional Evidence

Decision of Commission

AE-1

Notice of Hearing

AE-2

Notice of Intrastate Appeal

AE-1A

Notice of Telephonic Hearing

AE-7

Notice of Hearing

AE-10

Request for Withdrawal of Appeal

* * * * *

NOTICE: The Virginia Employment Commission has REPEALED the two regulations listed below:

Title of Regulation: Rules and Regulations Affecting Unemployment Compensation, XV Governmental Subrogation.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

This regulation is being repealed pursuant to authority granted the agency by § 60.2-111 of the Code of Virginia to eliminate inoperative language which could cause confusion. The General Assembly repealed that portion of § 60.1-132 (recodified effective January 1, 1987 as § 60.2-633) of the Code of Virginia which permitted governmental subrogation in specified cases of unemployment compensation benefit overpayments. This leaves the agency charged with the sole responsibility for collecting overpayments; and by virtue of the requirements of § 9-6.14:9.1 of the Code of Virginia that any regulation be necessary, the inoperative language should be deleted.

Title of Regulation: Rules and Regulations Affecting Unemployment Compensation, VII Notices.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The regulation is being repealed because § 60.2-106 of the Code of Virginia already requires each employer to post and maintain, in readily accessible places all such posters relating to unemployment insurance as are furnished by the agency. The language of the regulation does not explain or clarify the law to any extent and is therefore superfluous. In view of the requirements of § 9-6.14:9.1 of the Code of Virginia that any regulation be necessary, and in view of the requirements for regulatory review mandated by Executive Order, repeal is warranted.

GOVERNOR'S EMPLOYMENT AND TRAINING DEPARTMENT

NOTE: The following regulation is published for the reader's information. The agency action is exempt from the Administrative Process Act by subsection B.4 of § 9-6.14:4.1 of the Code of Virginia.

Title of Regulation: VR 350-01-2. Management Requirements for Job Training Partnership Act Programs and Activities.

Statutory Authority: § 2.1-708(3) of Code of Virginia.

Effective Date: July 1, 1987

Summary:

These regulations set forth criteria for use in the management of Job Training Partnership Act activities. The regulations are applicable to Service Delivery Areas and their contractors. The regulations are being revised in order to correct technical errors, to clarify certain provisions, and to ensure compliance with revised federal requirements. The regulations are divided into eight parts. Parts I through IV present general information; no changes were made to existing material. Part V, Grievance and Complaint Procedures, was minimally expanded to clarify the applicability of the GETD procedures. No changes were made in Parts VI and VII. In Part VIII, Contract Management, minor revisions were made to clarify some provisions.

VR 350-01-2. Management Requirements for Job Training Partnership Act Programs and Activities.

PART I. PURPOSE AND AUTHORITY.

§ 1.1. Preamble.

These regulations are promulgated by the Governor's Employment and Training Department pursuant to § 2.1-708 (3) of the Code of Virginia. These regulations supplement regulations of the United States Department of Labor for programs under the Job Training Partnership Act, (20 CFR Parts 626 through 629). They must be read with the Job Training Partnership Act (PL 97-300) and the regulations of the Department of Labor.

PART II. DEFINITIONS.

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

"Contractor" means a person or entity under contract to the SDA to provide a service or training to participants. The term shall also include those persons or organizations of whatsoever nature who receive funds from an SDA and

are deemed to be employers of participants, or who provide customized training to participants who, upon successful completion of that training, are employed by the provider in accordance with an agreement with the SDA.

"DOL" means United States Department of Labor.

"Family" means for the purpose of determining participant eligibility:

1. Two or more persons living in a single residence related by blood, marriage, or adoption. A step-child or a step-parent may be considered to be related by marriage.

2. An adult handicapped individual shall be considered a family of one when applying for programs under the act. A handicapped youth (age 14-21) shall be considered a family of one when applying for programs under the act.

3. An individual, 18 or older, except as provided in 1 above, who receives less than 50% of support from the family, and who is not the principal earner nor the spouse of the principal earner, is not considered a member of the family. Such an individual is considered a family of one when applying for programs under the act.

4. An individual, 14 years of age or older, living in a single residence/household and not related to the family by blood, marriage, or adoption shall be considered a family of one when applying for programs under the act.

5. An individual released from an institution or facility within six months of the date of applying for programs under the act may be considered a family of one, provided that such confinement status presents a significant barrier to employment and the person is not claimed as a dependent on a family member's income tax return.

6. An older worker, aged 55 or older, whether living in the residence or not, may be considered a family of one when applying for programs under the act.

"Family income" means income received from all sources for the six-month period prior to eligibility determination by persons who are family members at the time of eligibility determination and who have been family members for the six-month period prior to eligibility determination.

"Family size" means the maximum number of family members at time of eligibility determination who have been family members for six months prior to eligibility determination.

"Food stamp recipient" means any person listed on the certified or approved food stamp application as a member

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of the household

“GETD” means Governor’s Employment and Training Department.

“JTPA” means Job Training Partnership Act, Public Law 97-300 ; sometimes referred to as “Act” .

“Participant” means any person who has been determined eligible for participation and receives services funded under the JTPA, other than outreach, intake and assessment and post-termination services.

“SDA” means the administrative entity, the grant recipient and the Private Industry Council that cooperatively manage the Job Training Partnership programs and activities in a geographic area designated as a JTPA service delivery area.

“State agency” means any agency of state government under contract to the GETD to operate JTPA programs; and, any agency of state government which receives JTPA funds through the GETD and has responsibility for operation of JTPA programs by virtue of an executive order. Reference to state agencies in these regulations is made for the purpose of delineating rules applicable to the two classes of agencies specified above in common. Other requirements are supplied by contract in the case of agencies first above specified and, by contract and the internal authority of agencies in the second instance.

PART III. GENERAL PROVISIONS.

§ 3.1. Right to review and require compliance.

GETD reserves the right to review all actions, procedures and materials submitted, implemented or utilized in response to these regulations and to require modifications or amendment to bring those actions, procedures, and materials into compliance with these regulations and applicable laws.

§ 3.2. Failure to comply.

Failure to comply with the provisions of these regulations may result in loss of funding.

§ 3.3. Evaluations.

At least every two years following the adoption of these regulations, the GETD will provide for and publicly announce a procedure to be used to evaluate their effectiveness. The evaluation will include a process by which the public will be invited to comment on the regulations in writing and through a public hearing.

§ 3.4. Clarification of JTPA and related regulations.

Pursuant to the agreement between the Governor and the U. S. Secretary of Labor regarding the implementation

of JTPA, the GETD from time to time, at its discretion, shall issue interpretations of the Job Training Partnership Act and related regulations issued by DOL. These interpretations shall be issued by the GETD and “JTPA Interpretations,” and compliance with the “JTPA Interpretations” is required of SDAs and their contractors.

§ 3.5. Conflicts and severability; application

A. Any provision contained in these regulations which is found to be unlawful shall be severable from the remaining provisions.

B. These regulations shall not be applicable prior to the effective date.

PART IV. EQUAL OPPORTUNITY/AFFIRMATIVE ACTION.

§ 4.1. In accordance with the Job Training Partnership Act, § 167, Nondiscrimination, all recipients of federal funds under the Act must comply with the laws prohibiting discrimination as follows:

1. Age Discrimination Act of 1975 - Age,
2. Rehabilitation Act, § 504 - Handicap,
3. Education Amendments of 1972, Title IX - Sex,
4. Civil Rights Act of 1964, Title VI and Title VII as amended - Race, Color, National Origin;

Each SDA shall include assurances of compliance with these laws in any contracts developed for funding under the JTPA.

§ 4.2. Each SDA operating JTPA programs must formulate personnel policies and procedures and an Affirmative Action Plan to serve the requirements of § 167 of the JTPA. Each SDA shall designate in writing an individual responsible for EO compliance. Copies of these documents and information on staff characteristics shall be filed with the Governor’s Employment and Training Department and updated as changes are made.

§ 4.3. SDAs shall monitor program operations to ensure that the processes for hiring staff and selecting participants are in compliance with nondiscrimination provisions.

§ 4.4. Each SDA must maintain and shall require their contractors to maintain a procedure conforming to the requirements of 29 CFR § 32.45 Investigations, as presently exists or may be amended, for the prompt and equitable resolution of complaints alleging any action prohibited by 29 CFR Part 32 Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance, implementing § 504 of the Rehabilitation Act. All participants shall be informed of the process for

submitting complaints on discrimination to DOL Office of Civil Rights. Such complaints must be submitted on the appropriate forms within 180 days of the alleged incident of discrimination. A copy of any filed complaint must be simultaneously forwarded to the personnel director of the GETD.

PART V. GRIEVANCE AND COMPLAINT PROCEDURES.

Article 1. SDA Procedure and Review.

§ 5.1. A grievance and complaint procedure shall be established by SDAs for the resolution of grievances or complaints about JTPA programs and activities. This procedure shall be approved by the Private Industry Council.

§ 5.2. The procedure shall be available to:

1. Any person alleging a violation of the JTPA, the implementing regulations of the DOL and the GETD, the terms of any agreement between an SDA and a contractor, the procedures of an SDA or any contractor, including any such violation alleged to have arisen in connection with their JTPA programs and activities. The violation may be alleged against either the SDA or its contractors.

2. Any participant engaged in an activity which constitutes employment for the purpose of resolving grievances of such participants concerning the application of the employer's terms and conditions of employment to them. This provision shall not require abrogation or abridgement of the customary prerogatives of management.

3. A contractor, person or entity deemed to be an employer of participants shall receive grievances relating solely to terms and conditions of employment. The employer may utilize either the SDA procedure or the employer's procedure. All participants shall be advised of the procedure to be followed and shall be afforded recourse to the SDA procedure in the event that the employer's decision is unsatisfactory to the participant or a decision is not forthcoming in accordance with the procedure utilized by the employer.

§ 5.3. The procedure shall also be available for the resolution of issues arising from audit disallowances and findings, investigations, monitoring reports or the imposition of any sanction made, conducted, or imposed by an SDA.

§ 5.4. This procedure shall not be available for:

1. The resolution of complaints alleging irregularities in the procurement of goods and services.

2. The resolution of grievances of SDA or contractor employees, other than participants, relating solely to terms and conditions of their employment.

§ 5.5. The procedure shall:

1. Provide for a hearing within 30 days of the filing of a complaint or grievance.

2. Provide for adequate written notice of the date, time, and place of hearing.

3. Provide for an opportunity to present evidence. Any evidence presented shall be preserved in a form suitable for subsequent review.

4. Provide for a written decision by the SDA. The decision must include a statement of the issues, the relief sought by the grievant or complainant, and findings of fact which shall be furnished to the grievant or complainant within 60 days after the grievance or complaint was filed.

§ 5.6. A. All hearings pursuant to the procedure shall be conducted by the PIC, the administrative entity, or by an outside hearing officer appointed as the procedure may prescribe.

B. All grievances and complaints shall be filed with the SDA in the manner, form, and at an office of the SDA prescribed in the SDA's procedure, regardless of whether the subject of the grievance or complaint is a contractor, a unit of the SDA, or an officer or employee thereof.

§ 5.7. A. Grievants or complainants desiring review of decisions unsatisfactory to them, or who do not receive a written decision within the period prescribed in § 5.5 may file a request for review with the GETD. A request for review shall be filed within 10 days of receipt of the written decision or within 10 days from the date on which the grievant or complainant should have received the decision. The grievant or complainant shall simultaneously file a copy of the request for review with an individual designated for this purpose by the SDA.

B. The request for review shall be addressed to the Personnel Director, GETD, P.O. Box 12083, Richmond, Virginia, 23241, or delivered to the office of the GETD, 417 East Grace Street, Richmond, Virginia, and shall contain the following information:

1. The full name, address and telephone number of the grievant or complainant.

2. The name and address of the employer or the name of the SDA with which the grievance or complaint was originally filed.

3. The name and address of the party or organization responsible for issuing the written decision.

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4. The date the grievance was filed and the date that the written decision was or should have been received by the grievant or complainant.

5. The relief or outcome sought by the grievant or complainant.

C. The SDAs shall designate an individual to receive copies of requests for review by the GETD. This individual shall transmit the evidence introduced at the hearing and any other papers forming a part of the hearing record along with an index of the record to the personnel director of the GETD as directed by the personnel director.

D. The executive director of the GETD shall issue a written decision within 30 days from the date of receipt of the request for review. This decision shall be based on the record before the GETD; however, the GETD reserves the discretion in unusual cases to receive argument within the period of time established for review by the GETD. A prior written decision shall be set aside if erroneous as a matter of law, if unsupported by the evidence, or if plainly wrong as a matter of fact. The GETD disposition of the matter may include remand of the same to the SDA with direction for further proceedings. The decision of the GETD shall be final and shall not be reopened unless shown to have been procured by fraud, or for the purpose of correcting clerical errors.

§ 5.8. A. Grievants or complainants who do not receive a written decision from the GETD within the period prescribed may request from the Secretary of Labor a determination whether reasonable cause exists to believe that the act or its regulations have been violated.

B. The request shall be filed no later than 10 days from the date on which the complainant should have received a decision. The request should contain the following information:

1. A copy of information filed with the GETD.
2. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violations.
3. A statement on the provisions of the act, regulations, grant or other agreements under the act believed to have been violated.
4. A statement of the date the complaint was filed with the GETD, the date on which the GETD should have issued a decision and an attestation that no decision was issued.

C. The request will be considered to have been filed when the Secretary of Labor receives from the complainant a written statement sufficiently precise to evaluate the complaint and grievance procedures used by the state and the SDA.

Article 2. GETD Procedure.

§ 5.9. The procedure of the GETD shall be available to any person alleging a violation by the GETD of the JTPA, the implementing regulations of the DOL and the GETD, the terms of any agreement between the GETD and an SDA, procedures adopted by the GETD in response to the requirements of the JTPA, and regulations or agreements, including any violation alleged to have arisen in connection with JTPA programs and activities of the GETD. *However any complaint alleging a violation by an SDA or its contractors must be filed, heard and decided in the first instance at the SDA level.*

§ 5.10. The procedure of the GETD shall be available to:

1. Resolve issues arising from audit disallowances and findings, investigations, monitoring reports or the imposition of any sanction made, conducted, or imposed by the GETD.
2. Resolve complaints alleging that any action of the GETD is prohibited by the provisions of 20 CFR Part 32, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance." Any such complaint shall be filed with GETD within 180 days from the date of the alleged discrimination. Sections 5.14 and 5.15 of these regulations shall have no application to such complaints. Any appeals on these complaints shall be made to the Secretary of Labor.

§ 5.11. This procedure shall not be available for :

1. For the resolution of complaints alleging irregularities in procurement of goods and services.
2. For the resolution of grievances of GETD employees relating solely to terms and conditions of their employment.
3. *In lieu of the procedures established by Article 1 of this part for the resolution of grievances alleging violations by, or complaints against, an SDA or its contractors.*

§ 5.12. Grievances and complaints falling within the purview of this Article shall be filed with the personnel director of the GETD and shall state (i) the grievant's full name, address and telephone number, (ii) the full particulars of the grievance or complaint, (iii) the date when the same arose or is believed to have arisen, (iv) the interest of the grievant or complainant in the matter, and (v) the specific relief or outcome sought.

§ 5.13. The GETD shall furnish written notice of the date, time and place of the hearing on the matter which shall be held within 30 days following the filing of the grievance or complaint. The hearing shall be conducted in accordance with the provisions of § 9-6.14:12 of the Code

of Virginia and the grievant or complainant shall receive the written decision of the GETD within 60 days after the grievance or complaint is filed.

§ 5.14. Grievants or complainants desiring further review, or who do not receive a written decision from the GETD within 60 days may file a request for review by the executive director of the GETD with the personnel director of the GETD. A request for review shall be filed within 10 days of receipt of the written decision or within 10 days of the date the decision was due. The executive director shall review the record and issue a final decision within 30 days following receipt of the request by the personnel director. Section 5.7 D shall govern review by the executive director.

§ 5.15. A. Grievants or complainants who do not receive a written decision within the period prescribed may request from the Secretary of Labor a determination as to whether reasonable cause exists to believe that the act or its regulations have been violated.

B. The request for determination shall be filed in accordance with procedures outlined in § 5.8.

Article 3. State Agency Procedures.

§ 5.16. Appropriate state agencies shall establish grievance procedures which parallel the requirements of Articles one and two. The procedures and any subsequent changes shall be submitted to the GETD.

§ 5.17. The GETD shall be immediately notified of appeals made under the procedures. A summary of the grievance and decision shall be furnished to the personnel director of the GETD upon disposition.

Article 4. Limitations; Posting of Procedures.

§ 5.18. SDAs and state agencies shall post and ensure that their contractors post their applicable grievance and complaint procedures, together with those of the GETD and this Part V for the benefit of participants, employees and other interested persons.

§ 5.19. Grievances and complaints shall be filed within one year of the occurrence of the event; except under § 5.10 B, relating to discrimination on the basis of handicap.

PART VI. FRAUD AND ABUSE.

§ 6.1. Duty to report instances for fraud and abuse.

To ensure the integrity of JTPA programs, efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for the use of program funds. Abuse is a general term

which encompasses improper conduct which may or may not be fraudulent in nature. All instances of fraud and of abuse, to include violations of §§ 141(f) and (j), 142(a), 143(b) and (c)(1), 165(a)(1), 167 and 182, amending Title 18, United States Code, § 665 contained in § 182 of the JTPA, shall be reported within one work day to the executive director of the GETD by the SDA or the state agency cognizant of the occurrence.

§ 6.2. Political activities.

The following provisions pertaining to political activities shall be enforced:

1. No person may engage in partisan or nonpartisan political activities during hours for which that person is paid with, or receives training supported by, JTPA funds.
2. No person may engage, at any time, in partisan political activities in which such participant represents himself as a spokesperson of a JTPA program, activity or organization.
3. No participant may be employed in a position involving political activities in the office of an elected official.

§ 6.3. Sectarian activities.

Participants shall not be employed in the construction, operation, or maintenance of any facility that is used, or is to be used, for sectarian instruction or as a place for religious worship, nor trained in any sectarian activity.

§ 6.4. Unionization and antiunionization activities.

A. JTPA funds shall not be used in any way to promote or oppose union activities.

B. No individual shall be required to join a union as a condition for enrollment in a JTPA program.

C. No participant may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs, participants in affected positions shall:

1. Be relocated to positions not affected by the dispute; or
2. Be placed on leave.

D. If participants belong to the labor union involved in a work stoppage, they must be treated in the same manner as any union member. Such members must not remain working in the affected position. The contractor shall make every effort to relocate participants who wish to remain working into suitable positions unaffected by the work stoppage.

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§ 6.5. Nepotism.

A. The following words and terms, for the purpose of this section; shall have the following meaning:

1. "Employ" means to hire, or to provide with a job that pays wages or a salary.
2. "Immediate family" means a person's spouse and any other relative, by blood, marriage (including step-children and step-parents) or adoption, who resides in the person's household.
3. "Person in an administrative capacity" means a member of a public or private governing board or council. It also includes a person having overall administrative responsibility, and a person having selection, hiring, placement or supervisory responsibilities.
4. "Staff position" means any position filled by a person other than a person in an administrative capacity.

B. The GETD shall not employ a person in an administrative capacity or staff position funded in whole or in part under the FTPA if a member of that person's immediate family is engaged in an administrative capacity for the GETD.

C. An SDA shall not employ a person in an administrative capacity or staff position funded in whole or part under JTPA if a member of that person's immediate family is engaged in an administrative capacity for that SDA.

D. An SDA contractor shall not employ a person in an administrative capacity or staff position funded in whole or part under the JTPA if a member of that person's immediate family is engaged in an administrative capacity for the contractor.

PART VII. ELIGIBILITY FOR SERVICES.

§ 7.1. When computing family income, include all income for each family member at the time of eligibility determination who have been family members for the entire six months.

§ 7.2. A. For the purposes of determining eligibility, family income shall include:

1. Gross wages and salaries (before deductions).
2. Net self-employment income (gross receipts minus operating expenses).
3. Other money income received from sources such as net rents, old age and survivors insurance, social security benefits, pensions, alimony, periodic income

from insurance policy annuities, and other sources of income.

B. Family income shall not include:

1. Noncash income such as food stamps, or compensation received in the form of food or housing.
2. Rental value of owner-occupied property.
3. Public assistance payments.
4. Cash payments received pursuant to a state plan approved under Titles I, IV, X or XVI of the Social Security Act, or disability insurance payment received under Title II of the Social Security Act.
5. Federal, state or local unemployment benefits.
6. Payments made to participants in employment and training programs.
7. Capital gains and losses.
8. One-time unearned income, such as, but not limited to:
 - a. Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans.
 - b. One-time or fixed-term scholarship and fellowship grants.
 - c. Accident, health, and casualty insurance proceeds.
 - d. Disability payments.
 - e. One-time awards and gifts.
 - f. Inheritance, including fixed term annuities.
 - g. Fixed term workers' compensation awards.
 - h. Terminal leave pay.
 - i. Soil bank payments.
 - j. Agriculture crop stabilization payments.
9. Pay or allowances received by any veteran while serving on active duty in the Armed Forces.
10. Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code.
11. Payments received under the Trade Act of 1974, as amended.

12. Black Lung payments received under the Benefits Reform Act of 1977, Public Law 95-239 20 USC 901.

13. Child support payments.

§ 7.3. Each SDA has the responsibility for establishing criteria for enrolling those "most in need" within the parameters established by the act and federal and state regulations. Applicants shall be enrolled in accordance with these criteria.

§ 7.4. Any eligible individual who maintains a bona fide residence within the geographic boundaries of a Service Delivery Area is eligible for the services and programs of the SDA.

§ 7.5. Applicants required to register under § 3 of the Military Selective Service Act must comply with registration requirements prior to enrollment in the JTPA programs. Verification of registration must be a part of the official file of all participants subject to these requirements.

§ 7.6. The entrance requirements for any activity funded in whole or in part by JTPA shall be in writing. Competency levels rather than formal education diplomas or other such criteria shall be used. In no instance is high school graduation or possession of a GED to be cited as a prerequisite for participation. In each instance where a competency or skill level is a prerequisite and method(s) used to assess the competency must be included in the written eligibility requirements.

PART VIII. CONTRACT MANAGEMENT.

Article 1. Financial Management.

§ 8.1. Accounting standards.

A. SDAs shall maintain a written accounting system that will present fairly and with full disclosure the financial position and results of the financial operation of the SDA in conformity with generally accepted accounting principles and enable the users of financial reports to determine the compliance with legal and contractual provisions.

B. Written fiscal controls and accounting procedures shall be developed by SDA and their contractors to:

1. Permit the preparation and timely submission of reports.
2. Permit the tracing of funds to a level of detail adequate to establish that funds have not been expended in violation of the restrictions imposed by federal, state and local laws, regulations and procedural requirements.

3. Provide reports and records that are:

- a. Uniform in definition.
- b. Accessible to authorized federal and state officials.
- c. Verifiable for monitoring, auditing and evaluation purposes.

C. At a minimum, SDAs, and contractors must develop standards of internal control which assure the following:

1. Competent key personnel.
2. Qualified supervision with clear lines of responsibility and accountability.
3. Properly recorded and executed transactions.
4. Clear documentation and accountability for resources and financial transactions.
5. Separation of duties.
6. Limitation in access to resources.

SDAs, and contractors shall also include as part of their standards for administrative control the provisions of Subpart C - "Administrative Standards and Procedures," 48 Federal Register 11082, of March 15, 1983, to the extent practical given staff size.

§ 8.2. Administrative requirements.

A. The GETD shall be advised of the identity of any officer(s) or official(s) of any SDA or state agency who is authorized to bind that SDA or state agency to agreements with the GETD, or request funds pursuant to such agreement. The GETD may require an SDA to provide a duly authenticated copy of the resolution or other instrument conferring that authority. Thereafter, it shall be the responsibility of the SDA or state agency to promptly notify the GETD of any subsequent change in, or withdrawal of, such authority.

B. The SDAs and state agencies operating JTPA programs shall designate an individual responsible for their accounting and fiscal operations and notify the GETD in writing of the name, title, and phone number of the individual. This person will be the contact person utilized by the GETD fiscal staff in the event fiscal questions arise.

C. The SDA and state agencies must ensure that their contractors adhere to all applicable federal and state laws and regulations, as well as SDA or state agency procedures, for operation of JTPA programs. To implement the above policy, each SDA and state agency shall train contractors in all relevant technical matters. The SDAs and state agencies shall also ensure that each

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contractor has timely access to all written materials bearing on its administration and performance under the contract.

§ 8.3. Bonding and insurance.

A. The GETD assumes no liability for bodily injury, illness or any other damages or losses, or any claims arising out of any activity under a JTPA contract or agreement whether concerning persons or property in the SDA's, state agency's, or contractor's organizations or any third party.

B. SDAs and contractors shall secure reasonable insurance coverage for injuries suffered by participants who are not covered by existing worker's compensation.

C. A blanket fidelity bond shall be secured for all officers, directors, agents and employees of the SDA with authority over and accessibility to JTPA funds. Coverage shall be in the sum of \$100,000 or an amount equal to the highest request for funds from the GETD during the immediately preceding program year. The GETD may require an SDA to furnish evidence of bonding.

D. General liability insurance and unemployment insurance must be secured by the SDA.

§ 8.4. Accounting requirements.

A. The SDAs and state agencies shall maintain accounting records and other necessary supporting documents and ledgers in sufficient detail to provide the following information in an accurate and timely fashion:

1. Budgetary control and analysis.
2. Cash forecasting and reporting.
3. Proper matching of cost categories and expenditures.
4. Accurate report preparation, based on accrual accounting concepts.
5. Proper reconciliation of account balances.
6. Determination of allowable costs.

§ 8.5. Cash.

The SDAs and state agencies shall forecast cash needs to enable the disbursement of JTPA funds within three days of receipt. Failure to develop and adhere to this procedure will result in the SDAs and state agencies being funded on a reimbursement method. All JTPA cash provided to the SDAs and state agencies must be deposited into an FDIC insured bank or *FSLIC insured institutions* within one working day of receipt of the check. The SDAs or state agencies shall ensure that its contractors adhere to the GETD's cash management policies.

§ 8.6. Program income.

Income generated in a program operated by an SDA or state agency may be retained by the SDA, or state agency, and shall be utilized to further program objectives. The SDA or state agency may allow a contractor to retain income generated under the contract provided that the money is used to further the JTPA program objectives. Program income may be used to satisfy the matching requirements of § 123(b) and 304 of the act. Program income returned to the GETD shall be used to provide technical assistance.

§ 8.7. Property management standards.

A. Property acquired by the Service Delivery Area shall be classified as the following:

1. Real property: Land, land improvements, structures and appurtenances thereto, excluding moveable machinery and equipment.
2. Personal property: Property of any kind, except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents and copyright.
3. Nonexpendable personal property: Tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit.
4. Expendable personal property: Anything less than nonexpendable personal property.
5. Excess property: Property no longer needed for the purpose for which it was purchased.
6. Federally-owned property: Government furnished property or property acquired with federal funds to which the government holds title.

B. Personal or real property procured with JTPA funds or transferred from programs under the Comprehensive Employment and Training Act (CETA) must be used for purposes authorized by the JTPA.

C. CETA property with an acquisition cost of \$1,000 or more must be transferred to JTPA in accordance with § 181(g) of the Act. The Secretary of Labor reserves the right to take title of this property at disposition time. Permission to dispose of this property shall be granted by DOL. All proceeds shall revert to JTPA.

D. All property purchased with CETA or JTPA funds with an acquisition cost of \$300-\$999 shall become the property of the Service Delivery Area and be used in the administration of JTPA. If the SDA does not have a need for such property in the JTPA programs, then the property shall be used in other federally funded programs. If no need exists, the property may be disposed. Disposal shall be through competitive sale by the SDA. All proceeds shall

revert to JTPA.

E. All property purchases with CETA or JTPA funds with an acquisition cost of less than \$300 shall become the property of the Service Delivery Area. Disposal of this property shall be at the discretion of the SDA. All proceeds shall revert to JTPA.

F. The SDA shall maintain accountability for all property. Property with an acquisition cost of \$300 or more ~~or has a useful life of one year or more~~ must be maintained on the GETD's Automated Property Management System, all property inventory may be maintained on the automated system for management purposes.

G. The request to purchase or dispose of nonexpendable property having an acquisition cost of \$1,000 or more per unit, including lease/purchase and/or lease agreements with aggregate payments exceeding \$1,000, shall be submitted to the GETD for prior approval before the purchase or disposal of such property is entered into by the SDA or any subcontractor of the SDA. ~~The GETD reserves the right to take possession of this property in lieu of disposition. All proceeds resulting from disposition shall revert to JTPA.~~

H. The SDA shall ensure that the Virginia Procurement Act has been adhered to for all aspects of the purchase and/or lease of nonexpendable property. The GETD approval to purchase and/or lease property costing \$1,000 or more shall not ensure that the SDA and/or the subcontractor has complied with the Virginia Procurement Act.

I. All acquired property shall be approved by authorized personnel through some type of qualified purchasing procedure or system.

J. The SDA shall conduct an annual physical inventory to reconcile property records, verify existence, current utilization, and continued need. A copy of the updated master list shall be submitted to the GETD at the close of each fiscal year.

K. The SDA shall maintain a control system which ensures adequate safeguards to prevent property damage, loss, or theft, and shall investigate and document any loss or theft to local and state authorities. The GETD shall be notified in writing as to any loss, damages or theft of property.

§ 8.8. Allowable costs.

A. To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program; be allocable thereto under these principles, and, except as provided, not be a general expense required to carry out non-JTPA activities of the SDA or subrecipient. Costs charged to the program shall be consistent with those normally allowed in like circumstances in

nonfederally sponsored activities.

B. Direct and indirect costs shall be charged in accordance with 41 CFR 29-70.102.

C. Office of Management and Budget Circular A-87 dated January 15, 1981, details those costs which are allowable or unallowable charges to grant recipients of federal funds. SDA shall comply with OMB-A-87 when determining the allowability of charges to the grant. Additional direction is provided as follows:

1. Costs resulting from violations of, or failure to comply with, federal, state or local laws and regulations are not allowable.
2. Entertainment costs are not allowable.
3. Insurance policies offering protection against debts established by the federal government are not allowable JTPA costs.
4. Interest cost, explicit or implicit, associated with lease-purchase and other capital lease arrangements are not allowable except for interest costs associated with certain buildings as noted in OMB Circular A-87, Attachment B, paragraph C 2a.
5. Personal liability insurance for PIC members is allowable.

D. The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a state or local government or staff solely for the purpose of discharging general responsibilities as a legal officer are unallowable. Legal expenses for the prosecution of claims against the federal government are unallowable.

§ 8.9. Needs-based payments.

A. Subject to the provisions of §§ 106 and 142(a) (1) of the act and in accordance with an SDA or state agency developed formula or procedure, payments based on need may be provided to individual participants in cases where such payments are necessary to enable individuals to participate in a training program funded under the JTPA.

B. The formula or procedure for needs-based payments shall be detailed in the SDA Job Training Plan or in the state agency's plan for JTPA services.

C. The formula or procedure shall provide for the maintenance of an individual record of the determination of the need for, and the amount of, any participant's needs-based payment.

§ 8.10. Classification of costs.

A. To comply with the limitations on certain costs contained in § 108 of the act, allowable costs shall be

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charged against the following cost categories: training; administration; and participant support. SDAs, state agencies, and their contractors shall plan, control, and charge expenditures against these cost categories.

B. Costs are allocable to a particular cost category to the extent that benefits are received by such category. Refer to 20 CFR, §§ 629.37 through 629.39, (48 Federal Register 11081 - 11084, March 15, 1983), and to the "Classification of Costs" table (Appendix A) for additional guidance on charging costs to particular JTPA categories.

C. Training costs shall not include the direct or indirect costs associated with the supervision and management of the program.

D. Training costs shall not include supportive service costs as defined in § 4 of the JTPA or other participant support costs which are determined to be necessary by the SDA.

E. All costs of employment generating activities to increase job opportunities for eligible individuals in the area and the remaining 50% of the costs of a limited work experience program, as well as 100% of the costs of other work experience programs, are not allowable training costs (Sec. 108(b) (2)(A), JTPA).

F. The salaries and fringe benefits of project directors, program analysts, labor market analysts, supervisors and other administrative positions shall not be charged to training. The compensation of individuals who both instruct and supervise other instructors shall be prorated among the training and administration cost categories based on time records or other verifiable means.

G. Construction costs may be allowable training or participant support costs only when funds are used to:

1. Purchase equipment, materials and supplies for use by participants while on the job and for use in the training of the participants. Examples of such equipment, materials and supplies are handtools, workclothes and other low cost item.

2. Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.

H. Any single cost which is properly chargeable to training and to one or more other cost categories shall be prorated among training, and the other appropriate cost categories according to a method which is both documented and verifiable.

§ 8.11. Fixed unit cost contracts.

A. Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories, but may be charged entirely to training when

the agreement:

1. Is for training.
2. Is a fixed unit price.
3. Stipulates that full payment for the full unit price will be made only upon completion of training by a participant; and placement of the participant into unsubsidized employment in the occupation trained for, and at not less than a wage specified in the agreement.

B. In the case of youth activities, payment for training packages purchased competitively, pursuant to § 141 (d) (3) of the JTPA, shall include payment for the full unit price if the training results in either placement in unsubsidized employment, or the attainment of an outcome specified in § 106 (b) of the JTPA.

C. Fixed unit cost contracts should, at a minimum:

1. Specify the exact price to be paid for a specific amount of work, or for the attainment of desired outcomes. Such a contract may not be advisable if reliable pricing information is unavailable, or if the fixed unit cost exceeds usual and customary charges for similar services.
2. Contain language which clearly and explicitly spells out the terms of the agreement and defines the terms used in the agreement.
3. Define the specific occupation for which training is to be provided.
4. Define training-related placement.
5. Define for youth activities the successful attainment of specified outcomes.

§ 8.12. Administrative cost pool.

A. Administrative funds within a Service Delivery Area may be pooled and used for all administrative costs of JTPA programs within the service delivery area.

B. Each SDA using an administrative cost pool shall submit information on the use of the pool as a part of its job training plan. SDA shall report expenditures from the administrative cost pool according to instructions issued by the GETD.

§ 8.13. Record retention.

A. All SDAs and state agencies shall retain financial, statistical, and participant records and supporting documentation for a period of three years following the date of the grant closing report except as provided in subsection C.

B. Records for nonexpendable property shall be retained for three years after final disposition of the property.

C. All records will be retained beyond the three years if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records will be retained until the litigation, audit or claim has been finally resolved.

D. In the event of the termination of the relationship between the SDA or state agency and a contractor, the SDA or state agency shall be responsible for the maintenance and retention of all of the contractor's relevant records.

E. The GETD may request the transfer of records to its custody from SDAs and state agencies when it determines that the requested records possess long-time retention value.

Article 2.

Procurement of Property and Services; Contracts.

§ 8.14. All procurement of property and services with JTPA funds shall be in accordance with the provisions of the Virginia Public Procurement Act (§§ 11-36 through 11-71, of the Code of Virginia), except as hereinafter provided.

A. For the purposes of this article, "services" shall not include on-the-job training or any participant employment authorized by the JTPA, or contracts for customized training, the successful completion of which results in employment of the participant by the contractor.

1. On-the-job training is training given in the private or public sector to an eligible individual who has been hired by an employer. The training occurs while the individual is engaged in productive work that provides knowledge and skills essential to adequate performance of the job.

2. Customized training is training designed to meet the special requirements of an employer who agrees to hire eligible individuals successfully completing the program. Training may also be designed for groups of employers with similar skill needs.

B. For the purposes of this article, the board of directors of a Private Industry Council shall be the "governing body," and the administrative entity, if separate from the Private Industry Council, shall be the "public body" as these terms are used in the provisions of the Virginia Public Procurement Act.

C. Subsections A and B shall have no application where the administrative entity is an agency of a city or county which is otherwise subject to the provision of the Virginia Public Procurement Act.

§ 8.15. Every entity responsible for procurement under this

article shall adopt and enforce a code of procurement ethics which embodies the principles articulated in §§ 11-73 through 11-79 of the Code of Virginia.

§ 8.16. All procurement activity shall avoid conflict of interest and be conducted in a manner that provides for free and open competition.

§ 8.17. All procurement activity shall comply with each SDA's written procedures, as approved by the appropriate Private Industry Council, for assessing potential effectiveness based on demonstrated performance and for assuring that duplication of effort does not occur.

§ 8.18. A. All agreements which require expenditure of JTPA funds shall contain standards for ensuring accountability and establish clear goals and obligations in unambiguous terms.

B. All contracts or agreements which require the expenditure of JTPA funds, directly or indirectly, shall contain a term whereby the contract or agreement may be terminated without penalty in the event that JTPA funds become unavailable to the SDA or state agency for performance under the contract.

Article 3.

Audit Requirements for JTPA Programs.

§ 8.19. A. Annual audits will be conducted based on the availability of administrative funds. Should funds not be available for annual audits, audits will be performed at least once every two years as directed by the GETD. The GETD reserves the right to audit any or all of the SDAs as the need is determined. Audits will be conducted by one of the following methods:

1. Unified audits may be performed by the GETD. In a unified audit, one audit firm will conduct the entire audit for all SDAs. The audit coverage will be for a uniform time period for all entities covered in the audit; a sampling of contractors will be audited. Audits conducted under OMB Circular 128 may be accepted as a part of a unified audit. One audit report shall be issued for each SDA and all contractors included in the sample.

2. Individual audits may be performed by the SDAs. In an individual audit, one firm will conduct the audit of each SDA and a sampling of its contractors plans for individual audits must be approved in advance by the GETD. Audits conducted under OMB Circular 128 may be included as a part of an individual audit. The SDA must assure adequate and complete audit coverage that is consistent with § 164 of the JTPA and with audit guides developed by the GETD.

B. The GETD will bear the audit fees associated with auditing expenditures of funds by the SDA. The GETD will not bear the fees associated with auditing JTPA expenditures by SDA contractors. The SDA will bear the

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audit fees associated with auditing expenditures of funds by contractors within the SDA.

§ 8.20. Neither the GETD nor the SDAs shall audit state agencies receiving JTPA funds which are audited through the normal state auditing process, if these normal state audit processes specifically include financial and compliance testing that meet JTPA standards. Should normal state audit processes not include JTPA funds, the state agencies' JTPA programs shall be included in the unified audit or the state agencies shall secure an individual audit. The state agencies shall be responsible for all audit fees, whether associated with state unified or individual audits.

§ 8.21. Each audit shall be conducted in accordance with applicable auditing standards set forth in § 164(a) of the JTPA. Copies of Circular 128 audit reports will be submitted to the cognizant federal audit agency and to the GETD by the unit of local government involved.

§ 8.22. Unified audits will be arranged by the GETD, SDAs, and applicable state agencies will be notified who the auditors are and when the audit for each SDA and state agency is scheduled to begin. A draft audit report will be issued and the SDA and, as applicable, state agencies will be given 30 days to respond to the draft report. The final report will incorporate the SDA's and state agency's paraphrased comments.

§ 8.23. The SDAs and state agencies operating JTPA programs shall be responsible for the following:

1. Notifying, immediately, the GETD in writing of possible acts of fraud discovered during the performance of an audit.

2. Providing, upon availability, the GETD with audit report(s) covering all JTPA funded programs. The Auditor of Public Accounts will determine the acceptability of the audit reports.

3. Disposing of all questioned costs and administrative findings in the audit. The disposition must show the action (i.e. either allowance or disallowance). If costs are allowed, appropriate supportive documentation must be provided. All administrative findings must be addressed to the satisfaction of the GETD

§ 8.24. The audit resolution process shall be as follows:

1. The SDA or state agency shall provide each contractor with appropriate sections of the final audit report dealing with administrative findings and questioned costs.

2. Within 30 days from the receipt of the final audit report, the SDA or state agency shall issue an initial determination on the administrative findings and questioned costs to each contractor.

3. Within 60 days from the receipt of the final audit report, the SDA or state agency shall issue a final determination on the administrative findings and questioned costs to each contractor. The SDA or state agency shall include in the final determination notice of the right to appeal the determination using the GETD Grievance Procedures as specified in Part V. Included in the notice of the right to appeal shall be instructions on initiation of the appeal.

4. Within 90 days from the receipt of the final audit report, the SDA or state agency will provide the GETD written responses to all administrative findings and questioned costs. A 30-day informal resolution process will allow the SDA or state agency and GETD to attempt to resolve informally any differences at this point.

5. Within 120 days from the receipt of the final audit report, the GETD will issue a final determination to the SDA or state agency on the entire audit report. A copy of the final determination will be provided to the Secretary of the DOL with support documentation and, if appropriate, a request for waiver of liability under § 164(e) (2) of the act.

6. The determination, by the GETD, SDA, or state agency, to allow questioned costs, does not preclude the Secretary of the DOL from making a determination that the costs are unallowable and demanding a refund from nonfederal funds at a later date. Consequently, a determination of allowability of costs shall not be final until disposition by DOL.

Article 4.

Monitoring and Evaluation Responsibilities of the Service Delivery Areas and State Agencies.

§ 8.25. A. SDAs and state agencies operating JTPA programs shall be responsible for eliminating abuses in programs and preventing misuse of funds. Each SDA and state agency shall establish and adhere to an appropriate system for the monitoring of contracts. Appropriate monitoring activities shall be carried out at reasonable intervals. *SDAs shall provide the GETD with the schedule for these activities.* SDAs and state agencies shall require immediate remediation of deficiencies and *SDAs shall provide the GETD with a copy of reports detailing deficiencies and corrective actions .*

B. The GETD shall monitor SDAs and, as appropriate, state agencies and *may shall* monitor their contractors as *necessary* . Monitoring by the GETD shall not relieve SDAs of their duties under the JTPA and implementing regulations. Financial agreements between the SDAs, state agencies, and their contractors, shall make specific provision for entry by GETD monitors upon contractor premises for the purpose of inspecting JTPA records and activities. ~~To the extent possible, the GETD will coordinate its monitoring visits to contractors with those of the SDA and, as appropriate, will may provide advance notice of~~

the monitoring schedule at its option :

§ 8.26. SDAs and state agencies shall maintain a system for on-going monitoring/verification of participant eligibility. The system shall be designed to provide reasonable assurances that all participants are eligible and shall be consistent with JTPA Interpretations issued by the GETD. The system shall be detailed in the Job Training Plan as provided for in the JTPA, § 104(b) (3). Ineligible participants shall be terminated immediately following discovery, as shall participants who are proven knowingly to have provided false information at the time of application. Any liability incurred as a result of an ineligible participant shall be the responsibility of the SDA or state agency.

§ 8.27. Evaluation of programs funded under the JTPA shall be an integral part of the operation of each SDA and state agency operating JTPA programs. Program evaluation efforts must be designed and conducted so as to accomplish the following:

1. To assist in future planning by providing information on the outcome of programs, including the degree to which planning objectives are being accomplished and the identification of programs that are particularly successful in aiding participants in obtaining established goals.
2. To assist in selecting capable service providers. § 107(a) of the Job Training Partnership Act requires "effectiveness . . . based on demonstrated performance" to be considered when selecting service providers within an SDA.
3. To measure an SDA's progress in meeting established performance standards.

Article 5.

Submission of Job Training Plans.

§ 8.28. Job Training Plans will be submitted to the GETD not later than 80 days before the first of the two program years covered by the plan. Each plan shall be submitted in three copies, one of which shall bear original signatures. Plans shall be addressed to Program Services Unit, GETD, P.O. Box 12083, Richmond, Virginia 23241, or delivered to the office of the GETD, 417 E. Grace Street, Richmond, Virginia.

§ 8.29. The Job Training Plan shall be prepared and submitted in the proper format, and in accordance with the instructions for preparation issued by the GETD.

§ 8.30. Review of SDA plans.

The GETD has the primary responsibility for reviewing each SDA's Job Training Plan, and each state agency's plan, for JTPA programs to ensure compliance with the JTPA and all other applicable rules and regulations.

Upon completion of the review by the GETD staff, the plans will be forwarded to the Governor's Job Training Coordinating Council for review. The GJTCC then will forward its recommendations to the Governor through the Secretary of Human Resources for final action which shall occur within 30 days after the date the plans are submitted.

In the event that disapproval of a plan is recommended, the plan will be returned to the SDA or state agency for correction. The SDA or state agency shall have 20 days to correct its plan and return it for further consideration. The SDA will be notified in writing within 15 days after resubmittal of final action. In the event of a final disapproval, the SDA may appeal the decision to the DOL within 30 days of receipt of notice of final disapproval. The appeal must be submitted by both the Private Industry Council and appropriate chief elected official(s) for the SDA. Simultaneously, a copy of the appeal must be provided to the Governor. No JPTA funds will be allotted to an SDA or state agency without an approved job training plan.

Article 6.

Modifications to Job Training Plans.

§ 8.31. In the event of substantial deviation from an approved Job Training Plan, modification to the plan must be submitted to the GETD for approval. The following circumstances will be deemed to be substantial deviation:

1. A change in designation of either the grant recipient and/or the administrative entity.
2. An increase or decrease of 15% or more in the number of participants planned to be served, in estimated training cost per participant, or in the approved budget.
3. Increases or decreases in the unemployment rate during the base period for establishing the JTPA funding formula factors which, during the first year of the two program years covered by the plan, changes the SDA's status as a designated "Area of Substantial Unemployment".
4. Increases or decreases of 15% or more in the SDA's JTPA allocation.
5. An increase or decrease of five percentage points or more in an SDA's unemployment rate during the first year of the two program years covered by the plan.
6. Failure to meet three or more of the seven required performance standards during the first of the two program years covered by the approved plan.
7. Each modification shall be submitted in three copies, one of which shall bear original signatures. Modifications shall be addressed to Program Services

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Unit, GETD, P.O. Box 12083, Richmond, Virginia, 23241, or delivered to the office of the GETD, 417 E. Grace Street, Richmond, Virginia.

§ 8.32. The GETD reserves the right, in its sole discretion, to waive the criteria of § 8.31 on a case by case basis for good cause shown.

§ 8.33. The first substantive item of a modification shall be the reason, or reasons, for the modification. Elements of the Job Training Plan which are modified shall be clearly identified and explained in detail.

§ 8.34. The GETD has the primary responsibility for reviewing all modifications to Job Training Plans to ensure compliance with the JTPA and all other applicable rules and regulations.

Upon completion of the review by the GETD staff, the modification will be forwarded to the Governor's Job Training Coordinating Council for review. The GJTCC then will forward its recommendations to the governor through the Secretary of Human Resources for final action which shall occur within 30 days after the date the modification is submitted.

In the event that disapproval of the modification is recommended, the modification will be returned to the SDA or state agency for correction. The SDA or state agency shall have 20 days to correct its modification and return it for further consideration. The SDA will be notified in writing within 15 days after resubmittal of final action. In the event of a final disapproval, the SDA may appeal the decision to the DOL within 30 days of receipt of notice of final disapproval. The appeal must be submitted by both the Private Industry Council and appropriate chief elected official(s) for the SDA. Simultaneously, a copy of the appeal must be provided to the Governor.

§ 8.35. Modifications shall become effective on the date they are approved by the Governor.

§ 8.36. The GETD may require SDAs and state agencies to submit annual revisions to the job training plans. Revised plans will be submitted as specified in instructions issued by the GETD.

Article 7.

JTPA Management Information System.

§ 8.37. All SDAs shall use the GETD's Participant Information System to enter and to maintain data on JTPA participants.

§ 8.38. All SDAs shall use the GETD's Property Inventory System to enter and to maintain information on JTPA property.

§ 8.39. Each SDA shall establish procedures to ensure that the information is entered into the Management

Information System accurately, completely, and in a timely manner.

§ 8.40. The GETD will provide offsite storage for data collected on the Management Information System. Monthly, each SDA shall submit data cartridges to the GETD as instructed.

Article 8. Required Reports.

§ 8.41. The following reports shall be submitted to the GETD:

1. Cash Forecast Report-submitted monthly according to the schedule developed by the GETD.
2. Quarterly Expenditure Report-submitted the last day of the month immediately following the end of each quarter.
3. Quarterly Status Report-submitted the last day of the month immediately following the end of each quarter.
4. Annual Status Report-submitted 30 days following the close of the contract.

GOVERNOR'S EMPLOYMENT AND TRAINING DEPARTMENT
MANAGEMENT REQUIREMENTS FOR JOB TRAINING PARTNERSHIP
ACT PROGRAMS AND ACTIVITIES

Appendix A

CLASSIFICATION OF COSTS

Administration

Activity	Reference to JTPA Section	Reference to 29 CFR
Labor Market Information Surveys PIC Incorporation	204(a)	629.38e(6)
Participant Eligibility Determination		629.37 (a)
Participant Eligibility Verification		629.37 (a)

Participant Support

Activity	Reference to JTPA Section	Reference to 29 CFR
Supportive Services	204(11), 108(iii)	
Work Experience Needs Based Payments	204(15), 108(ii) 204(27), 108(iv)	108(ii) 108(iv)
Work Experience/Related Skills Training (50% for 6 months)	108(i)	
Employment Generating Activities	204(19)	629.38(5)
Outreach	204(8), 108(b)(2)(A)	

Training

GOVERNOR'S EMPLOYMENT AND TRAINING DEPARTMENT
MANAGEMENT REQUIREMENTS FOR JOB TRAINING PARTNERSHIP
ACT PROGRAMS AND ACTIVITIES

Activity	Reference to JTPA Section	Reference to 29 CFR
Job Training Search Assistance	204(1)	629.38e(1)
Job Counseling	204(2)	629.38e(1)
Remedial Education	204(3)	629.38e(1)
Basic Skills Training	204(3)	629.38b
Institutional Skills Training	204(4)	629.38b
On-the-Job-Training	204(5)	629.38e(1)
Advanced Career Training	204(6)	629.38b
Private Sector Training	204(7)	629.38b
Work Readiness Training	204(10)	629.38e(1)
Upgrading & Retraining	204(12)	629.38b
Education to Work Transition Training	204(13)	629.38b
Literacy and Bilingual Training	204(14)	629.38b
Vocational Exploration	204(16)	629.38b
GED Training	204(17)	629.38b
Job Development	204(18) & (23)	629.38e(1)
Employer Outreach Advanced Learning Techniques for Education, Job Preparation and Skills Training	204(21) 204(22)	629.38e(1) 629.38b
On-site Industry Specific Training	204(24)	629.38b
Customized Training	204(28)	629.38b
Assessment		629.38e(1)
Follow-up	204(25)	629.38b
Work Experience/Related Skills Training (50% for 6 months)		629.38e(1)
Cost of Trainers	629.38e(1)	629.38e(1)
Training Equipment & Supplies	629.38e(1)	629.38e(1)
Classroom Space & Utility Costs	629.38e(1)	629.38e(1)
Tuition	629.38e(1)	629.38e(1)
Instruction Costs	629.38e(1)	629.38e(1)
Single Unit Fixed Priced Training	629.38e(1)	629.38e(1)
Evaluation of Training	629.38e(1)	629.38e(2)

NOTE: Care shall be also be taken to consider the applicability of other provisions of the JTPA such, as Sections 141 and 143.

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BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

NOTE: The amendment to these regulations was legislatively mandated and is therefore excluded from the Administrative Process Act by subsection C.4 (a) of § 9-6.14:4.1 of the Code of Virginia.

Title of Regulations: VR 394-01-101. Urban Enterprise Zone Program Regulations.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The 1987 Virginia General Assembly amended the Urban Enterprise Zone Act (Chapter 22, § 59.1-274 B of the Code of Virginia), increasing the number of Urban Enterprise Zones from 12 to 15. The Department of Housing and Community Development has amended its Urban Enterprise Zone Regulations to reflect this legislative change.

The regulations establish criteria and procedures for the designation, amendment, termination and administration of Urban Enterprise Zones. Procedures for receiving specified state tax incentives are also established. Those subject to the terms of the regulations include: local governing bodies and business firms wishing to participate in the program, state agencies responsible for administration of the program and any units of state or local government which own land within a designated zone.

VR 394-01-101. Urban Enterprise Zone Program Regulations.

PROCEDURAL AND REPORTING REQUIREMENTS PROCEDURE I

Designating an Urban Enterprise Zone

1. Procedure: Obtain an Application for Urban Enterprise Zone Designation (Form UEZ-1). Joint applicants should also obtain a copy(ies) of Form UEZ-1-JA.

Remarks: Forms UEZ-1 and UEZ-1-JA may be obtained from the Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

2. Procedure: Complete the application.

Remarks: In its application, a locality may propose local incentives to stimulate private investment in a proposed zone.

3. Procedure: Hold at least one public hearing on the application.

4. Procedure: Submit the completed application and a resolution by the local governing body to the department.

Remarks: Applications must be submitted by the submission date to be established by the department.

5. Procedure: The department reviews and forwards to the Governor those applications determined to be eligible for Urban Enterprise Zone designation.

6. Procedure: The director of the Department of Housing and Community Development recommends to the Governor those applications determined to have the greatest potential for accomplishing the purpose of the program.

7. Procedure: The Governor designates, upon recommendation of the director, up to 12 15 Urban Enterprise Zones for a period of 20 years.

Remarks: The Governor's designation shall be final. A local governing body whose application is denied will be notified and provided with the reasons for denial.

Application for Urban Enterprise Zone Designation (Form UEZ-1)

Requirements: Applications for zone designation must be submitted to the department of Form UEZ-1. Form UEZ-1 requires the following information on a proposed zone: location and boundaries; development history; local revitalization efforts; land use characteristics; physical deficiencies and investment opportunities; local development objectives; barriers to investment in a zone; proposed local program incentives; projected impact of proposed local incentives; projected impact of state tax incentives; and local assurances and authorization. A resolution of the local governing body must also accompany the application.

Need for Requirements: Section 59.1-274 of the Code of Virginia stipulates that applications for zone designation shall be made in writing to the department. Section 59.1-275A of the Code of Virginia authorizes the department to solicit whatever information is necessary for the purpose of determining whether an area qualifies to be designated as a zone. Procedures are needed to assure that applications are submitted and reviewed in a consistent manner. All the information requested on Form UEZ-1 is necessary in order to determine which applications will best accomplish the purpose of the Act. The requirement for a resolution by a local governing body is considered to be the minimum action needed to assure that an application is being submitted by the local governing body as stipulated in § 59.1-274 of the Code of Virginia.

Cost of Requirements: Local governments participating in the program would incur costs associated with preparing Form UEZ-1 and conducting the required public hearing.

Form UEZ-1 requests only information which is readily available to the applicant. Therefore, it should impose no significant cost. The secretarial area of Commerce and Resources would incur administrative costs associated with determining zone eligibility and selecting zones. The department does not anticipate the need for additional personnel or budget authorization in order to carry out its responsibility.

Joint Application Agreement (Form UEZ-1-JA)

Requirements: A joint application must be accompanied by a Joint Application Agreement(s) (Form UEZ-1-JA). Form UEZ-1-JA requires applicants to certify that they are in agreement in filing the joint application.

Need for Requirements: Section 59.1-274 of the Code of Virginia permits adjacent jurisdictions to file a joint application for zone designation. Since Form UEZ-1 is designed to be completed by a single jurisdiction (the program administrator) Form UEZ-1-JA is needed in order to certify that each jurisdiction is in agreement in filing the joint application.

Cost of Requirements: Jurisdictions participating in the joint application would incur costs associated with preparing Form UEZ-1-JA. This additional cost would be minimal.

PROCEDURE II

Amendment and Termination Procedures

A. Amending an application.

1. Procedure: Obtain a Request for Application Amendment (Form UEZ-2). Joint applicants should also obtain a copy(ies) of a Form UEZ-2-JA.

Remarks: Forms UEZ-2 and UEZ-2-JA are available from the Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219

2. Procedure: Complete the Request for Application Amendment.

3. Procedure: Hold at least one public hearing on the proposed amendment.

4. Procedure: Submit the completed Request for Application Amendment and a resolution by the local governing body to the department.

5. Procedure: The department reviews the Request for Application Amendment.

Remarks: The department will approve an amendment to local program incentives only if the proposed local incentives are equal to or superior to those in the application prior to the proposed amendment. The department will approve an amendment to expand

zone boundaries only if the proposed amendment can be justified.

B. Terminating a zone.

1. Procedure: Notify the department in writing of any inability or unwillingness to provide approved local program incentives.

Remarks: Notice must be made within 30 days.

2. Procedure: Request an amendment to the approved application in accordance with procedure IIA.

Remarks: Requests must be submitted within 60 days following notice to the department.

3. Procedure: The department reviews requested amendments in accordance with procedure IIA.

Remarks: Approval of an amendment will allow a zone to continue in operation.

4. Procedure: The department recommends to the secretary that the zone be terminated.

Remarks: This step occurs only if a local governing body fails to provide notice in writing of any inability or unwillingness to provide approved local program incentives (step 1) or has its request for amendment denied.

5. Procedure: The secretary reviews the department's recommendation and may recommend that the Governor terminate the zone.

6. Procedure: A zone is terminated upon written notice to a local governing body.

Remarks: The date of such notice is considered to be the date of zone termination. Qualified business firms located in a terminated zone remain eligible to receive state tax incentives under this program for any remaining taxable years in the five-year period for which they are eligible. No additional business firms may become qualified to receive state tax incentives after the date of zone termination.

Request for Application Amendment (Form UEZ-2)

Requirements: A request for an amendment must be submitted to the department on Form UEZ-2. Form UEZ-2 requires the following information for an amendment incentives to be deleted or revised; local incentives to be added or revised; impact of the amended local incentives; and local assurances and authorization. Form UEZ-2 requires the following information for an amendment to expand zone boundaries: location of proposed addition and new zone boundaries; development history, local revitalization efforts; land use characteristics; physical deficiencies and investment opportunities; local

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development objectives; barriers to investment in amended zone area; any new proposed local program incentives; projected impact of state tax incentives; and local assurances and authorization. A resolution of the local governing body must also accompany Form UEZ-2.

Need for Requirements: Section 59.1-284 of the Code of Virginia permits localities to request an enlargement of their enterprise zone boundaries and amendments to the local incentives proposed in their approved applications for zone designation. Procedures are needed to assure that such requests are submitted and reviewed in a consistent manner. All the information requested on Form UEZ-2 is considered to be necessary in order to determine if a boundary change is justified or whether a proposed new incentive is "equal to or superior to the unamended application" as required in § 59.1-284 of the Code of Virginia. The requirement for a resolution of the local governing body is considered to be the minimum action needed to assure that a request for application amendment is being submitted by the local governing body as stipulated in § 59.1-284 of the Code of Virginia.

Cost of Requirements: A jurisdiction would incur costs associated with preparing a Request for Application Amendment. This form asks only for information readily available to the applicant and, therefore, the costs it imposes should not be significant. The department would incur costs associated with processing the proposed amendment. The department does not anticipate a need for additional personnel or budget authorization in order to carry out this responsibility.

Joint Application Amendment Agreement (Form UEZ-2-JA)

Requirements: Form UEZ-2-JA must be attached to Form UEZ-2 in the case of an amendment to a joint application. Form UEZ-2-JA requires applicants to certify that they are in agreement in filing the amendment.

Need for Requirements: Form UEZ-2-JA eliminates the need for two application amendment forms: one for single applicants and one for joint applicants.

Cost of Requirements: Jurisdictions would incur costs associated with preparing a Joint Application Amendment Agreement (Form UEZ-2-JA). This cost would be minimal.

PROCEDURE III Local Administrative Procedures

A. Surveying zone business conditions.

1. Procedure: Obtain Survey of Zone Business Conditions (Form UEZ-3-S).

Remarks: Form UEZ-3-S is available from the Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

2. Procedure: Complete Survey of Zone Business Conditions by collecting and summarizing data on zone businesses and employment.

Remarks: Information from the Survey of Zone Business Conditions will be used by the department as a basis for program evaluation.

3. Procedure: Submit the completed Survey of Zone Business Conditions to the department.

Remarks: Form UEZ-3-S must be submitted to the department within 90 days following the date of zone designation.

B. Submitting an annual report.

1. Procedure: Obtain Annual Report (Form UEZ-3-AR).

Remarks: Form UEZ-3-AR may be obtained from the Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

2. Procedure: Complete Annual Report by updating the following: (i) a list of surplus public land and actions taken to sell such land; (ii) an evaluation of zone development progress; and (iii) a summary of zone business and employment data.

Remarks: Information from annual reports will be used by the department in monitoring local compliance with program requirements and in preparing an annual evaluation report to the Governor.

3. Procedure: Submit the completed annual report to the department.

Remarks: Form UEZ-3-AR must be submitted to the department within 90 days of the anniversary date of zone designation.

Survey of Zone Business Conditions (Form UEZ-3-S)

Requirements: Form UEZ-3-S must be submitted by an applicant to the department following zone designation. It requires information on zone business characteristics and zone business activity.

Need for Requirements: Section 59.1-273 of the Code of Virginia requires the department to submit annual reports to the Governor evaluating the effectiveness of the program. In order to do so, the department must obtain uniform baseline data on business conditions in designated zones. Such data is not readily available to the department, nor does the department have the resources to collect it. Local governments participating in the program and receiving its benefits are the appropriate agencies to collect information on zone conditions. Procedures and regulations are needed to assure that the reporting requirements of localities are consistent and that all reporting is carried out in a uniform manner.

Cost of Requirements: Local governments would incur costs from making a survey to collect data on the number of business firms and employment levels. However, the survey need not be sophisticated or costly.

Annual Report (Form UEZ-3-AR)

Requirements: Form UEZ-3-AR must be submitted by an applicant to the department within 90 days of the anniversary date of zone designation. It requires the following information: status of local actions to sell surplus public land within a zone; evaluation of the program's success in achieving local development objectives; state program evaluation data; and assurances.

Need for Requirements: In order to evaluate the effectiveness of the program, the department must obtain uniform data on an annual basis indicating changes in zone business conditions. Regulations are needed to assure that the reporting requirements or localities are consistent and that all reporting is carried out in a uniform manner. Section 59.1-273 of the Code of Virginia also requires the department to monitor the implementation and operation of the program. Regulations are needed to assure that the department's monitoring of local compliance with administrative requirements (i.e., sale of surplus public land) is consistent and fair.

Cost of Requirements: Local governments would incur costs associated with providing the information requested in the annual report. However, several steps have been taken to minimize such costs. First, the information required regarding the sale of surplus public land is readily available to localities. Second, localities are allowed to structure their local program evaluations as they see fit. Finally, the data requested on business conditions is structured in the same way as on Form UEZ-3-S in order to simplify reporting. The type of data requested has been carefully considered and reasonable estimates are permitted, where appropriate, in order to minimize the need for localities to conduct surveys on an annual basis.

PROCEDURE IV Requesting State Tax Incentives

1. Procedure: Obtain a Request to Qualify for State Tax Incentives - New Firms (Form UEZ-4N) or a Request to Qualify for State Tax Incentives - Existing Firms (Form UEZ-4E).

Remarks: Forms UEZ-4N and UEZ-4E may be obtained from the Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

2. Procedure: Complete the Request to Qualify for State Tax Incentives to the department.

Remarks: Forms UEZ-4N and Form UEZ-4E must be completed and signed by an independent certified public accountant.

3.a. Procedure: Submit the completed Request to Qualify for State Tax Incentives to the department.

Remarks: Form UEZ-4N or Form UEZ-4E must be submitted to the department no later than 30 calendar days prior to the firm's normal or extended deadline for filing its return for state income, franchise or license tax.

b. Attach to Form UEZ-4N or Form UEZ-4E a statement requesting one or more of the state tax incentives provided for in the program.

Remarks: Business firms may receive state tax incentives for only five consecutive years beginning with the first taxable year in which the firm qualifies.

4. Procedure: Within 14 calendar days of receiving Form UEZ-4N or Form UEZ-4E, the department reviews the form and certifies to the appropriate state agency the applicability of the state tax incentive requested by a qualified business firm.

Remarks: The department forwards to the appropriate local governing body a copy of the business firm's statement requesting state tax incentives, along with a determination that the firm is qualified or not qualified to receive such state tax incentives.

5. Procedure: The department notifies the business firm that it is qualified or not qualified to receive the requested state tax incentives.

Remarks: The department forwards to a qualified business firm three copies of the certification submitted to the appropriate state agency: one copy for the firm's records, one for the firm to attach to its state sales tax return and one for the firm to attach to its return for state income, franchise or license tax.

6. Procedure: File the applicable state tax return with an attached copy of the certification of qualification to receive state tax incentives.

Remarks: The return must be filed by the normal filing deadline unless an extension has been granted.

7. Procedure: Qualified business firms receive appropriate state tax credits or refunds.

Request to Qualify for State Tax Incentives (Form UEZ-4N or Form UEZ-4E)

Requirements: Form UEZ-4N or UEZ-4E must be submitted by a business firm to the department in order to qualify for state tax incentives. Each form requires information regarding the location of the firm and its zone establishment(s), data necessary to determine whether the firm is qualified under the program and a declaration that the information is accurate.

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Need for Requirements: Section 59.1-279 of the Code of Virginia requires a business firm to submit annually to the department a form stating that it qualifies to receive state tax incentives. Procedures are needed so that such forms are filed in a consistent and timely manner. The information requested on Form UEZ-4E and UEZ-4N is the minimum needed to establish that a firm meets all requirements and to provide the department with basic record keeping data.

Cost of Requirements: A business firm would incur minimal costs associated with the requirements. Firms are not required to change their taxable years or alter their accounting practices in order to qualify to receive state tax incentives. The department would incur annual administrative costs associated with certifying the applicability of a requested tax incentive. The Virginia Department of Taxation and State Corporation Commission would incur costs related to the crediting or refunding of taxes for qualified businesses within a zone. The extent of costs to be borne by the department and other state agencies cannot be measured until zones are designated and the level of interest in the program by qualified business firms can be determined.

PART I. DEFINITIONS.

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

“Average number of full-time employees” means the number of full-time employees during each payroll period of a business firm’s taxable year divided by the number of payroll periods:

1. In calculating the average number of full-time employees, a business firm may count only those full-time employees who worked at least one-half of their normal work days during the payroll period. Paid leave time may be counted as work time.

2. For a business firm which uses different payroll periods for different classes of employees, the average number of full-time employees of the firm shall be defined as the sum of the average number of full-time employees for each class of employee.

“Base taxable year” means the taxable year preceding the first taxable year for which a firm qualifies for state tax incentives under this program.

“Business firm” means any business entity, incorporated or unincorporated, which is authorized to do business in the Commonwealth of Virginia and which is subject to state individual income tax, state corporate income tax, state franchise or license tax on gross receipts, or state bank franchise tax on net taxable capital:

1. The term “business firm” includes partnerships and

small business corporations electing to be taxed under Subchapter S of the Federal Internal Revenue Code, and which are not subject to state income tax as partnerships or corporations, but the taxable income of which is passed through to and taxed as income of individual partners and shareholders.

2. The term “business firm” does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, § 512; nor does it include homeowners associations as defined in the Federal Internal Revenue Code, § 528.

“Department” means the Department of Housing and Community Development.

“Develop” means to make improvements to land through the construction, conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of a structure(s) to accommodate the principal use to which the land is or will be put. Improvements to land where parking is the principal use shall not constitute development pursuant to the requirements in § 7.1A, except where the buyer can demonstrate to the satisfaction of the seller that such use is necessary in order to further the purpose of the program (see § 2.3) and the local development objectives outlined in the application for zone designation.

“Employee of a zone establishment” means a person employed by a business firm who is on the payroll of the firm’s establishment(s) within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term “employee of a zone establishment” refers only to such an employee assigned to the firm’s zone establishment(s) for at least one-half of his normally scheduled work days.

“Establishment” means a single physical location where business is conducted or where services or industrial operations are performed:

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.

2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.

“Family” means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage; (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person’s federal income tax return for the previous year shall be presumed, unless otherwise

demonstrated, part of the other person's family; or (iii) an individual 18 or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.

"Family income" means all income actually received by all family members over age 16 from the following sources:

1. Gross wages and salary (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;
3. Disability payments;
4. Unemployment and employment training benefits;
5. Capital gains and losses; and
6. One-time unearned income.

When computing family income, income of a spouse and/or other family members shall be counted for the portion of the income determination period that the person was actually a part of the family.

"Family size" means the largest number of family members during the income determination period.

"Full-time employee" means a person employed by a business firm who is normally scheduled to work at least 35 hours per week during the firm's payroll period. The term "full-time employee" does not include unpaid volunteer workers.

"Gross receipts attributable to the active conduct of trade or business within an Urban Enterprise Zone" means all receipts of the business firm arising from the firm's activities or from the investment and use of the firm's capital in its establishment(s) within the zone. The proportion of gross receipts arising from the firm's activities, or from its investment and use of capital within

the zone, shall be calculated by dividing the total expenses of the firm's establishment(s) within the zone by the firm's total expenses both inside and outside the zone:

1. This calculation must be used to allocate and apportion taxable gross receipts against which state franchise or license tax credits may be claimed (see § 9.2C).
2. This calculation may not be used to allocate and apportion Virginia taxable income against which state corporate and individual income tax credits may be claimed or taxable net capital against which state franchise tax credits may be claimed.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives under this program.

"Low-income person" means a person who is a full-time employee of a business firm seeking qualification and whose family had an income which was less than 80% of median family income during the income determination period.

"Median family income" means the dollar amount, adjusted for family size, as determined annually by the department for the city or county in which the zone is located.

"Metropolitan central city" means a city so designated by the U.S. Office of Management and Budget.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Secretary" means the Secretary of Commerce and Resources.

"Surplus public land" means land within a zone which is owned by the Commonwealth or a unit of local government and which meets the following standards:

1. In the case of land owned by a unit of local government, (i) the land is not being used for a public purpose nor designated or targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; (ii) no tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings; and (iii) sale of the land would not violate any restriction stated in the deed.
2. In the case of land owned by agencies of the

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Commonwealth, except land acquired by the Virginia Department of ~~Highways and~~ Transportation for the construction of highways, the land has been determined to be surplus to the Commonwealth in accordance with criteria and procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

3. In the case of land acquired by the Virginia Department of ~~Highways and~~ Transportation for the construction of highways, the land has been determined to be surplus to the needs of the ~~State Highway Commission Commonwealth Transportation Board~~ and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154 of the Code of Virginia. The ~~State Highway Commission Commonwealth Transportation Board~~, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to other state agencies in accordance with procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

"Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

"Tax year" means the year in which the assessment is made.

"Taxable year" means the year in which the tax due on state taxable income, state taxable gross receipts or state taxable net capital is accrued.

"Unit of local government" means any county, city or town. Special-purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

"Zone" means an Urban Enterprise Zone declared by the Governor to be eligible for the benefits of this program.

PART II. GENERAL PROVISIONS.

§ 2.1. Authority.

These regulations are issued by the Board of Housing and Community Development, Commonwealth of Virginia, as required by § 59.1-278 of the Code of Virginia.

§ 2.2. Scope and applicability.

These regulations describe the procedures and requirements that will be used to implement the Virginia Urban Enterprise Zone Program.

§ 2.3. Purpose of program.

The purpose of the Virginia Urban Enterprise Zone Program is to stimulate business and industrial growth which would result in revitalization of neighborhoods by means of regulatory flexibility and tax incentives. This program is to be directed to areas of the Commonwealth that need special governmental attention to attract private sector investment.

§ 2.4. Compliance with the Virginia Administrative Process Act.

The provisions of the Virginia Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, shall govern the issuance and administration of these regulations.

§ 2.5. Severability.

If any provision of these regulations is held to be invalid, this does not invalidate other provisions which are severable from it.

PART III. ELIGIBILITY CRITERIA.

§ 3.1. Eligible applicants for zone designation.

Eligible applicants include the governing body of any county, city or town.

A. Applications on behalf of towns - The governing body of a county may apply for designation of an Urban Enterprise Zone on behalf of a town located within the county.

B. Joint applications - Two or more adjacent eligible jurisdictions may file a joint application for an Urban Enterprise Zone lying in the jurisdictions submitting the application.

C. Limit on applications - Eligible jurisdictions may submit only one application for the designation of an Urban Enterprise Zone. This limitation includes the submission of a joint application with other jurisdictions.

§ 3.2. Zone eligibility requirements.

To be eligible for consideration, an application for an Urban Enterprise Zone must meet the following requirements.

A. Contiguous area - The proposed zone must consist of a contiguous area.

B. Distress criteria - The proposed zone must meet at least one of the following criteria as enumerated in the 1980 U.S. Census: (i) 25% or more of the households must have had incomes below 80% of the median household income of the county or city; or (ii) the unemployment rate must have been at least 1.5 times the state average.

C. Zone size - The proposed zone shall conform to the

following size guidelines. In a joint application, the portion of the zone proposed in each jurisdiction shall conform to the guidelines:

1. Size limits for zones in Metropolitan Central Cities -
Minimum: 1/2 square mile (320 acres). In no instance shall a zone consist only of a site for a single business firm.
Maximum: 1 square mile (640 acres) or 7% of the jurisdiction's land area or population, whichever is largest.
2. Size limits for zones in towns and cities other than Metropolitan Central Cities -
Minimum: 1/4 square mile (160 acres). In no instance shall a zone consist only of a site for a single business firm.
Maximum: 1/2 square mile (320 acres) or 7% of the jurisdiction's land area or population, whichever is largest.
3. Size limits for zones in unincorporated areas of counties -
Minimum: 1/2 square mile (320 acres). In no instance shall a zone consist only of a site for a single business firm.
Maximum: 4 square miles (2,560 acres).
4. Exception for zones in cities formed through consolidation - Zones in cities, the existing boundaries of which were created through the consolidation of a city and county, or the consolidation of two cities, shall conform substantially to the minimum and maximum size guidelines for unincorporated areas of counties as set forth in § 3.2C(3) .

PART IV. PROCEDURES AND REQUIREMENTS FOR ZONE DESIGNATIONS.

§ 4.1. Procedures for zone application and designation.

Up to 12 Urban Enterprise Zones will be designated by the Governor in accordance with the following procedures and requirements.

A. Applications for zone designation - Applications for zone designation will be solicited by the department in accordance with the following procedures and requirements:

1. Application form - An application for zone designation must be submitted on Form UEZ-1 to the Director, Virginia Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219, on or before the submission date established by the department.
2. Local public hearing - The local governing body must hold at least one public hearing on the application for zone designation prior to its submission

to the department.

3. Application requirements - In order to be considered in the competitive zone designation process an application must provide all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in § 4.1A(2) .

4. Proposed local incentives - As part of its application a locality may propose local incentives such as regulatory and tax relief, and infrastructure and service delivery improvements, in order to stimulate private investment in the proposed zone. The likely impact of proposed local incentives in offsetting identified barriers to private investment in the proposed zone, together with the projected impact of state tax incentives, will be factors in evaluating applications.

The local governing body may propose incentives which it will make generally available throughout the zone or available only under specified conditions. Likewise, the local governing body may propose incentives to be provided for the entire life of the zone or for any shorter period.

Proposed local incentives may be provided by the local governing body itself or by an assigned agent(s) such as a local redevelopment and housing authority, a private nonprofit entity or a private for-profit entity. In the case of a county which submits an application on behalf of an incorporated town, the county may designate the governing body of the town to serve as its assigned agent. In the case of a county which submits an application for a zone encompassing unincorporated county areas as well as portions of one or more towns, the county may designate the governing body(ies) or the town(s) to serve as its assigned agent(s).

B. Departmental review of applications - Within 60 days following the application submission date, the department shall review and forward to the Governor those applications determined to be eligible for Urban Enterprise Zone designation under § 3.2.

C. Director's review of eligible applications - Within 30 days of forwarding eligible applications to the Governor, the Director of the Department of Housing and Community Development shall recommend to the Governor those which are determined to have the greatest potential for accomplishing the purpose of the program.

D. Governor's designation - The Governor shall designate, upon recommendation of the Director, Urban Enterprise Zones for a period of 20 years. The Governor's

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designation shall be final.

E. Notification of denial - A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.

§ 4.2. Procedures and requirements for joint applications.

Two or more adjacent jurisdictions submitting a joint application as provided for in § 3.1B must meet the following requirements:

A. Designation of a program administrator - The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing a survey of zone business conditions and annual reports as provided for in §§ 7.2 and 7.3.

B. Submission of joint applications - In order to submit a joint application, Form UEZ-1 must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in §§ 4.1A(1) through 4.1A(4). In addition, a copy of Form UEZ-1-JA must be completed by each of the other participating jurisdictions to certify that they are in agreement in filing the joint application. A copy(ies) of Form UEZ-1-JA must be submitted to the department with Form UEZ-1.

C. Other requirements - The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.

PART V. PROCEDURES FOR ZONE AMENDMENT.

§ 5.1. Relationship to federal enterprise zone program.

If any portion of an area designated as an Urban Enterprise Zone by the Governor is included in an area designated as an enterprise zone by an agency of the federal government, the area designated by the Governor shall be enlarged to include the area designated by the federal agency.

§ 5.2. Amendment of approved applications.

A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the following procedures and requirements provided that the amendments relate to local program incentives or to expansions of zone boundaries.

A. Local public hearing on proposed amendment - The local governing body must hold at least one public hearing on the requested amendment prior to its submission to the department.

B. Submission of a request for an amendment - A request for an amendment must be submitted to the department on Form UEZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the local governing body held the public hearing required in § 5.2A. In the case of a joint application, a request for an amendment must be completed by the jurisdiction serving as program administrator and must be accompanied by Form UEZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.

C. Limit on applications for amendments to expand zone boundaries - The first application for an amendment to expand zone boundaries may be submitted at any time. Thereafter, only one application for an amendment to expand zone boundaries will be permitted every four years.

D. Eligibility criteria for amendments to expand zone boundaries - A proposed boundary amendment must meet the following requirements:

1. Contiguous area - The area proposed for expansion must be contiguous to the existing zone.
2. Distress criteria - The enlarged zone must meet at least one of the distress criteria outlined in § 3.2B of the program regulations.

E. Boundary amendment size - The enlarged zone shall not exceed the maximum size guidelines outlined in § 3.2C of the program regulations. A zone boundary amendment may not consist of a site for a single business firm or be less than 10 acres.

F. Approval of an amendment - The department will approve an amendment to local incentives only if the proposed local incentives are equal or superior to those in the application prior to the proposed amendment. The department will approve an amendment to expand zone boundaries only if the proposed amendment is deemed to be justified in the opinion of the department.

G. Notification of denial - A local governing body that is denied either a boundary or local incentive amendment shall be provided with the reasons for denial.

PART VI. PROCEDURES FOR ZONE TERMINATION.

§ 6.1. Failure to provide local program incentives.

If a local governing body or its assigned agent(s) is unable or unwilling to provide any of the approved local program incentives, the following procedures will apply. In the case of joint applications, these procedures will apply if either local governing body or its assigned agent(s) is unable or unwilling to provide approved local incentives.

A. Notification - A local governing body must notify the department in writing within 30 days of any inability or unwillingness to provide an approved local program incentive.

B. Request for an amendment - A local governing body will have 60 days after submission of the notice required in § 6.1A to request an amendment to its application. Such a request shall be filed in accordance with the procedures set forth in § 5.2C .

C. Departmental review - The department will review requests for amendments in accordance with the criterion set forth in § 5.2F. Approval of an amendment will allow a zone to continue in operation. If a local governing body fails to provide notice as set forth in § 6.1A, or has its request for an amendment denied, then the department may recommend to the secretary that the zone be terminated.

D. Secretarial review of recommendation for zone termination - The secretary, upon review of the department's recommendation, may recommend that the Governor terminate the zone.

§ 6.2. Zone termination.

A zone shall be terminated in accordance with the procedures set forth in § 6.1 upon written notice to a local governing body. The date of such notice is considered to be the date of zone termination.

A. Continued availability of state tax incentives to previously qualified business firms - Qualified business firms located in a terminated zone may continue to request state tax incentives provided under this program for any remaining taxable years in the five-year period for which they are eligible.

B. Limits on business firm qualification - After the date of zone termination, no additional business firms may become qualified to receive state tax incentives provided under this program.

PART VII. ADMINISTRATIVE REQUIREMENTS.

§ 7.1. Sale of surplus public land.

The Commonwealth and any unit of local government that owns land within the zone shall: (i) upon designation of a zone, identify any surplus land and within six months make such land available for sale; and (ii) update annually its list of surplus land and make available for sale within six months any newly identified surplus parcels. The department may waive this requirement only if the owner can demonstrate to the department's satisfaction that the land cannot be developed due to its size, configuration, topography, location or other relevant factors.

A. Conditions on the sale of public land - The Commonwealth or any unit of local government that sells surplus land within a zone shall require the buyer to develop the land within a period not to exceed five years. This requirement of the buyer must be enforceable by the seller. The Commonwealth or any unit of local government that sells surplus land within a zone may set any additional conditions upon the sale which it considers to be necessary to assure that the land is developed in a manner consistent with the purpose of the program (See § 2.3) and the local development objectives outlined in the application for zone designation. If the land is not sold within five years, such conditions shall be revised as necessary to make the land marketable.

B. Monitoring of compliance - In order to monitor compliance with the requirements of § 7.1, the department will request annually from local governing bodies and state agencies with responsibility for overseeing the disposition of surplus state land, information concerning the identification and sale of surplus land. A local governing body shall document compliance with § 7.1 in its annual report to the department (see § 7.3). The department shall request annually from the Division of Engineering and Buildings of the Virginia Department of General Services and from the Virginia Department of Highways and Transportation, lists of surplus state land within zones and actions taken to sell such land.

§ 7.2. Survey of zone business conditions.

Within 90 days following the date of zone designation, a local governing body shall conduct a survey of existing zone business conditions to serve as a basis for program evaluation. Survey data shall be submitted to the department on Form UEZ-3-S. The survey shall include information on business and employment conditions in the zone as requested on Form UEZ-3-S.

§ 7.3. Annual report.

A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the department on Form UEZ-3-AR, within 90 days of the anniversary date of zone designation. Annual reports shall include information documenting the local governing body's compliance with § 7.1 and data for the purpose of program evaluation as requested on Form UEZ-3-AR. Annual reports shall also include an evaluation of the program's success in achieving identified local development objectives.

PART VIII. BUSINESS FIRM REQUIREMENTS.

§ 8.1. Requirements for becoming a qualified business firm.

In order to become qualified for the purpose of receiving state tax incentives, a business firm must meet

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the requirements of § 8.1A or § 8.1B.

A. Requirements for new firms - A business firm which begins the operation of a trade or business within a zone after the date of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; and (ii) at least 40% of the average number of full-time employees of its zone establishment(s) must be low-income persons.

B. Requirements for existing firms - A business firm which is engaged in the conduct of a trade or business in a zone at the time of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; (ii) the average number of full-time employees of its zone establishment(s) must be at least 10% greater than the average for the base taxable year; and (iii) at least 40% of such increase must be low-income persons.

§ 8.2. Prohibition of duplicate government assistance.

A business firm may not use the same expense to qualify for state tax incentives under this program as is used to qualify for state tax incentives under any other program.

PART IX. BUSINESS FIRM PROCEDURES.

§ 9.1. Procedures for becoming a qualified business firm.

In order to become qualified for the purpose of receiving state tax incentives under this program, a new business firm must submit to the department Form UEZ-4N stating that it meets the requirements of § 8.1A. An existing business firm must submit Form UEZ-4E stating that it meets the requirements of § 8.1B. These forms must be prepared by an independent certified public accountant (CPA) licensed by the Commonwealth.

A. Proof of qualification - Form UEZ-4N or Form UEZ-4E, when completed and signed by an independent CPA, shall be prima facie evidence that a business firm is qualified to receive state tax incentives.

B. Determination of employee low-income status* - In determining whether a business firm meets the requirements of § 8.1A or § 8.1B, an independent CPA may accept a signed statement from an employee affirming that he meets the definition of a low-income person.

C. Annual submission of form - A business firm must submit either Form UEZ-4N or Form UEZ-4E for each year in which state tax incentives are requested. Form UEZ-4N or Form UEZ-4E must be submitted to the

department no later than 30 calendar days prior to the firm's normal or extended deadline for filing a return for state corporate income tax, state individual income tax, state franchise or license tax on gross receipts, or state franchise tax on net capital.

D. Certification by the department - Within 14 calendar days of receipt of Form UEZ-4N or Form UEZ-4E, the department will:

1. Review the form;
2. Certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and
3. Forward three copies of the certification to the firm (one copy for the firm's records and two copies to be filed with the applicable state tax returns) or notify the firm that it fails to qualify for state tax incentives under PART VIII.

E. Submission of state tax returns - A business firm, upon receipt from the department of copies of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the credit or refund requested, the appropriate copy of the certificate of qualification must be attached to firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code requests a credit(s) against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

F. Five-year limit for receiving state tax incentives - A business firm may receive state tax incentives for only five consecutive taxable years beginning with the first taxable year in which the firm qualifies. If a firm fails to become qualified for any taxable year during this five-year period, it forfeits the right to request state tax incentives for that year. However, the firm is eligible to become qualified for any remaining taxable years of its five-year cycle.

G. Prohibition on requalification due to reorganization of a firm - A business firm may not qualify for state tax incentives for more than five consecutive taxable years by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

§ 9.2. Procedures for requesting state tax incentives.

A business firm shall submit annually to the department, along with Form UEZ-4N or Form UEZ-4E, a statement requesting one or more of the state tax incentives provided for in this section. In the case of a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code, the statement requesting state tax incentives shall include the name, address and social security number of each partner or shareholder requesting a credit(s) against state individual income tax as provided for in § 9.2B.

A. State corporate income tax credits - A qualified business firm subject to tax under Article 10, Chapter 3, Title 58.1, of the Code of Virginia, may request credits against any such tax due. Corporate income tax credits shall not extend for more than five consecutive tax years. The sum of the corporate income tax credits claimed under this section shall not exceed the business firm's state corporate income tax liability. Corporate income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside a zone shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

1. General credit - A credit may be claimed against corporate income tax liability for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit - A credit may be claimed against corporate income tax liability for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

An unemployment tax credit may only be claimed against the amount of taxable corporate income remaining after the subtraction of any general credit claimed under

§ 9.2A(1). An unused employment tax credit may be applied to future tax years within the five-year period established by this section.

B. State individual income tax credits - A qualified business firm which is subject to state individual income tax may request credits against any such tax due. Individual income tax credits shall not extend for more than five consecutive tax years. The sum of the individual income tax credits claimed under this section shall not exceed the business firm's state individual income tax liability. When a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code is eligible for this tax credit, each partner or shareholder may request the credit on his individual income tax in proportion to the amount of income received by that partner from the partnership, or shareholder from his corporation, respectively. Individual income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside the zone shall allocate and apportion its taxable income attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

1. General credit - A credit may be claimed against individual income tax liability for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit - A credit may be claimed against individual income tax liability for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

An unemployment tax credit may only be claimed

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against the amount of taxable individual income remaining after the subtraction of any general credit claimed under § 9.2B(1). An unused employment tax credit may be applied to future tax years within the five-year period established by this section.

C. Credits against state franchise or license tax on gross receipts - A qualified business firm which is subject to state franchise tax on gross receipts or state license tax on gross premium receipts may request a credit against any such tax due. Credits against state franchise or license tax on gross receipts shall not extend for more than five consecutive tax years. The sum of the credits against state franchise or license tax on gross receipts claimed under this section shall not exceed the business firm's state franchise or license tax liability. Credits against state franchise or license tax on gross receipts shall apply only to taxable gross receipts attributable to the active conduct of trade or business within a zone. A business firm having taxable gross receipts from business activity both inside and outside the zone shall allocate and apportion its taxable gross receipts attributable to conduct of business in accordance with the procedures outlined in the definition for "gross receipts attributable to the active conduct of a trade or business within an Urban Enterprise Zone":

1. General credit - A credit may be claimed against tax liability on gross receipts for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit - A credit may be claimed against tax liability on gross receipts for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

An unemployment tax credit may only be claimed against the amount of the taxable gross receipts remaining after the subtraction of any general credit claimed under § 9.2C(1). An unused unemployment tax credit may be

applied to future tax years within the five-year period established by this section.

D. Credits against state franchise tax on net capital - A qualified business firm which is subject to state franchise tax on net capital may request credits against any such tax due. Credits against state franchise tax on net capital shall not extend for more than five consecutive tax years. The sum of the credits against state franchise tax on net capital claimed under this section shall not exceed the business firm's state franchise tax liability. Credits against state franchise tax on net capital shall apply only to taxable net capital attributable to the active conduct of business within a zone. A business firm having taxable net capital arising from business activity both inside and outside the zone shall allocate and apportion its net capital attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

1. General credit - A credit may be claimed against tax liability on net capital for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit - A credit may be claimed against tax liability on net capital for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

An unemployment tax credit may only be claimed against the amount of taxable net capital remaining after the subtraction of any general credit claimed under § 9.2D(1). An unused employment tax credit may be applied to future tax years within the five-year period established by this section.

E. State sales and use tax exemption - A qualified business firm may request an exemption from state taxes

on all items purchased or leased for the conduct of trade or business within a zone as required under §§ 58-441.1, 58.1-600 et seq. of the Code of Virginia. This exemption applies only to the state portion of the sales and use tax and not to any portion of the tax levied under local option. A business firm in its statement to the department requesting an exemption shall specify the amount of state sales and use tax actually paid during the year for which the exemption is claimed. The Virginia Department of Taxation shall review the amount requested and make an appropriate refund to the firm. State sales and use tax exemptions shall not extend for more than five consecutive tax years.

F. Notification to localities of requests for state tax incentives - The department shall forward to the local governing body of the jurisdiction in which the zone is located: (i) a copy of the business firm's statement requesting state tax incentives; and (ii) the department's determination that the firm is qualified or not qualified to receive such incentives in accordance with the requirements of PART VIII .

Form UEZ-1

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 APPLICATION FOR
 URBAN ENTERPRISE ZONE DESIGNATION
 VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

FORM UEZ-1

APPLICATION FOR URBAN ENTERPRISE ZONE DESIGNATION

Locality _____	Date _____
Chief Administrator _____	Phone _____
Designated Contact Person _____	Phone _____
Address _____	
Check One: Single Application <input type="checkbox"/>	
Joint Application <input type="checkbox"/> List other participating localities below:	

I. ENTERPRISE ZONE LOCATION AND BOUNDARIES

List below all 1980 U. S. Census block groups comprising the proposed enterprise zone. Block groups should be listed according to the 1980 U. S. Census tract in which they are located. Joint applications should indicate the locality in which each block group is located.

- The following two maps must be included as attachments to this application.
- A. A map of the locality showing the location of the proposed enterprise zone and its general boundaries. Label this map Attachment UEZ-1-IA.
 - B. A 1980 U. S. Census block map of the proposed enterprise zone area clearly showing the boundaries of the zone. Label this map Attachment UEZ-1-IB.

1. -

II. ENTERPRISE ZONE DEVELOPMENT HISTORY

A. Describe the factors which accounted for the proposed enterprise zone area's past growth, and indicate if they are still an influence. Comments must be confined to the space provided.

B. Describe any recent changes which have occurred in the proposed enterprise zone area's economic and social conditions, and indicate how these changes compare to changes in conditions within the city or county as a whole. Provide documentation of trends whenever possible. Comments must be confined to the space provided.

III. LOCAL REVITALIZATION EFFORTS

Describe any past or present community development, urban renewal or other activities of the locality or any other organization aimed at revitalizing the proposed enterprise zone area. Summarize the impact of these actions on the development problems of the area. Comments must be confined to the space provided.

IV. ENTERPRISE ZONE LAND USE CHARACTERISTICS

Describe in general the land use characteristics of the proposed enterprise zone and adjacent areas. Comments must be confined to the space provided.

Form UEZ-1

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

IV. ENTERPRISE ZONE LAND USE CHARACTERISTICS (cont'd)

The following two maps must be included as attachments to this application.

A. A map of the proposed enterprise zone showing the existing land use characteristics according to the following classifications:

<u>Privately-Held Land</u>	<u>Publicly-Held Land</u>
Business/Commercial	State/Federal Land
Industrial	Local Public Land Presently
Institutional	in Use
Single-Family Residential	Undeveloped/Unutilized, Local
Multi-Family Residential	Public Land
Agriculture/Undeveloped	

Indicate on this map total zone acreage and the approximate number of acres devoted to each type of use. Also show the boundaries of any community development or urban renewal project areas within the proposed enterprise zone. Label this map Attachment UEZ-1-IVA.

B. A map of the proposed enterprise zone showing the boundaries of existing zoning districts. Label this map Attachment UEZ-1-IVB. (If the area is not zoned, this map need not be provided.)

V. ENTERPRISE ZONE POPULATION AND HOUSING CHARACTERISTICS

Use 1980 U. S. Census data to complete all portions of Part V.

A. Total Population _____	C. Total Year-Round Housing Units _____
B. Persons in Poverty: Number _____ Percent _____	H. Vacant Year-Round Housing Units: Number _____ Percent _____
C. Total Households _____	I. Year-Round Housing Units Lacking Complete Plumbing Facilities: Number _____ Percent _____
D. Households Receiving Public Assistance Income: Number _____ Percent _____	J. Year-Round Housing Units With 1.01 or More Persons Per Room: Number _____ Percent _____
E. Total Civilian Labor Force _____	
F. Civilian Labor Force Members Unemployed: Number _____ Percent _____	
K. Median Household Income (Entire Jurisdiction) _____	
L. Households With Income Below 80% of Median Household Income: Number _____ Percent _____	

Form UEZ-1

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

VI. ENTERPRISE ZONE PHYSICAL DEFICIENCIES

Describe any serious deficiencies in the physical condition of the following types of structures and facilities within the proposed enterprise zone which have impeded private investment or otherwise contributed to the problems of the area. Comments must be confined to the space provided.

A. Infrastructure (e.g., water, sewer, storm sewer, electrical, road and sidewalk facilities, etc.):

B. Community Facilities (e.g., schools, police and fire stations, libraries, parks and recreational facilities, etc.):

C. Commercial and Industrial Facilities:

D. Housing:

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

VII. ENTERPRISE ZONE INVESTMENT OPPORTUNITIES

List and indicate the square footage of any large vacant facilities in the proposed enterprise zone which provide major investment opportunities. Use only the space provided.

VIII. LOCAL DEVELOPMENT OBJECTIVES

List the development objectives that the locality hopes to achieve through the Virginia Urban Enterprise Zone Program. These objectives must be specific and quantifiable. Use only the space provided.

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

IX. BARRIERS TO INVESTMENT

Summarize the major barriers impeding the achievement of the development objectives listed in Part VIII. Comments must be confined to the space provided.

Form UEZ-1

Locality

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

X. LOCAL ENTERPRISE ZONE INCENTIVES (cont'd)

Important: See instructions on page 8 before completing this page.

Incentive:

Provider:

Limitations on Applicability:

Period of Availability:

Effective Date:

Source of Funds:

Incentive:

Provider:

Limitations on Applicability:

Period of Availability:

Effective Date:

Source of Funds:

Form UEZ-1

Locality

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

X. LOCAL ENTERPRISE ZONE INCENTIVES

On this page and the following page, furnish the information described below for any local incentives to be provided in support of the proposed enterprise zone.

Incentive: Briefly describe the proposed incentive.

Provider: Indicate who will be providing the incentive. If the applicant itself is to be the provider, so indicate with "applicant" or, in the case of joint applications, with the name of the appropriate locality. If an assigned agent is to be the provider, indicate the name of the organization or entity.

Limitations on Applicability: Indicate any limitations to be imposed on the applicability of the incentive to businesses or residents in the zone. If the incentive is to be made available without limitation, so indicate with "none".

Period of Availability: Indicate the time period for which the incentive will be made available (i.e., for the entire life of the zone or for a shorter period).

Effective Date: Indicate when the incentive will become effective (e.g., upon the date of zone designation, upon the date of passage of a local ordinance, etc.).

Source of Funds: For activities requiring direct expenditures, indicate the source of funds. If no direct expenditures are involved, so indicate with "n.a."

Additional pages may be attached as necessary (8 1/2" x 11" - one side only). The information provided on additional pages must be presented in the same format used here. Label additional pages Attachment UEZ-1-X1, Attachment UEZ-1-X2, etc.

Number of additional pages attached: _____

Incentive:

Provider:

Limitations on Applicability:

Period of Availability:

Effective Date:

Source of Funds:

XI. IMPACT OF LOCAL ENTERPRISE ZONE INCENTIVES

Describe the projected impact of any local incentives outlined in Part X on investment in the proposed enterprise zone. Indicate specifically how each proposed action will help offset the investment barriers described in Part IX. Up to three additional pages may be attached if necessary. Label additional pages Attachment UEZ-1-XI1, Attachment UEZ-1-XI2, etc.

Number of additional pages attached: _____.

XII. IMPACT OF STATE TAX INCENTIVES

Describe the projected impact of the State tax incentives provided through this Program on investment in the proposed enterprise zone. Indicate specifically how the State tax incentives will help offset the investment barriers described in Part IX. Comments must be confined to the space provided.

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

FORM UEZ-1

XIII. LOCAL ASSURANCES AND AUTHORIZATION

As the representative of the local governing body of _____, I hereby certify that: (locality)

- A. the information in this application is accurate to the best of my knowledge;
- B. any local enterprise zone incentives proposed by the aforementioned locality in this application represent a firm commitment;
- C. it is understood that if at any time the aforementioned locality is unable or unwilling to fulfill a commitment to provide local enterprise zone incentives, the zone shall be subject to termination; and
- D. a public hearing was held by the aforementioned locality to solicit comments on this application.

Chief Administrator

Title

Date

Important: All applications must include a resolution of the local governing body. Joint applications must include resolutions of each local governing body. Label this resolution(s) Attachment UEZ-1-XIII. Joint applications must also include Form UEZ-1-JA (Joint Application Agreement).

Applications for the designation of an Urban Enterprise Zone must reach the Department of Housing and Community Development by August 28, 1987.

Questions on this application form may be directed to:

Department of Housing and Community Development
Office of Local Development Programs
205 North Fourth Street, Richmond, VA 23219
(804) 786-4966

FORM UEZ-1-JA

JOINT APPLICATION AGREEMENT

Form UEZ-1-JA

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
JOINT APPLICATION AGREEMENT
VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

As the representative of the local governing body of _____, I hereby certify that:
(locality)

- A. the aforementioned locality is in agreement with the other participating localities in filing this joint application;
- B. any local enterprise zone incentives proposed by the aforementioned locality in this application represent a firm commitment;
- C. it is understood that if at any time the aforementioned locality is unable or unwilling to fulfill a commitment to provide local enterprise zone incentives, the zone shall be subject to termination; and
- D. a public hearing was held by the aforementioned locality to solicit comments on this application.

Chief Administrator

Title

Date

FORM UEZ-2
REQUEST FOR
APPLICATION AMENDMENT

Form UEZ-2
(Rev. Dec.85)

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REQUEST FOR
APPLICATION AMENDMENT*
VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____ Date _____
Chief Administrator _____ Phone _____
Designated Contact Person _____ Phone _____
Address _____

I. PURPOSE OF AMENDMENT

Explain why the amendment to approved local incentives or existing zone boundaries is being requested. If additional pages are used, label them Attachment UEZ-2-11, Attachment UEZ-2-12, etc.

*Notes:

1. To request local incentive amendments only - complete Sections I, XII, XIII, XIV and XVI.
2. To request zone boundary amendments only - complete Sections I through XI, XV, and XVI.
3. To request both zone boundary and local incentive amendments, complete all sections.

1.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

II. EXPANDED ENTERPRISE ZONE AREA LOCATION AND BOUNDARIES

List below all 1980 U. S. Census block groups comprising the proposed expanded enterprise zone area. Block groups should be listed according to the 1980 U. S. Census tract in which they are located. Joint applications should indicate the locality in which each block group is located. Complete only if an expansion to existing zone boundaries is being requested.

The following two maps must be included as attachments to this application if an expansion to existing zone boundaries is being requested.

- A. A map of the locality showing the location and general boundaries of the proposed addition and the new zone boundaries. Label this map Attachment UEZ-2-11A.
- B. A 1980 U. S. Census block map of the enterprise zone clearly showing the boundaries of the proposed addition and the new zone boundaries. Label the map Attachment UEZ-2-11B.

2.

Final Regulations

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality

III. EXPANDED ENTERPRISE ZONE AREA DEVELOPMENT HISTORY

A. Describe the factors which accounted for the proposed expanded enterprise zone area's past growth, and indicate if they are still an influence. Complete only if an expansion to existing zone boundaries is being requested and the factors are different than those described in Form UEZ-1 for the original zone area. Comments must be confined to the space provided.

B. Describe any recent changes which have occurred in the proposed expanded enterprise zone area's economic and social conditions, and indicate how these changes compare to changes in conditions within the city or county as a whole. Provide documentation of trends whenever possible. Complete only if an expansion to existing zone boundaries is being requested and the changes are different than described in Form UEZ-1 for the original zone area. Comments must be confined to the space provided.

3.

Form UEZ-3

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality

IV. EXPANDED ENTERPRISE ZONE AREA LOCAL REVITALIZATION EFFORTS

Describe any past or present community development, urban renewal or other activities of the locality or any other organization aimed at revitalizing the proposed expanded enterprise zone area. Summarize the impact of these actions on the development problems of the area. Complete only if an expansion to existing zone boundaries is being requested and the revitalization efforts are different than those described in Form UEZ-1 for the original zone area.

V. EXPANDED ENTERPRISE ZONE AREA LAND USE CHARACTERISTICS

Describe in general the land use characteristics of the proposed expanded enterprise zone area. Complete only if an expansion to existing zone boundaries is being requested. Comments must be confined to the space provided.

4.

Form UEZ-2
(Rev. Dec. 85)

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REQUEST FOR
APPLICATION AMENDMENT*
VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____ Date _____
Chief Administrator _____ Phone _____
Designated Contact Person _____ Phone _____
Address _____

I. PURPOSE OF AMENDMENT

Explain why the amendment to approved local incentives or existing zone boundaries is being requested. If additional pages are used, label them Attachment UEZ-2-I1, Attachment UEZ-2-I2, etc.

*Notes:

1. To request local incentive amendments only - complete Sections I, XII, XIII, XIV and XVI.
2. To request zone boundary amendments only - complete Sections I through XI, XV, and XVI.
3. To request both zone boundary and local incentive amendments, complete all sections.

1.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

II. EXPANDED ENTERPRISE ZONE AREA LOCATION AND BOUNDARIES

List below all 1980 U. S. Census block groups comprising the proposed expanded enterprise zone area. Block groups should be listed according to the 1980 U. S. Census tract in which they are located. Joint applications should indicate the locality in which each block group is located. Complete only if an expansion to existing zone boundaries is being requested.

The following two maps must be included as attachments to this application if an expansion to existing zone boundaries is being requested.

- A. A map of the locality showing the location and general boundaries of the proposed addition and the new zone boundaries. Label this map Attachment UEZ-2-IIA.
- B. A 1980 U. S. Census block map of the enterprise zone clearly showing the boundaries of the proposed addition and the new zone boundaries. Label the map Attachment UEZ-2-IIB.

2.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality

III. EXPANDED ENTERPRISE ZONE AREA DEVELOPMENT HISTORY

A. Describe the factors which accounted for the proposed expanded enterprise zone area's past growth, and indicate if they are still an influence. Complete only if an expansion to existing zone boundaries is being requested and the factors are different than those described in Form UEZ-1 for the original zone area. Comments must be confined to the space provided.

B. Describe any recent changes which have occurred in the proposed expanded enterprise zone area's economic and social conditions, and indicate how these changes compare to changes in conditions within the city or county as a whole. Provide documentation of trends whenever possible. Complete only if an expansion to existing zone boundaries is being requested and the changes are different than described in Form UEZ-1 for the original zone area. Comments must be confined to the space provided.

3.

Form UEZ-3

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality

IV. EXPANDED ENTERPRISE ZONE AREA LOCAL REVITALIZATION EFFORTS

Describe any past or present community development, urban renewal or other activities of the locality or any other organization aimed at revitalizing the proposed expanded enterprise zone area. Summarize the impact of these actions on the development problems of the area. Complete only if an expansion to existing zone boundaries is being requested and the revitalization efforts are different than those described in Form UEZ-1 for the original zone area.

V. EXPANDED ENTERPRISE ZONE AREA LAND USE CHARACTERISTICS

Describe in general the land use characteristics of the proposed expanded enterprise zone area. Complete only if an expansion to existing zone boundaries is being requested. Comments must be confined to the space provided.

4.

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

VI. EXPANDED ENTERPRISE ZONE AREA LAND USE CHARACTERISTICS (cont'd)

The following two maps must be included as attachments to this application if an expansion to existing zone boundaries is being requested.

- A. A map of the proposed expanded enterprise zone showing the existing land use characteristics according to the following characteristics:

<u>Privately-Held Land</u>	<u>Publicly-Held Land</u>
Business/Commercial	State/Federal Land
Industrial	Local Public Land Presently in Use
Institutional	Undeveloped/Unutilized Local Public Land
Single-Family Residential	
Multi-Family Residential	
Agriculture/Undeveloped	

Indicate on this map the acreage of the expanded zone area and the total zone acreage. Also indicate the approximate number of acres devoted to each type of land use in the expanded zone area. Show the boundaries of any community development or urban renewal project areas within the proposed expanded enterprise zone area. Label this map Attachment UEZ-2-VIA.

- B. A map of the proposed expanded enterprise zone area showing the boundaries of existing zoning districts. Label this map Attachment UEZ-2-VIB. (If the area is not zoned, this map need not be provided.)

VII. ENTERPRISE ZONE POPULATION AND HOUSING CHARACTERISTICS

Use 1980 U. S. Census data to complete all portions of Part VII. Calculate for total zone area. Complete only if an expansion to existing zone boundaries is being requested.

A. Total Population _____	G. Total Year-Round Housing Units _____
B. Persons in Poverty: Number _____ Percent _____	H. Vacant Year-Round Housing Units: Number _____ Percent _____
C. Total Households _____	I. Year-Round Housing Units Lacking Complete Plumbing Facilities: Number _____ Percent _____
D. Households Receiving Public Assistance Income: Number _____ Percent _____	J. Year-Round Housing Units With 1.01 or More Persons Per Room: Number _____ Percent _____
E. Total Civilian Labor Force _____	K. Median Household Income (Entire Jurisdiction) _____
F. Civilian Labor Force Members Unemployed: Number _____ Percent _____	L. Households With Income Below 80% of Median Household Income: Number _____ Percent _____

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

VIII. EXPANDED ENTERPRISE ZONE AREA PHYSICAL DEFICIENCIES

Describe any serious deficiencies in the physical condition of the following types of structures and facilities within the proposed expanded enterprise zone area which have impeded private investment or otherwise contributed to the problems of the area. Complete only if an expansion to existing zone boundaries is being requested and the deficiencies are different than those described in Form UEZ-1 for the original zone area.

- A. Infrastructure (e.g., water, sewer, storm sewer, electrical, road and sidewalk facilities, etc.):

- B. Community Facilities (e.g., schools, police and fire stations, libraries, parks and recreational facilities, etc.):

- C. Commercial and Industrial Facilities:

- D. Housing:

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

IX. EXPANDED ENTERPRISE ZONE AREA INVESTMENT OPPORTUNITIES

List and indicate the square footage of any large vacant facilities in the proposed expanded enterprise zone area which provide major investment opportunities. Complete only if an expansion to existing zone boundaries is being requested. Use only the space provided.

X. EXPANDED ENTERPRISE ZONE AREA LOCAL DEVELOPMENT OBJECTIVES

List any additional development objectives that the locality hopes to achieve in the expanded enterprise zone area through the Virginia Urban Enterprise Zone Program. These objectives should be specific and quantifiable. Complete only if an expansion to the existing zone boundaries is being requested and if there are additional development objectives. Use only the space provided.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

XI. EXPANDED ENTERPRISE ZONE AREA BARRIERS TO INVESTMENT

Summarize the major barriers in the expanded enterprise zone area impeding the achievement of the development objectives listed in Part X. Complete only if an expansion to existing zone boundaries is being requested. Comments must be confined to the space provided.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality

XVIII. LOCAL INCENTIVES TO BE ADDED OR REVISED (cont'd)

Important: See instructions on page 9 before completing this page.

Incentive: Provider:

Limitations on Applicability:

Period of Availability:

Effective Date:

Source of Funds:

Provider:

Limitations on Applicability:

Period of Availability:

Effective Date:

Source of Funds:

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality

XVII. LOCAL INCENTIVES TO BE DELETED OR REVISED

Identify all local enterprise zone incentives which are proposed to be deleted or revised. It is not necessary in this section to explain the nature of any proposed revisions. If additional pages are needed, label them Attachment UEZ-2-XVII, Attachment UEZ-2-XVII, etc.

XVIII. LOCAL INCENTIVES TO BE ADDED OR REVISED

On the following page, furnish the information described below for each new or revised local incentive to be provided in support of the enterprise zone.

Incentive: Briefly describe the proposed new or revised incentive.

Provider: Indicate who will be providing the incentive. If the applicant itself is to be the provider, so indicate with "applicant" or, in the case of joint applications, with the name of the appropriate locality. If an assigned agent is to be the provider, indicate the name of the organization or entity.

Limitations on Applicability: Indicate any limitations to be imposed on the applicability of the incentive to businesses or residents in the zone. If the incentive is to be made available without limitation, so indicate with "none".

Period of Availability: Indicate the time period for which the incentive will be made available (i.e., for the remaining life of the zone or for a shorter period - specify).

Effective Date: Indicate when the incentive will become effective (e.g., upon the approval date of the amendment, upon the date of passage of a local ordinance, etc.).

Source of Funds: For activities requiring direct expenditures, indicate the source of funds. If no direct expenditures are involved, so indicate with "n.a.".

Additional pages may be attached as necessary (8 1/2" x 11" - one side only). The information provided on additional pages must be presented in the same format used here. Label any additional pages Attachment UEZ-2-XVIII, Attachment UEZ-2-XVIII, etc.

Number of additional pages attached: _____

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

XIV. IMPACT OF AMENDED LOCAL ENTERPRISE ZONE INCENTIVES

Describe the projected impact of the amended local incentives on investment in the enterprise zone. Indicate specifically how the amended local incentives will be equal or superior to the ones they replace in helping to offset the investment barriers described in Part XI of the application for zone designation. If additional pages are used, label them Attachment UEZ-2-XIV1, Attachment UEZ-2-XIV2, etc.

11.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

XV. IMPACT OF STATE TAX INCENTIVES

Describe the projected impact of the State tax incentives provided through this Program on investment in the proposed expanded enterprise zone area. Indicate specifically how the State tax incentives will help offset the investment barriers described in Part XI. Complete only if an expansion to existing zone boundaries is being requested and the projected impact is different than that described in Form UEZ-1 for the original zone area. Comments must be confined to the space provided.

12.

Form UEZ-2

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

XVI. LOCAL ASSURANCES AND AUTHORIZATION

As the representative of the local governing body of _____, I hereby certify that: (locality)

- A. the information in this request for application amendment is accurate to the best of my knowledge;
- B. any local enterprise zone incentives proposed by the aforementioned locality in this request for application amendment represent a firm commitment;
- C. it is understood that if at any time the aforementioned locality is unable or unwilling to fulfill a commitment to provide local enterprise zone incentives, the zone shall be subject to termination; and
- D. a public hearing was held by the aforementioned locality to solicit comments on this request for application amendment.

Chief Administrator	Title	Date

Important: All requests for application amendment must include a resolution of the local governing body. Label this resolution(s) Attachment UEZ-2-XVI.

FORM UEZ-2-JA

JOINT APPLICATION
AMENDMENT AGREEMENT

Form UEZ-2-JA

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
JOINT APPLICATION AMENDMENT AGREEMENT
VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

As the representative of the local governing body of _____, I hereby certify that: (Locality)

- A. the aforementioned locality is in agreement with the other participating localities in filing this request for application amendment;
- B. the local enterprise zone incentives proposed by the aforementioned locality in this request for application amendment represent a firm commitment;
- C. it is understood that if at any time the aforementioned locality is unable or unwilling to fulfill a commitment to provide local enterprise zone incentives, the zone shall be subject to termination; and
- D. a public hearing was held by the aforementioned locality to solicit comments on this request for application amendment.

Chief Administrator

Title

Date

FORM UEZ-3-S

SURVEY OF
ZONE BUSINESS CONDITIONS

January 1987

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 SURVEY OF ZONE BUSINESS CONDITIONS
 VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____ Date _____
 Chief Administrator _____ Phone _____
 Designated Contact Person _____ Phone _____
 Address _____

I. ZONE BUSINESS CHARACTERISTICS

Using up-to-date data, either from a recently conducted survey or other current source, indicate the number of establishments and current employment level for each Standard Industrial Classification (SIC) division listed below. Do not include government establishments or employment.

SIC Division	Number of Establishments	Total Employment
Agriculture, Forestry and Fishing	_____	_____
Mining	_____	_____
Construction	_____	_____
Manufacturing	_____	_____
Transportation, Communication, Electric, Gas and Sanitary Services	_____	_____
Wholesale Trade	_____	_____
Retail Trade	_____	_____
Finance, Insurance and Real Estate Services	_____	_____

Source of Data:

II. ZONE INVESTMENT ACTIVITY

For each type of permit listed below, indicate the number and dollar value of permits issued within the enterprise zone from January 1, 1983 through December 31, 1987 (breakdown for each year).

Type of Permit	Number of Permits	Dollar Value (\$1,000)
<u>Nonresidential Structures:</u>		
New Construction	_____	_____
Alterations/Improvements/Additions	_____	_____
<u>Single-Family Residential Structures:</u>		
New Construction	_____	_____
Alterations/Improvements/Additions	_____	_____
<u>Multi-Family Residential Structures:</u>		
New Construction	_____	_____
Alterations/Improvements/Additions	_____	_____
Mobile Homes	_____	_____

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

Locality _____

III. ASSURANCE

To the best of my knowledge, the information contained herein is complete and accurate.

 Chief Administrator

 Title

 Date

This survey of zone business conditions is to be submitted to the Department of Housing and Community Development within 90 days of the date of zone designation.

Questions on this survey form may be directed to:

Department of Housing and Community Development
 Office of Local Development Programs
 205 North Fourth Street, Richmond, VA 23219
 (804) 786-4966

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 ANNUAL REPORT
 VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

FORM UEZ-3-AR
 ANNUAL REPORT

Locality _____ Date _____
 Chief Administrator _____ Phone _____
 Designated Contact Person _____ Phone _____
 Address _____
 Reporting Period: Beginning January 1, 1985 Ending December 31, 1985.

I. SALE OF SURPLUS PUBLIC LAND

Provide the information requested below for each parcel of surplus land owned by the local governing body within its Urban Enterprise Zone.

Location of Parcel (Street Address)	Size (in Acres)	Date Parcel Determined to be Surplus	Actions Taken Toward Sale of the Parcel
--	--------------------	--	--

Provide the information requested below for each parcel of land within the Urban Enterprise Zone sold by the local governing body during the reporting period. Also provide the requested information for parcels previously sold by the local governing body which were developed by the buyer during the reporting period.

Location of Parcel (Street Address)	Size (in Acres)	Date of Title Transfer	Type of Development Undertaken by Buyer
--	--------------------	---------------------------	--

Additional pages may be attached as needed. Use the same format and column headings, and label the pages Attachment UEZ-3-AR-11, Attachment UEZ-3-AR-12, etc.

Form UEZ-3-AR

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

II. LOCAL PROGRAM EVALUATION

On a separate page(s), provide an evaluation of the Program's success in achieving the local development objectives listed in the locality's application for zone designation. Also provide the number of business firms which have qualified for approved local incentives during the reporting period. Indicate which local incentives have been requested by the qualified business firms. Label the page(s) of this evaluation Attachment UEZ-3-AR-III, Attachment-3-AR-III etc.

III. STATE PROGRAM EVALUATION DATA

In the space below, provide data, if available, or estimates of:

Column A: the number of business firms (both qualified and nonqualified) which began operations within the zone during the reporting period;

Column B: the number of business firms (both qualified and nonqualified) which expanded their employment in the zone by more than 10 percent during the reporting period;

Column C: the number of new jobs created in the zone during the reporting period (whether provided by qualified or nonqualified firms);

Column D: the number of business closures in the zone during the reporting period; and

Column E: the number of jobs lost as a result of such business closures.

Group all data and/or estimates according to the indicated Standard Industrial Classification (SIC) divisions. Indicate estimates with asterisks (*).

SIC Division	A. New Firms	B. Expanding Firms	C. New Jobs	D. Business Closures	E. Job Losses
Agric., Frstry. & Fishing	_____	_____	_____	_____	_____
Mining	_____	_____	_____	_____	_____
Construction	_____	_____	_____	_____	_____
Manufacturing	_____	_____	_____	_____	_____
Trans., Comm. & Public Utis.	_____	_____	_____	_____	_____
Wholesale Trade	_____	_____	_____	_____	_____
Retail Trade	_____	_____	_____	_____	_____
Finance, Insur. & Real Estate	_____	_____	_____	_____	_____
Services	_____	_____	_____	_____	_____

Form UEZ-3-AR

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Locality _____

III. STATE PROGRAM EVALUATION DATA (cont'd)

For each type of permit listed below, indicate the number and dollar value of permits issued within the Urban Enterprise Zone during the reporting period.

Type of Permit	Number of Permits	Dollar Value (\$1,000)
Nonresidential Structures:	_____	_____
New Construction	_____	_____
Alterations/Improvements/Additions	_____	_____
Single-Family Residential Structures:	_____	_____
New Construction	_____	_____
Alterations/Improvements/Additions	_____	_____
Multi-Family Residential Structures:	_____	_____
New Construction	_____	_____
Alterations/Improvements/Additions	_____	_____
Mobile Homes	_____	_____

IV. ASSURANCES

As the representative of the local governing body of _____, I hereby certify that:

A. the information in the Annual Report is accurate to the best of my knowledge; and

B. the approved local program incentives are being provided as indicated in the locality's Application for Urban Enterprise Zone Designation (Form UEZ-1).

Chief Administrator _____
Title _____
Date _____

Annual reports are to be submitted to the Department of Housing and Community Development within 90 days of the anniversary date of zone designation.

Questions on this annual report form may be directed to:

Department of Housing and Community Development
Office of Local Development Programs
205 North Fourth Street, Richmond, VA 23219
(804) 786-4966

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM Statement Requesting State Tax Credits

FORM UEZ-45, 1/85

IMPORTANT
THIS STATEMENT MUST BE
ATTACHED TO FORM UEZ-4E OR
UEZ-4N.

PART A: BACKGROUND INFORMATION

- LOCALITY WHERE DESIGNATED ZONE IS LOCATED _____
- LEGAL NAME OF BUSINESS FIRM _____
- PRINCIPAL MAILING ADDRESS
(Where determination of qualification will be sent):
Rt., Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____
- BUSINESS FIRM IDENTIFICATION NUMBERS (BOTH NUMBERS ARE REQUIRED):
Federal Employer ID No. _____ Virginia Employment Commission (VEC) ID No. _____
- CHECK THE APPROPRIATE BOX TO INDICATE TYPE OF BUSINESS ORGANIZATION; IF OTHER, SPECIFY TYPE: SOLE PROPRIETORSHIP PARTNERSHIP OTHER
 S CORPORATION CORPORATION _____

PART B: REQUEST FOR STATE TAX CREDITS

- STATE TAX CREDITS ARE REQUESTED FOR TAXABLE YEAR BEGINNING 19____ AND ENDING 19____
(This taxable year is the same taxable year used for Program qualification purposes. See PART II, Item 3 on Form UEZ-4E or Form UEZ-4N.)
- The following State tax credits are requested for the above stated taxable year. (See Section 9.00 of the Urban Enterprise Zone Program Regulations which are included in the Instructions.)
 - STATE INCOME, FRANCHISE OR LICENSE TAX. CHECK APPROPRIATE BOX:

<input type="checkbox"/> State corporate income tax	<input type="checkbox"/> State individual income tax
<input type="checkbox"/> State franchise or license tax on gross receipts	<input type="checkbox"/> State franchise tax on net capital
 - STATE UNEMPLOYMENT TAX. Indicate legal name, street address and 4-digit SIC number of each zone establishment for which State unemployment tax on employees (Article 1, Chapter 5, Title 60.1, Code of Virginia) was paid during the taxable year stated above. See Exhibit A: Codes for Principal Business Activity in Instructions.

Legal Name _____ Street Address _____ SIC Number _____
 - STATE RETAIL SALES AND USE TAX. Does this firm request a refund of State Retail Sales and Use Tax which was paid during the taxable year, stated above, for conduct of trade or business within the urban enterprise zone? Yes No. If yes, complete Item 3 in PART D below.

PART C: DECLARATION

- BUSINESS FIRM REPRESENTATIVE: I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)

Signature _____	Typed or Printed Name _____	Title _____	Date _____
Office Use Only			
1. Received _____	2. a. Processed _____	b. Certificate No. _____	

PART D: TAX ADMINISTRATION INFORMATION

- STATE CORPORATE INCOME TAX: Complete this item ONLY if the firm is a subsidiary. Provide the following information about the parent corporation:
Legal Name _____ Federal Employer I.D. No. _____
- STATE INDIVIDUAL INCOME TAX: Complete this item ONLY if the firm is a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code. List the name, address and social security number of each partner or shareholder. List in the same order as on the appropriate federal and Virginia returns, for partnerships, Schedule K-1 or Schedule K (if there are more than ten Schedules K-1) of Form 1065 and Form 901 and for S Corporations, Schedule K of Form 1120S and Form 500S.

SOCIAL SECURITY NUMBERS ARE REQUESTED FOR TAX ADMINISTRATION PURPOSES ONLY.

Partner/Shareholder Name	Address	Social Security Number
A _____	_____	_____
B _____	_____	_____
C _____	_____	_____

If additional space is needed, attach a separate sheet using same headings.

No. of Attachments _____

- STATE RETAIL SALES AND USE TAX. Indicate amount actually paid for taxable year (same as Item 1 in PART B above) on all items purchased or leased for the conduct of trade or business within a Virginia Urban Enterprise Zone. This amount applies ONLY to the State portion of the retail sales and use tax and not to any portion of the tax levied under local option. (Code of Virginia references were revised as of January 1, 1995. The old reference is 58-441.1 et seq; the new reference is 58.1-600.)

AMOUNT ACTUALLY PAID \$ _____

- STATE UNEMPLOYMENT TAX: Complete this item ONLY if the zone establishment(s) for which State unemployment tax on employees was paid (identified in PART B, item 2b, above) does not have a separate Virginia Employment Commission (VEC) identification number. List the name and social security number of each full-time employee assigned to the zone establishment(s) for at least one half of his normally scheduled work days.

SOCIAL SECURITY NUMBERS ARE REQUESTED FOR TAX ADMINISTRATION PURPOSES ONLY.

Employee Name	Social Security Number
A _____	_____
B _____	_____
C _____	_____

If additional space is needed, attach a separate sheet using same headings.

No. of Attachments _____

DETACH LAST COPY AND KEEP FOR YOUR RECORDS. MAIL OR DELIVER THIS STATEMENT TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 205 NORTH FOURTH STREET, RICHMOND, VA 23219 NO LATER THAN 30 CALENDAR DAYS PRIOR TO YOUR NORMAL OR EXTENDED DEADLINE FOR FILING A RETURN FOR STATE CORPORATE INCOME TAX OR STATE INDIVIDUAL INCOME TAX.

VIRGINIA URBAN ENTERPRISE ZONE PROGRAM
Request To Qualify For State Tax Credits
NEW FIRMS

PART I: BACKGROUND INFORMATION

1. LOCALITY WHERE ZONE IS LOCATED: _____

2. CHECK BOX TO INDICATE WHEN BUSINESS FIRM BEGAN OPERATING IN ZONE

For Zones designated effective Jan. 1, 1984 Before Jan. 1, 1984 (If this box is checked, you need form UEZ-4E) After Jan. 1, 1984 (This box is for "new" firms)

Date firm began MO DAY YR
Operations in zone _____

For Zones designated effective Jan. 1, 1985 Before Jan. 1, 1985 (If this box is checked, you need form UEZ-4E) After Jan. 1, 1985 (This box is for "new" firms)

Date firm began MO DAY YR
Operations in zone _____

3. NAME OF BUSINESS FIRM "TRADING AS" NAME

(Legal Name) (if different from legal name)

4. PRINCIPAL MAILING ADDRESS (where determination of qualification will be sent)

Route, Street or P.O. Box City or Town Zip Code

5. BUSINESS FIRM CONTACT. _____
Name of Person Business Telephone Number

6. Indicate legal name, street address and 4-digit SIC number of each zone establishment. See Codes for Principal Business Activity in Instructions.

Legal Name Street Address SIC Number

PART II: QUALIFICATION INFORMATION

1. Check appropriate box to indicate type of State tax which applies to your firm: State corporate income tax State franchise tax on net capital State franchise or license tax on gross receipts State individual income tax

2. Filing deadline for State tax checked on line 1: MO DAY YR indicates if filing deadline is Normal Extended

3. Qualification is requested for taxable year beginning _____, 19 _____ and ending _____, 19 _____

4. QUALIFICATION REQUIREMENTS: See instructions for method of computing these numbers.

A. ADJUSTED GROSS EXPENSES (PROXY FOR GROSS RECEIPTS) TEST

(1) Dollar amount of adjusted gross expenses during the Qualification Taxable Year (same as Item II-3 above) which was attributed to all establishments inside the zone. Round to the nearest one hundred dollars. _____ \$ _____

(2) Dollar amount of adjusted gross expenses during the Qualification Taxable Year (same as Item II-3 above) which was attributed to all establishments both inside and outside the zone. Round to the nearest one hundred dollars. _____ \$ _____

(3) Percent of adjusted gross expenses attributable to zone activity. Divide Item A-(1) by Item A-(2), multiply by 100 and round to the nearest whole percent. _____

B. EMPLOYMENT AND LOW-INCOME TEST

(1) Average number of full-time employees who were employed at the firm's zone establishment(s) during the Qualification Taxable Year, which is the same as Item II-3 above. _____

(2) Average number of full-time employees in Item B-(1) above who meet the definition of low-income person. _____

(3) Percent of average full-time employees who meet the definition of low-income person. Divide Item B-(2) by Item B-(1), multiply by 100 and round to the nearest whole percent. _____

PART III: DECLARATION

1. BUSINESS FIRM REPRESENTATIVE:

I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)

Signature Typed or Printed Name Title Date

2. CERTIFIED PUBLIC ACCOUNTANT:

We, the undersigned, declare that this request has been prepared by us and is, to the best of our knowledge, an accurate statement; we further affirm that this business firm meets the requirements for becoming a qualified firm as set forth in the Rules and Regulations of the Virginia Urban Enterprise Zone Program and that the establishment(s) listed in PART I, Item 6 are located within the boundaries of the urban enterprise zone. We further affirm that we are licensed by the Commonwealth of Virginia and we are not an employee of this business firm which is seeking to qualify for State tax incentives under this Program.

Signature Date

Route, Street or P.O. Box City or Town State Zip Code

Office Use Only

1. Received _____ 2. a. Processed _____ b. Certificate No. _____

Comments: _____

DETACH LAST COPY AND KEEP FOR YOUR RECORDS. MAIL OR DELIVER THIS FORM TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 205 NORTH FOURTH STREET, RICHMOND, VA 23219 NO LATER THAN 30 CALENDAR DAYS PRIOR TO YOUR NORMAL OR EXTENDED DEADLINE FOR FILING A RETURN FOR STATE CORPORATE INCOME TAX, OR STATE INDIVIDUAL INCOME TAX, OR STATE FRANCHISE OR LICENSE OR LICENSE TAX ON GROSS RECEIPTS, OR STATE FRANCHISE TAX ON NET CAPITAL.

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VIRGINIA URBAN ENTERPRISE ZONE PROGRAM

FORM UEZ-4E (1/85)

Request To Qualify For State Tax Credits
EXISTING FIRMS

PART I: BACKGROUND INFORMATION

1. LOCALITY WHERE ZONE IS LOCATED: _____

2. CHECK BOX TO INDICATE WHEN BUSINESS FIRM BEGAN OPERATING IN ZONE.

For Zones designated Before Jan. 1, 1984 (This box is for "existing" firms)
effective Jan. 1, 1984 After Jan. 1, 1984 (If this box is checked, you need form UEZ-4N)

Date firm began Operations in zone: MO DAY YR

For Zones designated Before Jan. 1, 1985 (This box is for "existing" firms)
effective Jan. 1, 1985 After Jan. 1, 1985 (If this box is checked, you need form UEZ-4N)

Date firm began Operations in zone: MO DAY YR

3. NAME OF BUSINESS FIRM _____ "TRADING AS" NAME _____
(Legal Name) (If different from legal name)

4. PRINCIPAL MAILING ADDRESS (Where determination of qualification will be sent)

Route, Street or P.O. Box _____ City or Town _____ Zip Code _____

5. BUSINESS FIRM CONTACT: _____ Name of Person _____ Business Telephone Number _____

6. Indicate legal name, street address and 4-digit SIC number of each zone establishment. See Codes for Principal Business Activity in instructions.

Legal Name	Street Address	SIC Number
_____	_____	_____

PART II: QUALIFICATION INFORMATION

1. Check appropriate box to indicate type of State tax which applies to your firm:

State corporate income tax State franchise tax on net capital
 State franchise or license tax on gross receipts State individual income tax

2. Filing deadline for State tax checked on line 1: MO DAY YR Indicate if filing deadline is Normal Extended

3. Qualification is requested for taxable year beginning 19____ and ending 19____

4. Base Taxable Year for Business Firm beginning 19____ and ending 19____

6. QUALIFICATION REQUIREMENTS: See instructions for method of computing these numbers.

A. ADJUSTED GROSS EXPENSES (PROXY FOR GROSS RECEIPTS) TEST

(1) Dollar amount of adjusted gross expenses during the Qualification Taxable Year (same as Item II-3 above) which was attributed to all establishments inside the zone. Round to the nearest one hundred dollars. \$_____

(2) Dollar amount of adjusted gross expenses during the Qualification Taxable Year (same as Item II-3 above) which was attributed to all establishments both inside and outside the zone. Round to the nearest one hundred dollars. \$_____

(3) Percent of adjusted gross expenses attributable to zone activity. Divide Item A-(1) by Item A-(2), multiply by 100 and round to the nearest whole percent. _____

B. EMPLOYMENT AND LOW-INCOME TEST

(1) Average number of full-time employees who were employed at the firm's zone establishments during the Base Taxable Year, which is the same as Item II-4 above. _____

(2) Average number of full-time employees who were employed at the firm's zone establishments during the Qualification Taxable Year, which is the same as Item II-3 above. _____

(3) Average number of full-time employees in Item B-(2) who were hired after the Base Taxable Year. (Subtract line B(1) from line B(2)). _____

(4) Average number of full-time employees in Item B-(3) who meet the definition of low-income person. _____

(5) Percent of increase in average full-time employees. (Base Taxable Year compared to Qualification Taxable Year) Divide Item B-(3) by Item B-(1), multiply by 100 and round to the nearest whole percent. _____

(6) Percent of increase in average full-time employees who meet the definition of low-income person. Divide Item B-(4) by Item B-(3), multiply by 100 and round to the nearest whole percent. _____

PART III: DECLARATION

1. BUSINESS FIRM REPRESENTATIVE: I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)

Signature _____ Typed or Printed name _____ Title _____ Date _____

2. CERTIFIED PUBLIC ACCOUNTANT:

We, the undersigned, declare that this request has been prepared by us and is, to the best of our knowledge, an accurate statement; we further affirm that this business firm meets the requirements for becoming a qualified firm as set forth in the Rules and Regulations of the Virginia Urban Enterprise Zone Program and that the establishment(s) listed in PART I, Item 6 are located within the boundaries of the urban enterprise zone. We further affirm that we are licensed by the Commonwealth of Virginia and we are not an employee of this business firm which is seeking to qualify for State tax incentives under this Program.

Signature _____ Date _____

Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

Office Use Only

1. Received _____ 2. a. Processed _____ b. Certificate No. _____

Comments: _____

DETACH LAST COPY AND KEEP FOR YOUR RECORDS. MAIL OR DELIVER THIS FORM TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 208 NORTH FOURTH STREET, RICHMOND, VA 23219 NO LATER THAN 30 CALENDAR DAYS PRIOR TO YOUR NORMAL OR EXTENDED DEADLINE FOR FILING A RETURN FOR STATE CORPORATE INCOME TAX, OR STATE INDIVIDUAL INCOME TAX, OR STATE FRANCHISE OR LICENSE OR LICENSE TAX ON GROSS RECEIPTS, OR STATE FRANCHISE TAX ON NET CAPITAL.

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-02-12. Virginia Occupational Safety and Health Standards for General Industry - Virginia Confined Space Standard - 1910.146.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The final Confined Space Standard defines a "confined space" as "any space not intended for continuous employee occupancy, having a limited means of egress, and which is also subject to the accumulation of an actual or potentially hazardous atmosphere... or a potential for engulfment."

With some limited exceptions, the final standard provides the following general practices and procedures for entry into and work inside a confined space: (i) the employer must implement a written entry permit system; (ii) the employer must train each employee on the hazards of working in a confined space before the employee is authorized to enter a confined space (the employer must maintain the records of the most recent training program conducted); (iii) atmospheric testing must be conducted for oxygen level, flammability and toxic materials expected to be present; (iv) all confined spaces must be flushed or emptied of all dangerous substances to the extent feasible and in the case of a hazardous atmosphere adequate ventilation must be provided; (v) electrical and mechanical hazards must be removed or prevented from causing a hazardous situation; (vi) when necessary, an attendant shall be stationed immediately outside every confined space (a nonattendant entry is permitted in many cases); and (vii) the employee entering a confined space with a hazardous atmosphere must be provided with an appropriate retrieval device with a retrieval line and an appropriate respirator.

An important aspect of the proposed standard is its reliance on the concept of the "qualified person." A "qualified person" is defined as "a person who is trained to recognize the hazard(s) of the confined space and how to evaluate those anticipated hazards." The final standard provides that the employer may designate an employee as a "qualified person" for the purpose of assuring safe confined space entry procedures and practices at a specific site.

Appendix A is a list of concentrations at which certain substances exhibit Immediately Dangerous to Life or Health effects. Appendix B is a list of amendments and deletions for 1910 General Industry standards which will become effective concurrent with the Confined Space Standard. Appendix C lists 1926 Construction Industry standards which are to be

amended or deleted concurrent with the standard.

VR 425-02-12. Virginia Occupational Safety and Health Standards for General Industry - Virginia Confined Space Standard - 1910.146.

§ 1. Definitions.

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

"Attendant" means an individual assigned to remain immediately outside the entrance to the confined space and who may render assistance as needed to employees inside the space.

"Blind" or "blinding" or "blanking" means the absolute closure of a pipe, line or duct, to prevent passage of any material (e.g., by fastening a solid plate or "cap" across the pipe).

["Calibration" or "recalibration" means a laboratory or bench-top resetting of alarm points, spans and zeros, if applicable, according to manufacturer's specifications. "Calibration" or "recalibration" shall be conducted by a factory authorized service center, a factory trained technician, or a trained company technician.]

"Confined space" means any space not intended for continuous employee occupancy, having a limited means of egress, and which is also subject to either the accumulation of an actual or potentially hazardous atmosphere as defined in this subsection or a potential for engulfment as defined in this subsection. Confined spaces generally include, but are not limited to, storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, sewers, manholes, underground utility vaults, acid tanks, digesters, ovens, kiers, pulpers, tunnels, [pipelines and open and pipelines. Open] top spaces more than four feet in depth such as pits, tubs, vaults and vessels [may also be confined spaces if the three criteria above are met].

"Engulfment" means the surrounding and effective capture of a person by finely divided particulate matter or a liquid. [There is a potential for engulfment when such particulate matter or liquid exists in a sufficient quantity or at a sufficient pressure to surround a person before normal exit can be effected.]

"Entrant" means any employee who enters a confined space.

"Entry" means any action resulting in any part of the employee's face breaking the plane of any opening of the confined space, and includes any ensuing work activities inside the confined space.

"Entry permit" means the employer's written authorization for employee entry into a confined space under defined conditions for a stated purpose during a

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specified time.

"Field checked" means [the checking of the accuracy of an instrument's response to a known concentration of a gas; a method of checking an instrument for a proper response in the field. It is a check of the instrument's functionality and is a pass-fail or go/no-go check.] When an adequate response is not obtained then the equipment should be removed from service and adjusted or repaired by a factory-authorized service center or factory-trained technician [or a trained company technician].

"Ground-fault circuit-interrupter" means a device whose function is to interrupt the electric circuit to the load when a fault current to ground exceeds [some a] predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit.

"Hazardous atmosphere" means an atmosphere presenting a potential for death, disablement, injury, or acute illness from one or more of the following causes:

1. A flammable gas, vapor, or mist in excess of 10% of its lower explosive limit (LEL);
2. An oxygen-deficient atmosphere containing less than 19.5% oxygen by volume or an oxygen-enriched atmosphere containing more than 23% oxygen by volume;
3. An atmospheric concentration of any substance listed in Subpart Z of Part 1910 Standards above the listed numerical value of the permissible exposure limit (PEL); or
4. A condition immediately dangerous to life or health as defined in this subsection.

"Immediately dangerous to life or health (IDLH)" means any condition that poses an immediate threat to life, or which is likely to result in acute or immediately severe health effects. See Appendix A for concentrations at which several chemicals exhibit IDLH effects.

"Immediate severe health effects" means that an acute clinical sign of serious, exposure-related reaction is manifested within 72 hours of exposure.

"Lockout or tagging" means placing locks or tags on the energy-isolating device in accordance with § 3 B of this standard. Tags shall indicate that the energy-isolated device shall not be operated until the removal of the tag.

"Qualified person" means a person who is trained to recognize the hazard(s) of the confined space and how to evaluate those anticipated hazards [and shall be capable of specifying necessary control measures to insure worker safety]. The employer may designate an employee as employer representative for the purpose of assuring safe confined space entry procedures and practices at a

specific site. The qualified person may also be the entrant when permissible according to § 5 A of this standard.

"Rescue team" means those persons [which whom] the employer has designated prior to any confined space entry to perform rescues from confined spaces. A rescue team may consist of outside emergency personnel, provided the training requirements of § 7A.2 of this standard have been met.

"Retrieval line" means a line or rope secured at one end to a worker's safety belt, chest or body harness, or wristlets with the other end secured to an anchor point or lifting device located outside the entry portal. [The anchor point shall not be a motor vehicle.] Retrieval lines must be of sufficient strength to remove an entrant when necessary.

"Zero mechanical state" means that the mechanical potential energy of all portions of the machine or equipment is [at its lowest practical value set] so that the opening of the pipe(s), tube(s), hose(s), or actuation of any valve, lever, or button, will not produce a movement which could cause injury.

§ 2. Scope and application.

A. This section prescribes basic mandatory practices and procedures which employers must establish and use for employee entry into and work within confined spaces.

B. This section applies to all employers with employees covered by Virginia Standards for General Industry (Part 1910) and Virginia Standards for Construction Industry (Part 1926) [except for employers with employees covered by the telecommunications standards in 1910.268].

[C. Natural Gas Companies governed by the Federal Pipeline Safety Act who have confined space entry procedures approved by and in accordance with guidelines established by the Virginia State Corporation Commission shall be exempt from the requirements of this standard.]

§ 3. Preparation.

Entry into a confined space shall not be made unless the qualified person has assured that the following procedures have first been completed.

A. All pumps or lines which may convey flammable, injurious, or incapacitating substances into a space shall be disconnected, blinded, [double blocked or bled,] or effectively isolated by other means to prevent the development of dangerous levels of air contamination or oxygen deficiency within the space. [The closing of valves alone, or the closing of valves and locking or tagging them, is not considered effective protection.] The disconnection or blind shall be so located or done in such a manner that inadvertent reconnection of the line or removal of the blind are effectively prevented.

1. This does not apply to public utility gas distribution systems.

2. This does not require blocking of all laterals to sewers or storm drains unless experience or knowledge of industrial use indicates materials resulting in dangerous air contamination may be dumped into an occupied sewer.

B. All fixed mechanical devices and equipment that are capable of causing injury shall be placed at zero mechanical state (ZMS). Electrical equipment, excluding lighting, shall be locked out in the open (off) position with a key-type padlock except in cases where locking is impossible; in such cases equipment shall be properly tagged in accordance with 1910.145(f). The key shall remain with the person working inside the confined space. Installations under the exclusive control of electric utilities [and companies performing the same functions as electric utilities on their own property] for the purpose of communication, or metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility [or such companies] or on public highways, streets, roads, etc., or outdoors by established rights on private property, are exempt from the requirements of this paragraph.

C. All confined spaces shall be emptied, flushed, or otherwise purged of flammable, injurious, or incapacitating substances to the extent feasible. Initial cleaning shall be done from outside the confined space [if at all possible to the extent feasible].

D. Where the existence of a hazardous atmosphere is demonstrated by tests performed by the qualified person, the confined space shall be mechanically ventilated until the concentration of the hazardous substance(s) is reduced to a safe level, and ventilation shall be continued as long as the recurrence of the hazard(s) is possible or appropriate personal protective equipment, as defined in Subpart I of the Virginia Standards for General Industry (Part 1910) and Subpart E of the Virginia Standards for Construction Industry (Part 1926), shall be used by all employees during entry.

§ 4. Atmosphere testing.

A. The qualified person shall assure that each confined space into which an employee may be required to enter is tested immediately prior to entry by a qualified person using direct reading instruments with remote sampling capacity for the following conditions:

1. Oxygen level;
2. Potential flammable hazard; and
3. Toxic materials known or expected to be present.

The testing of the atmosphere for a particular toxic material is not necessary where the presence of that material is known by virtue of a previous test and appropriate personal protective equipment to protect against that material is utilized.

B. When an attendant has been assigned, as prescribed by § 5 A, a qualified person shall perform atmospheric testing during [~~occupation~~ occupancy] at intervals dependent on the possibility of changing conditions [, but in no case less frequently than hourly]. Atmospheric test results must be recorded on the permit at least hourly in accordance with § 6 B.

C. When a nonattendant entry is permitted, as allowed by § 5 A, at least one entrant shall wear a continuous monitoring device equipped with an alarm and capable of evaluating oxygen concentrations and combustible gas concentrations in the confined space. When large confined spaces are entered, a sufficient number of monitoring devices shall be either worn or located in the work area to adequately monitor the atmosphere. The qualified person shall assess the need for mechanical ventilation in all confined spaces in accordance with the written permit system.

D. [~~The calibration of each~~ Each] atmospheric testing instrument shall be [~~checked~~ calibrated] according to the manufacturer's instructions [or, if no manufacturer's specifications exist, at least yearly,] and field checked immediately prior to its use. [Instruments which are out of calibration or fail a field check cannot be used until they are properly calibrated.]

§ 5. Attendants and rescue teams.

A. The qualified person shall evaluate each confined space that an employee may be required to enter by identifying and evaluating the hazards and potential hazards of that space. The qualified person then may allow an employee to make an unaccompanied, nonattendant entry into a confined space which has no potential for engulfment or IDLH atmosphere, and only low potential for hazardous atmosphere, provided the requirements of § 4 C are met.

B. An attendant shall be stationed immediately outside every confined space which has been found to have an IDLH atmosphere, a hazardous atmosphere or a potential for engulfment. The attendant shall be trained as directed by § 7 A.2, be within sight or call of the entrant, and have the means available to summon assistance.

C. Rescue teams shall be available where the confined space has been found to have an IDLH atmosphere, a hazardous atmosphere or a potential for engulfment.

§ 6. Permit systems.

[A.] The employer shall develop and implement a written entry permit system [for all confined space

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entries] which includes a written permit procedure that provides the following minimum information:

[~~A~~ 1.] The minimum acceptable environmental conditions which are acceptable to the employer for entry and work in the confined space;

[~~B~~ 2.] A record of atmospheric test results conducted prior to entry and at least hourly thereafter when an attendant is required;

[~~C~~ 3.] The last calibration date(s) for the oxygen detector and combustible gas indicator being used;

[~~D~~ 4.] The signature of the qualified person responsible for securing the permit and reviewing conditions prior to entry;

[~~E~~ 5.] A written description of the location and type of work to be done;

[~~F~~ 6.] Each permit shall be dated and carry an expiration time of not more than 12 hours; the permit may be extended for another 12-hour period pending recertification of acceptable conditions.

[B. Entry permit forms shall be retained until the corresponding entry has been successfully completed.]

§ 7. Training.

A. The employer shall inform his employees of the hazards of working in confined spaces by providing specific training to employees before they may be authorized to enter a confined space.

1. General. The employer shall assure that [the qualified person and] all employees who may be required to enter a confined space have received training covering the following subjects:

a. Hazard recognition;

b. Use of respiratory protection equipment if the use of such equipment will be required. Training requirements are specified in 1910.134;

c. Use of atmospheric testing devices for those employees required to perform atmospheric tests. Training shall cover field checks as specified by the manufacturer, normal use, and specific limitations of the equipment;

d. Lockout and tagging procedures;

e. Use of special equipment and tools;

f. Emergency and rescue methods and procedures.

2. Rescue teams. Rescue teams shall be trained to use the equipment they may need to perform rescue

functions assigned to them.

a. At least annually rescue teams shall practice removing victims through openings and portals of the same size, configuration and accessibility as those of spaces from which an actual rescue could be required.

b. The attendant or at least one member of each rescue team shall hold current certification in basic first aid and CPR (Cardio-Pulmonary Resuscitation).

B. The employer shall maintain the records of the most recent training program conducted. These records shall include the date(s) of the training program, the instructor(s) of the training program, and the employee(s) to whom the training was given.

§ 8. Special equipment and tools.

A. No sources of ignition shall be introduced [into a confined space] until the implementation of [the] appropriate provision of this section has ensured that dangerous air contamination due to flammable or explosive substances does not exist.

B. All electrical cords, tools, and equipment shall be inspected for visually detectable defects before use in a confined space. In the absence of low voltage circuits and equipment or double insulated tools, equipment shall be of the heavy duty insulation type or ground fault circuit interrupters shall be used. Temporary lighting shall conform with 1926.405(a)(2)(ii)(G).

C. No fan or other equipment used for removing flammable gases or vapors shall create an ignition hazard.

D. Cylinders of compressed gases shall never be taken into a confined space, and shall be turned off at the cylinder valve when not in use. [~~Overnight and at the change of shifts~~; When to be left unattended] the torch and hose shall be removed from the confined space. Open end fuel gas and oxygen hoses shall be immediately removed from enclosed spaces when they are disconnected from the torch or other gas-consuming device. Exempt from this rule are cylinders that are part of self-contained breathing apparatus or resuscitation equipment.

§ 9. Tripods, safety harnesses, retrieval lines and respiratory protection.

A. Where the existence of an IDLH atmosphere, a hazardous atmosphere or potential for engulfment has been demonstrated by the qualified person, the following requirements shall also apply:

1. An appropriate retrieval device with retrieval line shall be used by any entrant(s), except where the retrieval lines themselves could cause a hazard because of structures, equipment, or becoming entangled with other lines inside the confined space.

Where a retrieval line is used, the free end of the retrieval line shall be secured outside the entry opening either by another person holding the line or by securing it in some other manner.

2. When entry is made through a top opening, a hoisting device such as a tripod shall be provided for lifting employees out of the space.

B. When a person is required to enter a confined space which has either an IDLH atmosphere or a hazardous atmosphere there shall be either a positive-pressure self-contained breathing apparatus or a combination positive-pressure air-line respirator with an auxiliary self-contained air supply immediately outside the entrance to the confined space.

C. When a person(s) must enter a confined space which contains either an IDLH atmosphere or a hazardous atmosphere without a retrieval line attached, then each entrant shall be supplied with and wear a MSHA/NIOSH approved positive pressure self-contained breathing apparatus.

[§ 10. Effective date and start-up date.

A. Effective date. July 1, 1987.

B. Start-up date. Enforcement of all portions of 1910.146 will begin on January 1, 1988.]

APPENDIX A

[Concentrations at which Substances Exhibit IDLH Effects

Concentrations At Which Some Common Substances Exhibit Immediately Dangerous to Life or Health (IDLH) Effects

Appendix A is a nonmandatory appendix. According to the National Institute for Occupational Safety and Health (NIOSH) the levels listed below represent a maximum concentration from which one could escape within 30 minutes without any escape-impairing symptoms or any irreversable health effects. These levels were published by NIOSH in September 1985 and are subject to frequent change. This list is not meant to be all inclusive but rather is meant to list some of the more frequently encountered chemicals in confined spaces.]

CHEMICAL NAME	IDLH LEVELS*
Ammonia	500 ppm
Benzene	2,000 ppm
Butadiene	20,000 ppm
2 - Butanone	3,000 ppm
Carbon dioxide	[5,000 ppm 50,000 ppm]

Carbon monoxide	1,500 ppm
Carbon tetrachloride	300 ppm
Chlorine	25ppm
Chlorobromomethane	5,000 ppm
Chloroform	1,000 ppm
Cresol	250 ppm
Cyclohexane	10,000 ppm
Dichlorodifluoromethane	50,000 ppm
Dichloromonofluoromethane	50,000 ppm
Ethyl acetate	[400 ppm 10,000 ppm]
Fluorotrichloromethane	[100 ppm 10,000 ppm]
Heptane	4,250 ppm
Hexane	5,000 ppm
2 - Hexanone	5,000 ppm
Hydrogen chloride	[100 ppm]
Hydrogen sulfide	300 ppm
Isopropyl alcohol	20,000 ppm
Liquified petroleum gas	19,000 ppm
Methyl alcohol	[2,000 ppm 25,000 ppm]
Methyl cellosolve	2,000 ppm
Methyl cellosolve acetate	4,500 ppm
Methyl chloroform	1,000 ppm
Methylene chloride	5,000 ppm
Nitric oxide	100 ppm
Nitrogen dioxide	50 ppm
Octane	3,750 ppm
Ozone	10 ppm
Pentane	5,000 ppm
Petroleum distillates mixture	10,000 ppm
Phenol	100 ppm
Phosgene	2 ppm

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Propane	20,000 ppm	1910.252(d)(2)(vi)(c)	Deleted
Sodium hydroxide	200 mg/M3	1910.252(d)(4)(ii)	Deleted
Stoddard solvent	5,000 ppm	1910.252(e)(4)(i)	Deleted
Styrene	5,000 ppm	1910.252(e)(4)(ii)	Deleted
Sulfur dioxide	100 ppm	1910.252(e)(4)(iii)	Deleted
1,1,2,2 - Tetrachloro-1, 2 - difluoroethane	15,000 ppm	1910.252(e)(4)(iv)	Deleted
Toluene	2,000 ppm	1910.252(e)(4)(vi)	Deleted
Toluene-2,4-diisocyanate	10 ppm	1910.252(f)(2)(i)	Amended to apply 1910.146 to welding or cutting in confined spaces
Trifluoromonobromomethane	50,000 ppm		
Turpentine	1,900 ppm		
Xylene	10,000 ppm	1910.252(f)(2)(i)(c)	Amended to eliminate a reference to confined space
*Reference NIOSH/OSHA Pocket Guide to Chemical Hazards DHEW (NIOSH) Publication No. 78-210			
APPENDIX B		1910.252(f)(4)(i)	Deleted
[Proposed Amendments And Deletions To VOSH Standards For General Industry To Coincide With The Adoption Of Virginia Confined Space Standard, 1910-146]		1910.252(f)(4)(ii)	Deleted
		1910.252(f)(4)(iii)	Deleted
[Amendments and Deletions to VOSH Standards for General Industry to become effective January 1, 1988 and to coincide with the start-up date of the Virginia Confined Space Standard]		1910.252(f)(4)(iv)	Deleted
		1910.252(f)(5)(i)	Amended to apply 1910.146 to welding with flourine compounds in confined spaces
Ventilation, 1910.94			
1910.94(d)(11)(ii)	Amended to apply 1910.146 to the inspection, maintenance and installation of tanks, except for emergency situations such as rescue operations	1910.252(f)(6)(i)	Amended to apply 1910.146 to welding with zinc in confined spaces
		1910.252(f)(7)(i)	Amended to apply 1910.146 to welding with lead in confined spaces
1910.94(d)(11)(iii)	Deleted	1910.252(f)(7)(iii)	Amended to eliminate a reference to confined spaces
1910.94(d)(11)(iv)	Deleted		
1910.94(d)(11)(vi)	Amended to apply 1910.146 to maintenance work	1910.252(f)(8)	Amended to apply 1910.146 to welding with beryllium in confined spaces
Welding, Cutting and Brazing, 1910.252		1910.252(f)(9)(i)	Amended to eliminate a

	reference to confined spaces	1910.261(g)(15)(iii)	Deleted
1910.252(f)(9)(ii)	Amended to apply 1910.146 to welding with cadmium in confined spaces	1910.262(g)(15)(iv)	Deleted
		1910.261(j)(5)(ii)	Deleted
		1910.261(j)(5)(iii)	Amended to apply 1910.146 to cleaning, inspecting or other work in pulpers
1910.252(f)(10)	Amended to apply 1910.146 to welding with cadmium in confined spaces	1910.261(j)(6)(i)	Deleted
		1910.261(j)(6)(iii)	Amended to apply 1910.146 to cleaning, inspecting or other work in stock chests
Pulp, Paper and Paperboard Mills, 1910.261			
1910.261(b)(5)	Amended to apply 1910.146 to working in closed vessels, tanks, chip bins, and similar equipment	Textiles, 1910.262	
		1910.262(p)(1)	Deleted
1910.261(e)(12)(iii)	Deleted	1910.262(q)(2)	Deleted
1910.261(f)(6)(i)	Amended to apply 1910.146 to cleaning, inspection or other work in rag cookers	Bakery Equipment, 1910.263	
		1910.263(l)(3)(iii)(b)	Amended to apply 1910.146 to work in ovens
1910.261(f)(6)(ii)	Amended to provide that standby person shall be in a position to summon assistance in case of an emergency	[Telecommunications, 1910.268	
		1910.268(e)	Amended to apply 1910.146 to ventilation and testing for gas in manholes and unvented vaults
1910.261(g)(2)(iii)	Deleted	1910.268(o)(1)(ii)	Deleted
1910.261(g)(4)(i)	Deleted	1910.268(o)(ii)(a)	Deleted
1910.261(g)(4)(ii)	Deleted	1910.268(o)(1)(ii)(b)	Deleted
1910.261(g)(6)	Deleted	1910.268(o)(1)(ii)(c)	Deleted
1910.216(g)(8)	Amended to apply 1910.146 to work in chip and sawdust bins	1910.268(o)(2)	Amended to apply 1910.146 to entry of manholes and vented vaults
1910.261(g)(15)	Amended to apply 1910.146 to work in digesters	1910.268(o)(2)(i)	Deleted
		1910.268(2)(i)(a)	Deleted
1910.261(g)(15)(i)	Deleted	1910.268(o)(2)(i)(b)	Deleted
1910.261(g)(15)(ii)	Deleted		

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1910.268(o)(2)(ii)	Deleted	Ventilation and Protection in Welding, Cutting, and Heating, 1926.353	
1910.268(o)(2)(ii)(a)	Deleted	1926.353(b)	Amended to apply 1910.146 to welding, cutting and heating in confined spaces
1910.268(o)(2)(ii)(b)	Deleted		
1910.268(o)(2)(ii)(c)	Deleted		
1910.268(o)(2)(ii)(d)	Deleted	1926.353(b)(1)	Deleted
1910.268(o)(2)(ii)(e)	Deleted	1926.353(b)(2)	Deleted
1910.268(o)(2)(iii)(a)	Deleted	1926.353(c)	Amended to apply 1910.146 to welding, cutting, or heating of metals of toxic significance in confined spaces
1910.268(o)(2)(iii)(b)	Deleted		
1910.268(o)(3)	Deleted		
1910.268(o)(5)	Deleted		
1910.268(o)(5)(i)	Deleted	1926.353(c)(1)	Deleted
1910.268(o)(5)(ii)	Deleted]	1926.353(c)(1)(i)	Deleted
		1926.353(c)(1)(ii)	Deleted
		1926.353(c)(1)(iii)	Deleted
		1926.353(c)(1)(iv)	Deleted
		1926.353(c)(2)	Deleted
		1926.353(c)(2)(i)	Deleted
		1926.353(c)(2)(ii)	Deleted
		1926.353(c)(2)(iii)	Deleted
		1926.353(c)(2)(iv)	Deleted
		Specific Excavation Requirements, 1926.651	
		1926.651(v)	Amended to apply 1910.146 to work in confined space excavations
		Underground Lines, 1926.956	
		1926.956(a)(3)	Amended to apply 1910.146 to work in a manhole or unvented vault
		1926.956(a)(3)(i)	Deleted
		1926.956(a)(3)(ii)	Deleted
		1926.956(a)(3)(iii)	Deleted

APPENDIX C

[Proposed Amendments And Deletions To VOSH Standards For The Construction Industry To Coincide With The Adoption of The Virginia Confined Space Standard, 1910.146]

[Amendments and Deletions to VOSH Standards for the Construction Industry to become effective January 1, 1988 and to coincide with the start-up date of the Virginia Confined Space Standard.]

Safety Training and Education, 1926.21

1926.21(b)(6)(i) Deleted
1926.21(b)(6)(ii) Deleted

General Requirement for Storage, 1926.250

1926.250(b)(2) Amended to apply
1910.146 to
work on stored
materials in
silos, hoppers,
tanks and similar
storage areas

Gas Welding and Cutting, 1926.350

1926.350(b)(4) Deleted

Fire Prevention, 1926.352

1926.352(g) Deleted

1926.956(b)(1) Deleted
1926.956(b)(2) Deleted
1926.956(b)(3) Deleted

* * * * *

Title of Regulation: VR 425-02-13. Virginia Occupational Safety and Health Standards for Agriculture - Virginia Field Sanitation Standard - 1928.110.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The final standard defines "hand-labor operations" as "agricultural activities or operations performed by hand or with hand tools. The final standard excludes "such activities as logging operations, reforestation, the care of livestock or hand-labor operations in permanent structures (e.g., canning facilities or packing houses)."

Employers who are covered by the Field Sanitation Standard are required to furnish, without cost to the employee, the following: (i) potable drinking water, (ii) toilet facilities, and (iii) handwashing facilities.

All agricultural employers, regardless of establishment size, shall provide potable drinking water for all employees engaged in hand-labor operations in the field. However, the toilet and handwashing facility requirements of the standard only apply to operations employing 11 or more employees, excluding management/support personnel and the employer's family members, who are engaged in hand-labor operations at the same worksite. Moreover, toilet and handwashing facilities are not required for employees who perform field work for a period of three hours or less (including transportation time to and from the field) during the day.

Toilet facilities under the standard may be either fixed or portable and must be supplied with toilet paper adequate to meet employee needs. Moreover, toilet and handwashing facilities shall be provided at a 20:1 (workers: facility) ratio. One additional toilet facility shall be provided for each 25 employees or fraction thereof.

Under the final standard, a "handwashing facility" means soap, (adequate) water and single use towels. However, an agricultural employer may use a handwash substitute which meets certain criteria. Moist towelettes are prohibited as a handwash substitute. Employers choosing to use a handwashing substitute must provide an emergency eyewash supply

of five gallons of potable water.

Toilet and handwashing facilities required under this standard shall be located in one of the following three ways:

- 1. Within 1/4 mile of the "worksite"; or*
- 2. At the point of closest vehicular access to the worksite where it is infeasible, due to ground terrain or other physical conditions, to locate the facilities within 1/4 mile; or*
- 3. Within a five minute drive (employer-provided, immediate travel to and from the facilities, during both work and rest periods).*

VR 425-02-13. Virginia Occupational Safety and Health Standards for Agriculture - Virginia Field Sanitation Standard - 1928.110.

§ 1. Definitions.

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

"Agricultural employer" means any person, corporation, association, or other legal entity that operates an agricultural establishment, or in whose interest an agricultural establishment is operated; any person, corporation, association or other legal entity who is responsible for the management and condition of an agricultural establishment, or who acts directly or indirectly in the interest of an employer in relation to any employee is also an agricultural employer.

"Agricultural establishment" means a business operation that uses paid employees in the production of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

"Hand-labor operations" means agricultural activities or operations performed by hand or with hand tools. These shall include, but not be limited to, the hand harvest of vegetables, tobacco, and fruit, hand weeding of crops and hand planting of seedlings. "Hand-labor" does not include such activities as logging operations, reforestation, the care of livestock or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).

"Handwashing facility" means a facility providing either a basin, container, or outlet with an adequate supply of [potable] water, soap and single-use towels. [Moist towelettes may not be used as a handwashing substitute. An agricultural employer choosing to use a handwashing substitute shall provide a readily available emergency water supply of five gallons of potable water for eye flushing in the event that a worker gets pesticides or other irritants in his eyes.] A substitute for soap and water may be used if it meets the following criteria:

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1. *Cleansing properties must act to remove soil and other residues from skin after use;*
2. *Contents of cleansing compound must not break or open skin barrier to pathogenic microorganisms; and*
3. *Cleansing compounds in waterless cleaner shall not facilitate transport of toxic agrochemicals across skin.*

"Potable water" means water that meets the Virginia Board of Health's quality standards for drinking water or the quality standard prescribed by the U.S. Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR part 141.

"Support personnel" means employees who do not perform hand-labor operations in the field while serving as temporary members of mobile crews in the field.

"Toilet facility" means a facility designed for the purpose of both defecation and urination, including biological or chemical toilets, combustion toilets, or sanitary privies that meet the Virginia Board of Health's design standards. They will be supplied with toilet paper adequate to meet employee needs. Toilet facilities may be either fixed or portable.

"Worksite" means the geometric center of a field or orchard where workers are employed. Contiguous or adjacent fields or orchards shall not be considered as separate worksites. Where two adjacent fields are separated by an impassable barrier such as a body of water or interstate highway, the workers in each respective field shall be counted independently and shall be considered to be employed at separate worksites.

§ 2. Scope.

All agricultural employers, regardless of establishment size, shall provide potable drinking water for all employees engaged in hand-labor operations in the field. For any agricultural establishment where 11 or more employees, excluding management/support personnel and employer's family members, are engaged in hand-labor operations at the same worksite, on any given day, this standard shall apply.

§ 3. Requirements.

Agricultural employers shall provide the following for employees engaged in hand-labor operations in the field, without cost to the employee:

A. Potable drinking water.

1. *Potable water shall be provided and shall be placed in locations readily accessible to all employees. Readily accessible, for purposes of this section, means within one-quarter mile of the worksite. Where it is not feasible to locate the drinking water within the required distance due to ground terrain, or other*

physical conditions, the drinking water shall be located at the point of vehicular access closest to the workers.

2. *The water shall be suitably cool.*

3. *The water shall be available in sufficient amounts so that it is not completely consumed during the workday. If the water supply does run out, it shall be immediately refilled.*

4. *The water shall be dispensed in single use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.*

B. Toilet and handwashing facilities.

1. *One toilet facility and one handwashing facility shall be provided for each 20 employees or fraction thereof (1:20 ratio), except as stated in § 3.B.4 of this regulation. [One additional toilet facility shall be provided for each 25 additional employees or fraction thereof.]*

2. *Toilet facilities shall have doors that can be closed and latched from the inside and shall be constructed to ensure privacy.*

3. *Toilet and handwashing facilities shall be accessibly located in close proximity to each other. These facilities shall be located in one of the following three ways:*

- a. *Within one-quarter mile of the worksite; or*

- b. *Where it is not feasible to locate facilities within the required distance due to ground terrain, or other physical conditions, toilet and handwashing facilities shall be located at the point of vehicular access closest to the worksite; or*

- c. *Where an employer has provided or arranged for access to transportation for employees, during both work and rest periods, for immediate travel to and from toilet and handwashing facilities, transportation to such facilities shall not require more than five minutes travel for the employees.*

4. *Toilet and handwashing facilities are not required for employees who perform field work for a period of three hours or less (including transportation time to and from the field) during the day.*

C. Maintenance.

Potable drinking water and toilet and handwashing facilities shall be maintained in accordance with appropriate public health sanitation practices, including the following:

1. *Drinking water containers shall be covered, cleaned*

and refilled daily.

2. Toilet facilities shall be operational and maintained in a clean and sanitary condition;

3. Handwashing facilities shall be maintained in a clean and sanitary condition;

4. Disposal of wastes from toilet facilities shall be in accordance with the Department of Health Sewage Handling and Disposal Regulation; and

5. Disposal of wastewater from handwashing facilities may be discharged on-site provided that this method of disposal will not contaminate crops or adjoining water supplies, cause the water to stand on the ground so as to become stagnant, or otherwise create a safety or health hazard.

D. Education.

Employers shall inform their employees of their rights under this regulation.

[E. Use of sanitation facilities.

Agricultural establishments employing hand laborers shall allow opportunities during the workday to use the sanitation facilities.]

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Title of Regulation: VR 595-01-1. Provision of Vocational Rehabilitation Services.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

These regulations are intended to replace and basically restate the department policies under which the vocational rehabilitation program is and has been carried out for many years. The regulations set forth criteria for eligibility for services; order of selection for services; the kinds and duration of services; the conditions under which persons may receive services; and their rights and responsibilities including their right to appeal department decisions affecting them.

Substantial changes made as a result of written and oral comments from public hearings are in two areas: the order of selection, which is required by federal regulation when the department cannot serve all eligible persons with disabilities, was seen by many persons as being too restrictive as proposed. The board agreed, and reduced the order of selection from

10 categories to four. This greatly reduces the restrictiveness and the administrative overhead in implementing the system, and allows greater flexibility in serving eligible persons with disabilities.

The second area of substantial change addressed three specific services: departmental purchase and participation in the purchase of home modifications, vehicle purchases, and vehicle modifications. Based upon comments received, departmental participation in the purchase of vehicles for clients has been deleted. The impact of this is limited in terms of numbers of persons, since the department does not provide this service in large quantity. However, the costs have been substantially increasing. It does reduce the involvement of the department with the client. Financial allowances in the areas of both home and vehicle modifications were increased from \$5,000 each to \$7,500 each. The impact of this change will be to provide greater assistance to eligible persons requiring these services for their vocational rehabilitation.

VR 595-01-1. Provision of Vocational Rehabilitation Services.

§ 1. Definitions: Vocational Rehabilitation.

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

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of Rehabilitative Services.

"Client" means any person receiving a service provided by the Department of Rehabilitative Services, whether referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner of Rehabilitative Services.

"Department" means the Department of Rehabilitative Services.

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the costs of vocational rehabilitation services.

"Eligible" or "eligibility" when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that (i) an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment, and (ii) vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

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"Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

"Establishment of a rehabilitation facility" means (i) the acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them or increase their effectiveness for rehabilitation facility purposes; (ii) the acquisition of initial or additional equipment for these buildings essential for providing vocational rehabilitation services; or (iii) the initial or additional staffing of a rehabilitation facility for a period, in the case of any individual staff person not longer than four years and three months.

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.

"Family member" or "member of the family" means any relative by blood or marriage of a handicapped individual (and other individual []) living in the same household with whom the handicapped individual has a close interpersonal relationship. []

"Higher education/institutions of higher education" means training or training services provided by universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"IWRP" means an individualized written rehabilitation program for each individual being provided services under an extended evaluation to determine rehabilitation potential or for a vocational rehabilitation program that

describes all services to be provided and places primary emphasis on the determination and achievement of a vocational goal.

"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.

"Long-range goals and intermediate objectives" means the establishment of a vocational goal [~~with job placement~~, attainable with the provision of vocational rehabilitation services such as] physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.

"Mental [~~impairment disability~~]" means (i) [~~suffering from having~~] a disability attributable to mental retardation, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Otological examination" means any examination conducted by a physician skilled in otology.

"Physical [~~impairment disability~~]" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

"Post-employment services" means services which are required to maintain the individual in employment after closure.

"Prevocational training" means individual and group instruction or counseling, the controlled use of varied activities, and the application of special behavior modification techniques; clients/patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures, (ii) acquire personal-social behaviors which would make them acceptable employees and coworkers on the job, and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any mechanical equipment that improves or substitutes for one or more of man's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities, and whose

handicapping condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (i) vocational rehabilitation services, including under one management, medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to blind individuals; and (xii) transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market.

"Reservation" means a federal or state Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated native groups, regional corporations and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one handicapped individual.

"Severely handicapped individual" means a handicapped individual (i) who has a severe physical or mental disability which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability; and (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable

substantial functional limitations.

"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal and work related skills based on an individualized client rehabilitation/habilitation plan.

"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

"Supported employment" means paid work in a variety of settings for severely handicapped individuals (i) for whom competitive employment at or above minimum wage has not occurred, and (ii) who because of their disability, need intensive ongoing post-employment support to perform in a work setting. Supported employment requires that an individual work at least 20 hours per week in a job setting which includes no more than eight coworkers with disabilities.

"Third party funding" means the use of money from a public or private source to match available allocations.

"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the individual. The assessment results in specific recommendations to be used in the development of the individual rehabilitation/habilitation plan.

"Vocational rehabilitation services when provided to an individual" means those services listed in § 1 of these regulations.

"Vocational rehabilitation services when provided for the benefit of groups of individuals" means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities, which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped

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individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf person.

"Vocational skill training" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.

"Work activity services" means therapeutic work activities and educational, social, personal and vocational adjustment training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.

"Work adjustment training" means a treatment and training process utilizing individual and group work, or work related activities, to assist individuals in understanding the meaning, value and demands of work; to modify or develop attitudes, personal characteristics, work behavior, and to develop functional capacities, as required in order to assist individuals toward their optimum level of vocational development.

"Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in production or service operation for the primary purpose of providing gainful employment as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

§ 2. Referrals and applicants.

The department shall expeditiously and equitably process referrals and applications for vocational rehabilitation services.

A. Referrals.

An individual is a referral when the following items of information are secured:

1. Name [~~and address~~];
- [2. Address;]
- [~~2.~~ 3.] Disability;
- [~~3.~~ 4.] Age [~~and sex~~];
- [5. Sex;]
- [4. 6.] Date of referral;
- [~~5.~~ 7.] Source of referral; and
- [~~6.~~ 8.] Social security number or temporary case number.

B. Applicant.

An individual is an applicant when the department has secured the items of information as listed in subsection A of § 1 and has a document signed by the individual, or the individual's guardian requesting vocational rehabilitation services. A thorough explanation of rights and responsibilities shall be given to the applicant in the manner best suited to ensure its comprehension. This explanation shall include the right for an administrative review and fair hearing [and the availability of the Client Assistance Project within the Department for Rights of the Disabled]. A rights and responsibilities form shall be signed by the applicant. A face-to-face interview with the applicant is required.

§ 3. Eligibility for vocational rehabilitation services.

A. Eligibility requirements shall be applied without regard to sex, race, age, creed, color, or national origin. No group of individuals shall be excluded or found ineligible solely on the basis of the type of disability. No upper or lower age limit shall be applied which shall in and of itself result in a determination of ineligibility for any person with a disability who otherwise meets the basic eligibility requirements. No residence requirement, durational or other, shall be imposed which excludes from services any individual who is present in the Commonwealth.

B. Preliminary diagnostic study-eligibility determination. [Eligibility determination covers the period when an applicant is in applicant status or extended evaluation.]

A preliminary diagnostic study is required on each individual who makes application for services. Diagnostic and evaluative services needed are provided to determine the applicant's eligibility for vocational rehabilitation services; ineligibility for vocational rehabilitation services; or the need for an extended evaluation. In all cases, the evaluation places primary emphasis upon determining the applicant's potential for achieving a vocational goal as determined by the applicant and the department. Eligibility determination [covers the period when an applicant is in is accomplished when an individual completes] applicant status, or extended evaluation. When sufficient information is not available without cost, the department shall purchase the information needed.

§ 4. Basic eligibility criteria.

A. The individual shall have a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

B. There shall be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

1. The existence of a physical or mental disability, shall be substantiated by adequate medical,

psychiatric or psychological reports.

2. A substantial handicap to employment is a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) that impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

3. Data accumulated in the case study not directly related to a disability may be used to substantiate a substantial handicap to employment.

4. Employability refers to a determination by the applicant and the department that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

§ 5. Evaluation of vocational rehabilitation potential.

An evaluation shall be required in order to determine eligibility for services; the need for an extended evaluation, or ineligibility for services.

A. The preliminary diagnostic study.

The preliminary diagnostic study shall both determine and document the basic eligibility criteria.

B. Extent of study.

The preliminary diagnostic study shall include examinations and studies needed to make the determination of eligibility. In all cases, the evaluation shall place primary emphasis upon determining the individual's potential for achieving a vocational goal.

C. Required evaluations.

The current general health of the individual shall be assessed, based, to the maximum extent possible, on available medical information. In all cases of mental or emotional disorders an examination shall be provided by a physician licensed to diagnose and treat such disorders or a psychologist licensed or certified in accordance with state laws and regulations. If eligibility cannot be determined from medical evidence of record, medical specialist examinations needed to determine eligibility shall be provided.

D. Thorough diagnostic study.

As appropriate in each case, after an individual's eligibility for vocational rehabilitation services has been

determined, there shall be a thorough diagnostic study to determine the nature and scope of services needed. This study shall consist of a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other factors relating to the individual's handicap to employment and rehabilitation needs.

This study shall include in all cases, to the degree needed, an appraisal of the individual's personality; intelligence level; educational achievement; work experience; personal, vocational and social adjustment; employment opportunities; and other pertinent data helpful in determining the types and quantity of services needed. The study shall also include, as appropriate for each individual, an appraisal of patterns of work behavior, ability to acquire occupational skills and capacity for successful job performance.

E. Hospitalization for diagnosis may be provided when all of the following conditions are met:

1. This service is required in order to determine eligibility for services or type of services needed, and
2. [~~Is~~ This service is] recommended by a licensed medical doctor.

The maximum period of diagnostic hospitalization shall be three days.

§ 6. Extended evaluation to determine vocational rehabilitation potential.

A. Criteria.

The provision of vocational rehabilitation services under an extended evaluation to determine vocational rehabilitation potential is based only upon:

1. The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and
2. The department's inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine vocational rehabilitation potential.

B. Duration and scope of services.

Vocational rehabilitation services necessary for determination of rehabilitation potential, including those provided during a thorough diagnostic study, may be provided to a handicapped individual for a period not to exceed 18 months.

C. Other requirements of the extended evaluation:

1. The extended evaluation period shall begin on the date of certification for such evaluation. Only one

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18-month maximum period shall be provided during the time that the client is receiving services. If a case has been closed and an individual's needs have later changed, the case may be reopened and a subsequent evaluation of vocational rehabilitation potential may be [~~carried out~~ conducted].

2. Vocational rehabilitation services authorized after the expiration of the extended evaluation period shall be provided only if a certification of eligibility has been executed.

3. The jointly developed Individualized Written Rehabilitation Program (IWRP) for extended evaluation shall be written prior to the applicant receiving services and shall be signed by the applicant [, or as appropriate, the applicant's designee]. A copy of the IWRP shall be given to the applicant.

4. Goods and services [necessary] to determine rehabilitation potential may be provided [~~in~~ during an] extended evaluation. They do not require the establishment of economic need when the services are of a diagnostic nature.

D. Review.

A thorough assessment of the individual's progress shall be made as frequently as necessary but at least once every 90 days during the extended evaluation period. This assessment shall include periodic reports from the facility or person providing the services in order to determine the results of such services and to determine whether the individual may be eligible or ineligible for services.

E. Termination.

At any time before the end of the 18-month extended evaluation period, the extended evaluation shall terminate when:

1. The individual is found eligible for vocational rehabilitation services since there is a reasonable assurance that the individual can be expected to benefit in terms of employability resulting from vocational rehabilitation services; or

2. The individual is found ineligible for any additional vocational rehabilitation services since it has been determined on the basis of clear evidence that the individual cannot be expected to benefit in terms of employability resulting from vocational rehabilitation services.

§ 7. Certification of eligibility.

A. For vocational rehabilitation services; before or at the same time the applicant is accepted for services the department shall certify that the applicant has met the basic eligibility requirements as specified in § 4 of these

regulations.

B. For extended evaluation; as a basis for providing an extended evaluation to determine vocational rehabilitation potential, there shall be certification that the applicant has met the requirements as specified in § 6 of these regulations.

§ 8. Ineligibility.

A. Certification of ineligibility.

When it is determined on the basis of factors as diagnosis, prognosis, [~~and~~ or] interest that an applicant for or recipient of vocational rehabilitation services is ineligible for services, a certification shall be signed and dated.

Such determination shall be made only after full consultation with the individual or, as appropriate, the parent, guardian, or other representative, or after giving a clear opportunity for this consultation. The department shall provide notification in writing of the action taken and inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, including the procedures for administrative review and fair hearing. The individual shall be provided with a detailed documented explanation of the availability of the resources within the Client Assistance Program, Department for Rights of the Disabled, and when appropriate, referral shall be made to other agencies and facilities, including, when appropriate, an independent living rehabilitation program.

B. Review of ineligibility determination.

When the department has certified the ineligibility of an applicant for or a recipient of vocational rehabilitation services because of a finding that the individual cannot be expected to achieve a vocational goal, the ineligibility determination shall be reviewed within 12 months. This review need not be conducted in situations where the individual has refused it, the individual is no longer in the Commonwealth, the individual's whereabouts are unknown, or a medical condition is rapidly progressive or terminal.

C. Case closure without eligibility determination.

A case may be closed without any determination of eligibility when an applicant is unavailable during an extended period of time (30 days) to complete an evaluation of vocational rehabilitation potential and the department has made three documented efforts to contact the applicant and to encourage the applicant's participation.

§ 9. Order of selection for services.

In the event vocational rehabilitation services cannot be provided because of unavailable resources, to all persons

determined to be eligible, [upon recommendation by the Commissioner,] an order of selection system [shall may] be [implemented approved] by the board which shall determine those persons for whom services may be purchased. It shall be the policy of the department to encourage referrals and applications of all persons with disabilities and, to the extent resources permit, provide services to all eligible persons.

The following order of selection is implemented when services cannot be provided to all eligible persons:

Priority I. Person eligible and presently receiving services under an IWRP.

Priority II. Those persons referred and needing diagnostic services to determine eligibility.

[Priority III. Severely disabled heads of household with a goal of wage earner.

Priority IV. Other severely disabled persons with a goal of competitive employment.

Priority V. Other severely disabled persons with a goal of sheltered employment.

Priority VI. Severely disabled homemakers and unpaid family workers.

Priority VII. Nonseverely disabled heads of household with a goal of wage earner.

Priority VIII. Other nonseverely disabled persons with a goal of competitive employment.

Priority IX. Other nonseverely disabled persons with a goal of sheltered employment.

Priority X. Nonseverely disabled homemakers and unpaid family workers.]

[Priority III. Persons determined to be severely disabled.

Priority IV. Other persons determined to be disabled, in order of eligibility determination.]

In all priorities preference shall be given to providing services to disabled public safety officers disabled in the line of duty.

§ 10. The Individualized Written Rehabilitation Program (IWRP) procedures.

A. General requirements.

1. The IWRP [must shall] be initiated after certification of eligibility for vocational rehabilitation services.

2. The IWRP shall be initiated and periodically updated when information has been received that may necessitate a change, or at least annually. This shall be done for each client and for each applicant being provided services under an extended evaluation to determine rehabilitation potential.

3. Vocational rehabilitation services shall be provided in accordance with the IWRP which [must shall] be developed and updated jointly by the department and the client, or, as appropriate, the client's designee.

4. A copy of the IWRP and any amendments shall be provided to the client or, as appropriate, the client's designee and shall advise each client, or designee of all procedures and requirements affecting the development and review of the IWRP.

B. Insurance Written Rehabilitation Program [Review].

The IWRP shall be reviewed as often as necessary but at least on an annual basis. The IWRP for extended evaluations must be reviewed at least every 90 days. Each client, or, client's designee shall be given an opportunity to review the IWRP and, if necessary, jointly redevelop the IWRP and show agreement with its terms by signing it.

C. Review of ineligibility determination.

If services are to be terminated under an IWRP because of a determination that the client is not capable of achieving a vocational goal and is therefore no longer eligible, or if in the case of an applicant who has been provided services under an extended evaluation of vocational potential and services are to be terminated because of a determination that the applicant is not eligible, the following conditions and procedures shall be met or carried out:

1. The decision shall be made only with the full participation of the individual, or, as appropriate, parent, guardian or other representative, unless the individual has refused to participate and this is documented, the individual is no longer present in the Commonwealth, the whereabouts are unknown, or medical conditions are rapidly progressive or terminal. When the full participation of the individual or a representative of the individual has been secured in making the decision, the views of the individual shall be recorded in the IWRP;

2. The rationale for such ineligibility decision shall be recorded as an amendment to the IWRP certifying that the provision of vocational rehabilitation services had demonstrated that the individual is not capable of achieving a vocational goal, and a certification of ineligibility is then executed; and

3. There shall be a periodic review, at least annually, of the ineligibility decision in which the individual is

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given opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services or has refused a periodic review, the individual is no longer in the Commonwealth, the whereabouts are unknown or a medical condition is rapidly progressive or terminal. The first review of the ineligibility decision shall be initiated by the department and be documented. Any subsequent reviews shall be undertaken at the request of the individual.

§ 11. Individualized Written Rehabilitation Program (IWRP) content.

The IWRP places primary emphasis on the determination and achievement of a vocational goal [and shall include] , but is not necessarily limited to, statements concerning:

1. The basis on which the determination of eligibility has been made, or the basis on which a determination has been made that an extended evaluation of vocational rehabilitation potential is necessary to make a determination of eligibility;
2. The long-range and intermediate rehabilitation objectives established with the client; or client's designee.
3. The determination of the specific vocational rehabilitation services to be provided in order to achieve the established rehabilitation objectives;
4. The projected date for the initiation of each vocational rehabilitation service, and the anticipated duration of each service;
5. A procedure and schedule for periodic review and evaluation of progress toward achieving rehabilitation objectives based upon objective criteria, and a record of these reviews and evaluations;
6. The views of the client, or, as appropriate, the client's designee, concerning his goals and objectives and the vocational rehabilitation services being provided;
7. The terms and conditions for the provision of vocational rehabilitation services including responsibilities of the client in implementing the IWRP, the extent of client participation in the cost of services if any, the extent to which the client is eligible for similar benefits under any other programs, and the extent to which these similar benefits have been used;
8. A documented assurance that the client has been informed of his rights and the means by which he may express and seek remedy for any dissatisfaction, including the opportunity for an administrative review

of state unit action, fair hearing or review by the secretary;

9. An assurance that the client has been provided a detailed explanation of the availability of the resources within the client assistance program, Department for Rights of the Disabled.

10. The basis on which the client has been determined to be rehabilitated; and

11. Any plans for the provision of post-employment services after a suitable employment goal has been achieved and the basis on which such plans are developed.

§ 12. Scope of vocational rehabilitation services for individuals.

The following vocational rehabilitation services shall be provided only when deemed necessary to the vocational rehabilitation of the client.

1. Evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services to be provided.
 2. Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship, and referral necessary to help clients secure needed services from other agencies, which may include independent living rehabilitation programs.
- The department shall not purchase vocational counseling and guidance service as a primary service.
3. Physical and mental restoration services necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and when recommended by a licensed practitioner.

a. Services.

Physical and mental restoration services are those medical and medically related services which may be expected to remove, or substantially reduce the handicapping effects of a physical or mental condition. These services include but are not limited to:

- (1) Convalescent care, nursing or rest home care;
- (2) Dental treatment;
- (3) Drugs and supplies;
- (4) Hospitalization (both inpatient and outpatient care, and clinic services);

- (5) Medical treatment;
- (6) Nursing services;
- (7) Physical restoration in a rehabilitation facility;
- (8) Physical and occupational therapy;
- (9) Prosthetic and orthotic appliances;
- (10) Psychiatric treatment;
- (11) Speech or hearing therapy;
- (12) Surgical treatment;
- (13) Telecommunications, sensory and other technological aids and devices;
- (14) Treatment of medical complications and emergencies, either acute or chronic, which are associated with, or arise out of the provision of physical restoration services or are inherent in the condition under treatment.

b. Eligibility requirements.

- (1) Stable or slowly progressive.

The physical or mental condition must be stable or slowly progressive. The condition must not be acute or transitory, or of such recent origin that the resulting functional limitations and the extent to which the limitations affect occupational performance cannot be identified.

- (2) Refusal of service.

When a client has a physical or mental disability with resulting limitations that constitute a handicap to employment, and when in the opinion of licensed medical personnel these limitations can be removed by physical or mental restoration services without injury to the individual, they shall not be eligible for any rehabilitation services, except counseling, guidance and placement if they refuse to accept the appropriate physical or mental restoration services. [~~Additional opinions~~ A second opinion] may be provided at the client's [~~expense~~ request]. In the event of conflicting medical opinions, the department shall secure a third opinion and the decision shall be made on the two concurring opinions.

c. Provision of physical and mental restoration services.

These services are provided only when:

- (1) Recommended by a licensed practitioner;

(2) Services are not available from another source; and

(3) They are provided in conjunction with counseling and guidance, and other services, as deemed appropriate.

The department shall not make case expenditures for [those clients who are receiving acute and intermediate medical care except for Woodrow Wilson Rehabilitation Center (WWRC) in the provision of physical or mental restoration services. For the purposes of hospital and medical treatment services, intermediate services are defined as follows: acute or intermediate medical care except for medical complications and emergencies which are associated with or arise out of the provision of Vocational Rehabilitation (VR) services under an IWRP and which are inherent in the condition under treatment.]

[(1) Either inpatient hospitalization, or

(2) A program of outpatient services which are (i) hospital based or in a medically oriented treatment setting, (ii) nonvocational in nature, and (iii) composed of a package of medical and treatment oriented services.]

d. Convalescent and nursing home care.

The department may, when the services are directly related to the vocational rehabilitation objective, pay for convalescent and nursing home care for a client who needs continued medical supervision after department sponsored treatment for their condition. This service must be recommended by the proper medical practitioner before the service is authorized, and be contingent upon the client being able to reengage in the Vocational Rehabilitation Program.

(1) This service may be provided for 30 days.

(2) The commissioner or his designee may approve an additional 30 days of service.

e. Services not sponsored by the department.

The board, in consultation with appropriate medical resources, shall determine those physical restoration services which shall not be provided by the department. The following circumstances or conditions shall be considered:

(1) Experimental procedures shall not be sponsored;

(2) High risk procedures;

(3) Procedures with limited vocational outcomes;

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(4) Excessively high cost procedures; and

(5) Procedures with uncertain outcomes.

f. Hospitalization.

The department may pay for hospitalization for medical diagnosis, surgical or medical treatment when deemed necessary for the vocational rehabilitation of the client and recommended by a licensed practitioner. Hospitalization shall be provided in hospitals, medically oriented treatment facilities, or continuing care facilities in Virginia or out-of-state, with which the department has a contract. Payment to hospitals, medically oriented treatment facilities, or continuing care facilities [~~must~~ shall] be made in accordance with the department fee schedules.

(1) The maximum period of hospitalization, excluding diagnostic, to be authorized based upon financial resources available to the department shall be 10 days.

(2) Extension of the maximum period of hospitalization shall be allowed when due to acute medical complications and emergencies associated with or arising out of the provision of physical or mental restoration services.

(3) Treatment of acute medical complications or emergencies which impact negatively on the client's progress toward the client's vocational goal, shall be provided.

g. Medication.

When medication is to be continuous, e.g., treatment of diabetes or epilepsy, and while the client is receiving vocational training, the department may purchase medication during the training period, and for a period not to exceed 90 days after achieving employment.

When counseling, medication and placement are the only services provided, the department may pay for medication for a period not to exceed 90 days. Generic drugs shall be utilized when possible.

h. Physical and occupational therapy.

The department may pay for physical and occupational therapy when it is prescribed by a Doctor of Medicine.

i. Chiropractic service.

The department may pay for chiropractic services after consultation with a Doctor of Medicine.

j. Cardiac exercise therapy.

This service shall be sponsored by the department for clients who have had a myocardial infarction or a coronary bypass not more than six months prior to the recommended exercise therapy. A maximum of 24 sessions may be authorized.

k. Prosthetic and orthotic appliances - purchase and repair.

The department may purchase an original appliance only upon the recommendation of the medical specialist. When a client has a history of satisfactory appliance use and the general medical examination report indicates no pathological change, this report may be sufficient medical basis for the replacement or repair of the appliance. The department shall purchase prosthetic or orthotic appliances from vendors approved in accordance with the department's vendor approval process.

l. Psychotherapy.

Psychotherapy shall be provided by a psychiatrist or psychologist. If the department purchases the psychotherapy from either, they must be qualified in the area of psychotherapy and be licensed in accordance with [~~states~~ the] laws [of the Commonwealth]. The maximum number of sessions to be sponsored shall be 27. If the client needs additional psychotherapy, the department will make an effort to assist the client in securing it.

m. Speech and hearing therapies.

(1) Speech

Speech therapy may be provided to clients when treatment is recommended by a speech pathologist who is licensed in accordance with the laws of the Commonwealth.

(2) Hearing.

Hearing aid orientation and lip reading may be provided when recommended by a specialist in hearing disabilities.

n. Visual services.

Services may be provided to a client when their visual disability, as established by an ophthalmological or an optometric examination, is of such severity that their employment opportunities are considerably limited. Visual services shall be provided by the department in accordance with the cooperative agreement established with the department for the visually handicapped. Visual aids may also be provided to clients who are unable to satisfactorily pursue their vocational rehabilitation program due to impaired vision.

4. Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, except that no training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this section unless maximum efforts have been made to secure grant assistance in whole or in part from other sources.

All training services provided shall be related to attainment of the vocational objective or provide for the determination of eligibility for vocational rehabilitation services. Vocational training includes any organized form of instruction which provides the knowledge and skills essential for performing the tasks involved in an occupation. Vocational training may be obtained in institutions such as colleges, universities, business schools, nursing schools and trade and technical schools. It may also be obtained by on-the-job training, apprenticeship programs, tutorial training, or correspondence study.

a. Business schools and business colleges, trade and technical schools, and two-year college terminal courses.

The training institution selected shall be approved in accordance with the department's vendor approval process.

b. College and university academic training.

(1) Academic requirements.

The client shall take sufficient academic credit hours based on the requirement of the college attended for classification as a full-time student, unless this is, in the opinion of the department, contraindicated by the client's disability. Courses shall meet the institution's requirement towards the obtainment of the degree or certificate. Continuation of financial assistance by the department shall be dependent upon the client maintaining a "C" average calculated on an academic year. When the client fails to maintain a "C" average, assistance may be discontinued. The department's assistance may be reinstated when the client completes one semester or quarter with a minimum of a "C" average.

Each client shall be advised that failure to provide grades to the department shall be grounds for termination of departmental financial assistance.

(2) Graduate degree program.

The department shall assist only clients with severe disabilities in securing a graduate degree and only when it is judged essential to achieving

employment.

(3) Virginia colleges and universities.

Vocational training, including college or university training, shall be provided by the department in any department approved institution located within the boundaries of the Commonwealth, unless such training is not available within the Commonwealth. Institutions in the areas of Washington, D.C.; Bristol-Johnson City-Kingsport, Tennessee; the city of Bluefield, West Virginia; and other cities where the services may be provided more effectively and economically and shall be treated as if located in Virginia.

(4) Tuition and mandatory fees.

The department may pay tuition for college and university training in an amount not in excess of the highest amount charged for tuition by a state-supported institution or the rate published in the catalog, whichever is less [, except where out-of-state college is necessary, published tuition costs may be paid].

Any client enrolling into any college/university course(s) for the primary purpose of course/program certification and not for the purpose of obtaining a degree shall be exempt from the application of the annual maximum tuition rate.

(5) Scholarships and grants.

Training services in institutions of higher education shall be paid for with departmental funds only after maximum efforts have been made by the client to secure assistance in whole or in part from other sources; however, any client eligible for vocational rehabilitation [training] services but not meeting the financial need test of the department may be provided [a tuition an] assistance grant [annually] in an amount [of \$200 annually not to exceed the equivalent of one quarter's tuition of a full time community college student].

c. Correspondence study.

The correspondence study training may be authorized only when:

(1) The client requires specific preliminary training in order to enter a training program; or

(2) Training cannot be arranged by any other method [; and]

(3) Satisfactory progress [~~must be~~ is] maintained.

d. On-the-job-training.

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The department may enter into agreements with employers in the private or public sector to provide on-the-job training services. The terms and conditions of each individual agreement shall be established by the department.

e. Part-time training.

Part-time training may be utilized only when the severity of the client's disability shall not allow the client to pursue training on a full-time basis.

Part-time training shall be authorized only at department approved facilities and schools.

f. Work adjustment training.

Work adjustment training may be provided if needed for the client to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

g. Prevocational training.

Prevocational training may be provided if needed for the client to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

h. Tutorial training.

Tutorial training may be provided if needed for the client to achieve a vocational goal as indicated by the thorough diagnostic study assessment of medical, vocational, psychological and other factors. This service may be provided only by the department or approved vendors.

i. Other higher education training concerns.

(1) Required textbooks and supplies.

The maximum amount of department financial assistance for required textbooks and supplies (pencils, paper, etc.) shall be \$400 annually for a normal school year or \$500 if summer school is attended.

(2) Required training materials.

Training materials may be provided when required by the instructor.

5. Maintenance, including payments, not exceeding the estimated cost of subsistence and provided at any

time after vocational rehabilitation services have begun through the time when post-employment services are being provided. Maintenance covers a client's basic living expenses, such as food, shelter, clothing, and other subsistence expenses which are necessary to support and derive the full benefit of the other vocational rehabilitation services being provided.

a. Clothes.

Clothes are provided when specifically required for participation in a training program or for placement in a specialized job area as determined by the department.

b. Room, board and utilities.

The maximum rate paid for room, board and utilities shall be established annually by the board.

c. Training cases.

The maximum amount of department financial assistance for room and board at a training institution (college, vocational school, rehabilitation center facility), when the institution is able to provide room and board, shall not exceed the published room and board rates charged by the institution, or the actual cost, whichever is less.

d. While living at home.

Maintenance shall be provided for a client living at home only when the client's income supports the family unit of the client, when it is more cost effective for the department, or when it is in the best interest of the client's vocational rehabilitation program based on mutual agreement of the rehabilitation counselor and the client.

6. Transportation, including necessary travel and related expenses including subsistence during travel (or per diem payments in lieu of subsistence) in connection with transporting clients and their attendants or escorts for the purpose of supporting and deriving the full benefit of the other vocational rehabilitation services being provided. Transportation may include relocation and moving expenses necessary for achieving a vocational rehabilitation objective.

a. Transportation costs.

The department shall pay the most economical rate for accessible public transportation.

When public transportation is not available, or the client, because of disability, cannot travel by public transportation, transportation may be provided at a rate not to exceed \$.12 a mile.

b. For and during training services.

When the client must live at the training location, the department may only pay for a one-way trip from the residence to the training location at the beginning of the training, and a one-way trip from the training location to the residence or job site at the conclusion of the training program. Transportation may be paid to and from the residence in case of emergency (severe illness, or death in family; acute business emergency or prolonged school closing such as Christmas holidays). Local bus fare may be furnished also. When the client's physical condition is such that travel by public conveyance is impossible, taxi fare may be allowed from place of residence to training site and return. When the client lives at home and the training site requires daily transportation, the cost of such transportation may be paid.

7. Services to members of client's family when necessary to the vocational rehabilitation of the client.

Services to family members of the client may be provided when such services may be expected to contribute substantially to the determination of rehabilitation potential or to the rehabilitation of the client. In order for the department to furnish these services, they [~~must~~ shall] not be available from any other source.

a. Family member is defined as any relative by blood or marriage living in the same household.

b. Day care services for dependent children. The department may pay up to the amount paid per child, per day, by the local social services department in the locality in which the child is located. When more than one child is involved, rates for the additional children should be lower. When satisfactory accommodations can be secured at a rate lower than that paid by the local social services department, the lower rate shall be paid by the department.

8. Interpreter services and note taking services for the deaf and communication impaired, including tactile interpreting for deaf-blind clients.

a. Upon request of the client or as needed, these services may be provided at any stage during the rehabilitation process. Interpreting may be primarily in the form of sign language (manual method) or oral interpretation (oral method).

b. The department shall pay for interpreting services when these services contribute to the client's vocational rehabilitation program for those clients who meet the department's financial need criteria.

c. The interpreter must be, whenever possible, certified by the National Registry of the Deaf, Virginia Registry of the Deaf, or approved by the Virginia Department for the Deaf and Hard of Hearing.

d. When clients with deafness are in a training program, the department shall arrange for note taking or reader services, unless the client indicates such service is not needed or desired.

9. Telecommunications, sensory and other technological aids and devices when they may be expected to contribute substantially to the vocational rehabilitation of the client.

a. Telecommunications system.

Services related to use of a telecommunications system [~~must~~ shall] meet established federal or state health and safety standards and be consistent with written state policies.

b. Sensory and other technological aids and devices.

The department may provide electronic or mechanical pieces of equipment or hardware intended to improve or substitute for one or more of the human senses, or for impaired mobility, or motor coordination.

Services related to use of sensory and other technological aids and devices shall meet established federal or state health and safety standards and be consistent with state law and regulations.

(1) An otological evaluation may be, and an audiological examination is required before the department may purchase a hearing aid.

(2) The department shall purchase hearing aids only for those clients identified as benefiting in terms of employability as a direct result of such aid.

(3) Cross and bicross aids may be purchased only when it is justifiable on the basis of the vocational objective.

(4) Eyeglasses and hearing aids may be purchased only when they are equal in performance in terms of volume and speech discrimination and if the cost is not higher than that of a comparable body aid or a behind the ear aid.

10. Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment. These services shall be provided in accordance with the training criteria set forth in subdivision 4 of § 12.

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11. Placement in suitable employment.

Placement shall be in accordance with the mutually agreed upon vocational objective and is the responsibility of the client and the department, particularly the rehabilitation counselor.

12. Post-employment services necessary to maintain suitable employment.

Post-employment services are vocational rehabilitation services provided to clients who need such services to maintain employment after the case of the client has been closed as successfully rehabilitated.

Selection criteria.

Any rehabilitated clients may be considered for post-employment services. The department may evaluate with each client the need for such services.

All of the following criteria shall be met for the selection of clients to receive post-employment services:

- (1) The client has been determined to be rehabilitated;
- (2) The disabling medical condition shall be stable or slowly progressive;
- (3) Post-employment services are necessary to assist the client in maintaining employment; and
- (4) Solution of the problem does not require a complex or comprehensive rehabilitation effort, i.e., a new and distinct handicapping condition has not occurred which should be handled as a new case.

If needed services exceed any of the aforementioned conditions, the department may take a new application.

13. Transitional employment services which include providing a rehabilitation or other human services agency staff person to assist in job placement, job site training and job follow-along for the disabled employee. Transitional employment services are provided primarily within a program of supported employment.

Supported employment is targeted specifically to those persons with severe disabilities who require job site support to remain employed in work settings which include nondisabled coworkers.

The department's utilization of transitional employment services in a supported employment program for a client is time-limited as determined by the board and requires funding from a source other than the department to pay the cost of providing

ongoing support.

The department shall fund job site training and assistance required for a person to obtain paid work and to stabilize in that job.

14. Occupational licenses, including any license, permit or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation or enter a small business, tools, equipment, initial stocks (including livestock) and supplies.

a. Licenses.

Licenses required for entrance into selected vocations may be provided. These may be occupational or business licenses as required by the local governing body, state board examinations required by the Department of Commerce, and motor vehicle operator's license.

b. Tools and equipment.

Tools and equipment shall be provided for a client when:

- (1) They are required for a job or occupation that is best suited to the utilization of their abilities and skills;
- (2) The employer does not ordinarily furnish these articles; and
- (3) They are for the exclusive use of the client.

Such articles shall be for the client's own use in the performance of his work and must remain in his possession and under his control as long as he engages in the job or occupation for which they are provided.

If the client alleges that tools and equipment are stolen, the client shall file a stolen property report with the local police.

Computer equipment and software shall be provided either if required as indicated in subparagraph b (1) (2) and (3) above or if it is necessary for vocational training. The department's financial participation in the cost of such equipment and software shall not exceed \$3,500.

c. Title retention and release.

The department shall comply with state law on the retention of title and release of title of equipment to clients.

d. Repossession of tools and equipment.

The department shall repossess all occupational tools and equipment to which the department retains title when they are no longer being used for the purposes intended by the client for whom they were purchased.

15. Other goods and services deemed necessary to the vocational rehabilitation objective of the client.

These include, but are not limited to, such services as: peer counseling, independent living skills training, attendant care and attendant training if they can reasonably be expected to benefit a client in terms of employability.

The department's financial participation in the cost of certain goods and services shall be limited as follows: home modifications, [~~\$5,000~~ \$7,500] ; [~~vehicle purchase, \$3,500;~~] and vehicle modifications, [~~\$5,000~~ \$7,500. The department shall not purchase or participate in the purchase of automotive vehicles.]

16. Services to groups.

The department may provide services to groups of persons with disabilities when the services may contribute substantially to the needs of the group, although they are not related directly to the IWRP of any one person with a disability.

§ 13. Clients determined to be rehabilitated.

In order to make a determination that a client has been rehabilitated, the minimum requirements to be met shall be that the client was:

1. Determined to be eligible under § 4 of these regulations;
2. Provided an evaluation of vocational rehabilitation potential and counseling and guidance as essential vocational rehabilitation services;
3. Provided appropriate and substantial vocational rehabilitation services in accordance with the individual written rehabilitation program; and
4. Determined to have achieved and maintained a suitable employment goal for at least 60 days.

§ 14. Authorization of services.

Written authorization shall be made, either before or at the same time as the purchase of services. When an oral authorization is given in an emergency situation, there shall be prompt documentation and the authorization shall be confirmed in writing and forwarded to the provider of the services.

§ 15. Standards for facilities and providers of services.

Regulations for this section are under development. Until the regulations are in final draft form for public comment, the Department of Rehabilitative Services will continue to operate under existing policies.

§ 16. Participation by the handicapped individuals in the cost of vocational rehabilitation services.

A. An economic need test is established because of the limited resources of the department.

B. An economic need test shall be utilized to determine the extent of client participation in the cost of vocational rehabilitation services. Services exempt from consideration for financial participation shall be diagnostic and evaluation, counseling, guidance and referral, job placement, on-the-job training and unpaid work experience. Also excluded from financial participation shall be services necessary to assist in the diagnostic and evaluation process such as transportation, maintenance and interpreter service for the deaf.

Services which require an economic need test are: physical and mental restoration; training other than on-the-job training (OJT); maintenance; transportation; services to family members; interpreter and reader services; telecommunications; recruitment and training services; post-employment; occupational licenses and other goods and services.

C. Groups exempt are:

1. Recipients of General Relief.
2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent.

D. The department shall make an assessment of similar benefits available to pay for vocational rehabilitation services. The department shall not pay program costs which could otherwise be provided by similar benefits unless it is documented that securing such benefits would significantly delay the provision of services to the client.

E. Income and resources of the family are to be used when the client is a part of the family unit. The client is a part of the parent or legal guardian family unit upon occurrence of either:

1. Dependency of support evidenced on the last federal income tax return of the parent or legal guardian regardless of residency; or
2. When temporarily absent from the home due to illness, school, vacation or military leave.

F. The financial need test shall consider the following income:

1. Annual taxable income (gross income).

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2. Annual nontaxable income such as social security, retirement benefits, workmen's compensation, and veteran's benefits.

3. Total cash assets, including checking and savings accounts, certificates, stocks and bonds.

The financial need test shall provide for the following allowances and exclusions:

1. The gross income shall be adjusted by the percentage indicated in the table below:

Gross Income	Allowance
Under \$10,000	15%
10,000 to 14,999	20%
15,000 to 24,999	25%
25,000 to 34,999	30%
Over 34,999	35%

2. Income shall be excluded from consideration based upon family size using the table below:

Size of Family	Income Exclusion
1	\$10,608
2	\$13,143
3	\$15,678
4	\$18,213
5	\$20,748
6	\$23,283
7	\$25,818
8	\$28,353

For each additional dependent, add \$2,535.

The table above is based upon the federal low income for a family of four. It shall be updated annually by the department.

3. Excluded from income shall be estimated client cost specifically related to the client's disability and not covered by similar benefits.

4. Excluded from cash assets is \$5,000.

5. Individual retirement accounts shall be excluded from income considerations.

Determination of the annual client financial contribution results from an examination of: (i) the number of persons in the family unit; (ii) annual taxable income minus allowances; (iii) annual nontaxable income; (iv) cash assets minus exclusions; and (v) exceptional exclusions based on client cost specifically related to client's disability.

The financial resources to be considered shall be tabulated using the method noted herein. The positive balance (resources exceeding exclusions) shall be

determined to be available for participation in the rehabilitation program.

§ 17. Consideration of similar benefits.

A. Consideration shall be given, in all cases, to any similar benefits available to a client, or to members of a client's family, under any program to meet, in whole or in part, the cost of any vocational rehabilitation services except the following:

1. Evaluation of vocational rehabilitation potential except as provided under subsection C4 of § 6;
2. Counseling, guidance, and referral;
3. Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, which are not provided in institutions of higher education;
4. Placement;
5. Post-employment services consisting of the services listed in § 12 of these regulations.
6. Physical and mental restoration services and maintenance, when the similar benefit would significantly delay the provision of services to the client; and
7. When they are not adequate and would interfere with achieving the rehabilitation objective of the client.

B. The department shall consider the availability of third party resources to cover part or all of the cost; the availability of the client's resources or the client's family resources to cover part or all of the cost; and the availability of department resources to cover part or all of the cost when other resources are insufficient.

§ 18. Appeal procedures.

When an applicant or client is dissatisfied with any action concerning the furnishing or denial of services from the department, the applicant or client may file a request for an administrative review and a redetermination of that action. [Assistance is available throughout the appeal process, to all clients, from the Client Assistance Project within the Department for Rights of the Disabled.] In the event that medical or psychological evidence indicates it is necessary to terminate a cost service, subsection A and B below do not apply.

A. Reconsideration step.

When an applicant or client is dissatisfied with an action taken by the department, the applicant or client shall present the disagreement orally or in writing for reconsideration to either the person who took the initial

action or to that person's immediate supervisor. The initial action shall be reviewed and the applicant or client shall be informed in writing of the redetermination within seven working days after the request is received.

B. Administrative review.

1. Any applicant or client who has been unable to satisfactorily resolve the issue(s) at the reconsideration step may obtain an administrative review from a department representative.

2. A request for an administrative review [~~must~~ shall] be made in writing by the client or client's designee to the rehabilitation counselor within 30 days after the client has been notified of the reconsideration decision. The request shall contain a description of the issue(s) presented for review, the action being requested, and other evidence to support that request.

3. The administrative review shall be conducted by a department representative within 10 working days.

4. The department representative shall afford the client the opportunity to present his dispute orally, if desired.

5. The department representative shall determine whether there was reasonable factual support for the initial action and whether the action was consistent with the department's regulations, policies and practices.

6. The department representative shall notify, in writing, the client or applicant, of the decision within 10 working days of the administrative review based upon consideration of the following:

- a. The needs of the client,
- b. The dispute as presented by the client,
- c. The administrative record, and
- d. Agency regulations and practice which the department representative determines to be pertinent to the issues presented.

7. A client who is dissatisfied with the administrative review decision may request a fair hearing.

C. Expedited administrative review.

1. Whenever the department proposes to terminate a cost service specified in the client's individualized written rehabilitation program, the client shall have the right to an expedited administrative review. If such review is requested in keeping with subsection C paragraph 4, the termination of the service shall not occur until the administrative review is concluded.

2. Clients shall be notified in writing no later than 10 working days prior to the effective date of the proposed termination of a cost service.

3. Clients or client's designee must request in writing prior to the effective date of the termination an expedited administrative review. The request must be made to the client's rehabilitation counselor.

4. The department representative shall conduct the expedited administrative review according to the procedures described in subsection B.

D. Fair hearing.

1. The request for a fair hearing must be made in writing to the commissioner within 15 days after receipt of the administrative review decision. The client or the client's designee shall state in detail the objections to the department representative's findings or recommendations.

2. The fair hearing shall:

a. Be conducted by a hearing officer. The hearing officer may be an employee of the department who has not directly participated in the decision under consideration.

b. Be held at a site convenient to the client and conducted within 30 calendar days after the request is received, unless an extension is mutually agreed upon and so documented.

c. Be conducted pursuant to § 9-6.14:11 of the Code of Virginia.

3. All parties to the hearing have the right: (i) to have reasonable notice thereof; (ii) to appear in person or by counsel or other qualified representative before the hearing officer for the informal presentation of factual data, argument, or proof in connection with department's action under review; (iii) to have notice of any contrary factual basis or information in the possession of the department upon which it relied in making an adverse decision; and (iv) to be informed, briefly and in writing, of the recommendation of the hearing officer.

4. The hearing officer may request other department staff such as the assistant commissioner for Community Rehabilitation Services or the chief medical consultant to supply additional information within their professional area of expertise. The request and response shall be made in writing.

5. No later than 15 working days after the fair hearing, the hearing officer shall submit a recommendation to the commissioner.

6. No later than 10 working days after the report has

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been submitted, the commissioner shall inform the client in writing of the decision.

E. Review by the Secretary of the United States Department of Education.

When a client being provided vocational rehabilitation services is dissatisfied with the final decision of the commissioner, the client may request the Secretary of the U. S. Department of Education to review the decision. Such client shall be informed of this right at the time the commissioner renders a final decision.

§ 19. Protection, use and release of personal information.

A. Purpose.

The purpose is to establish policies and procedures for the proper dissemination of information in accordance with the statutes of the Code of Virginia, Virginia Freedom of Information Act, and Virginia Privacy Protection Act. Hereafter clients shall be referred to as data subjects.

B. Application.

This applies to all employees of the department, consultants, affiliates and volunteers.

C. Policies.

The department shall:

1. Comply with state statutes when releasing any information regarding data subjects by:

a. Disclosing information/records to the data subject who is 18 years old, except:

(1) If data subject has been legally declared as incompetent then the right to access information has been granted to the individual or committee which has been appointed as guardian, authorized agent(s) or representative(s).

(2) When the treating physician has written on a mental or medical record: "In my opinion a review of such records by the data subject would be injurious to the data subject's physical or mental health or well being." This does not preclude access to that report by authorized agents or representatives. The treating physician is the only professional who, by statute, has the authority to label and deny access to a mental record by the data subject. Access to other information is not restricted.

b. Disclosing information/records only to the parent or guardian for the data subject who is under 18 years old.

2. Follow procedures which ensure that all records and other personal, identifying data are treated as confidential information, meaning that other than regular access authority and the exceptions which are permitted by code and statutes, no expressed personal or documented information shall be released to a third party without the written, informed consent of the data subject or his authorized agent or by court order;

3. Obtain and document only that information which is necessary to plan and deliver rehabilitation services;

4. Maintain and post the department's access list which designates staff positions of those who have the privilege of reviewing and checking out records;

5. Assign to all individuals as defined in subsection B and acknowledge written requests for information which are identified and occur after a data subject's application for services;

6. Charge for copies of information unless the request is from those who need information to assist data subject in the rehabilitation program. The rate shall be \$.15 per page or the actual cost, whichever is less; and

7. Keep records in offices unless in accordance with a court order, statute or by special authorization from the department representative.

D. Procedures for disclosing information.

1. Handling disclosures.

a. Each request to disclose information shall be handled during normal business hours.

b. Each written request shall be responded to within 14 working days.

c. Before an employee releases information to a person or organization other than those identified on the access list, written, informed consent must be given by data subject or the authorized agent.

When there is need to release information regarding data subjects, informed consent forms should be initiated through the data subject's counselor. Forms are completed prior to releasing information and filed in data subject's record.

d. Any employee who releases information after informed consent is obtained must document data subject's record with employee's name, date, the purpose for giving specific information and to whom information was given. These statements are also documented when the record has been reviewed by or copied for the data subject.

2. Accessing information for specific situations.

a. A data subject's request to review personal record.

(1) When a data subject requests a review of their case records, the individual should be referred to their counselor, or in his absence, the counselor's supervisor. This employee is responsible for confirming the data subject's age, and competency status to access information in his own behalf.

(2) For those data subjects who are under age 18 or who have been declared incompetent, the department shall explain right to access and assist data subject by coordinating the desired review with parent or authorized agent.

(3) For data subjects who have the right to access information, the department should obtain the case record and review contents to learn if there are any mental records which a treating physician has identified as not to be reviewed. These are the only reports which can and must be removed before access.

(4) The department gives data subject their case record and is available throughout the review to interpret reports or to assist the data subject, who may wish to seek additional information regarding contents. The data subject may choose to review their case record without interpretation.

b. Access by parents, guardians or authorized agents.

(1) When a data subject is a minor or has been legally declared as incompetent, the parent, guardian, or authorized agent, is expected to furnish personal identification and sign a statement regarding their relationship to data subject.

(2) When a data subject is 18 years or older and there is a parent who wants to review information or accompany data subject to a data subject oriented meeting, the data subject shall sign an "Authorization for Release of Information," form prior to disclosure.

c. Access by "significant others" (other family members or friends).

(1) When a data subject is a minor or has been legally declared as incompetent, the parent, guardian, or authorized agent, shall give written, informed consent prior to disclosure.

(2) When a data subject is 18 years or older, he shall give written, informed consent prior to disclosure.

d. Access by third parties.

(1) Unless required by law, or this department, no disclosure shall be made to third parties without written, informed consent from the data subject or the legally authorized agent. Upon disclosure, third parties shall be advised to maintain confidentiality with no redisclosure of information.

(2) The following information is either required by law or permitted by mission of the agency and shall be disclosed without the data subject's authorization:

(a) Within the department, employees shall be given information which is relevant to case management or research requirements.

(b) The department's medical consultants may release information to another physician for consultation or hospitalization purposes.

(c) For emergencies:

(1) Telephone and face-to-face disclosure may be made to any person for an emergency when it is reasonable to believe that a delay shall result in serious bodily injury, death or deterioration of the physical or mental condition of data subject. Examples: (i) an emergency admission or commitment to a hospital; (ii) an inquiry from an acute care hospital, data is limited to answers for specific information from the data subject's case record; and (iii) an inquiry by law-enforcement officials regarding an emergency situation. Information is limited to that which is necessary to deal with the emergency.

(2) When it becomes necessary to release information in these circumstances, the responsible department party shall enter the following in the data subject's case record: (i) the date the information was released; (ii) the person to whom information was released; (iii) the reason the information was released; (iv) the reason written, informed consent could not be obtained; and (v) the specific information which was released.

(d) For court orders and subpoena, all requests for information by court orders shall be processed by the data subject's counselor unless there is some question about the need for legal advice. In those situations, the department representative shall decide if contact needs to be made with the department representative in the Attorney General's office prior to compliance. This contact shall be made by the commissioner's designee.

(e) The Virginia Department of Social Services shall be given, upon request, information about the location, income, and property of data subjects who

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have abandoned, deserted, or failed to support children and their caretakers who are receiving public assistance. No other information may be released.

(f) The Virginia Department of Health shall be given access to medical records in the course of an investigation, research, or studies of diseases or deaths which are of public health importance.

(g) The Virginia Department of Health may be provided with abstracts of records of data subjects having malignant tumors or cancers. Such abstracts may include the name, address, sex, race, and any other medical information required by law.

(h) Information may be released as requested for a formal investigation to the Virginia Department of Health, State Medical Examiner.

e. Access by special interest third parties.

(1) Release of information shall include a written, informed consent.

(2) Except for public events, no data other than directory information shall be released to the news media without the written, informed consent of the data subject or the authorized agent.

(3) No information shall be released to law-enforcement officers without the written, informed consent of the data subject or the authorized agent, or without judicial order.

(4) Audio tapes, video tapes, computerized data or other media reproduction are considered as confidential records and shall be treated like written material.

E. Procedure for changing a record.

1. Revoking an authorization of consent.

a. If anyone, such as an attorney, has a data subject sign an authorization which rescinds all prior authorizations, this negates all previous authorizations. The department shall make this a part of the case record.

b. When the revocation clause appears in the record, the department no longer has the authority to disseminate additional information other than to those on the regulation department access list.

c. If the data subject is currently a client, their counselor shall record any authorization which includes a revocation clause. This means that all routines for forwarding reports to those not on department's access list shall be stopped.

d. The rehabilitation counselor shall notify WWRC counselor or sponsor of the situation and inform the data subject of the restriction.

e. The department shall acknowledge and comply with the attorney's request for information. A separate letter shall also advise the attorney that this clause denies access of information to persons or organizations which are responsible for continuing rehabilitation services. The department shall advise attorney of the need to be provided with an additional statement which reinstates communication and correspondence.

2. Reinstating consent.

When a satisfactory reinstatement statement and new consent is received from attorney and data subject, the department shall file the additional authorization and inform appropriate department counterparts about the new release.

3. Challenging and correcting a record by the data subject or agent.

a. The data subject or agent has a right to contest the accuracy or completeness of any personal record, except access to challenging or correcting a treating physician's mental record which has been identified as not to be reviewed by the data subject.

b. Data subjects who are currently clients shall be instructed by their counselor that any request to correct, amend, or delete information is to be done in writing, giving specific reasons why information is being contested.

c. The counselor shall submit this statement to their immediate supervisor.

d. Supervisor shall interview staff, as necessary, examine pertinent records and submit a written recommendation to their regional or center director. This recommendation is to include a statement and rationale to either uphold or to change existing records.

e. When the regional or center director determines that information which is being disputed is, in fact, incomplete, inaccurate, not pertinent, untimely, or unnecessary to be retained, that individual shall instruct the original writer to amend the report in question. If the originator is no longer an employee, the regional or center director or a designee shall prepare the amended report. A copy of the amended report shall be sent to the local office for the client's file.

f. The department shall disseminate the amended version of the report to any previous recipients and

as part of the record for all further requests for information.

g. The department shall notify the data subject in writing of the decision. A copy of that notice is to be filed in data subject's local office file.

h. If the investigation does not change the record or resolve the dispute, the data subject may file a statement [~~of not more than 200 words,~~] stating what he believes to be an accurate or complete version of that information. This statement becomes a permanent part of the record. The department shall forward a copy to all previous recipients who have access to the information being disputed.

F. Procedures of safeguarding records.

1. Maintaining security of records.

a. Data subject records are the property of the department and are entrusted to personnel who safeguard records from loss, defacement or use by unauthorized persons.

b. No record is to be defaced by marking, underlining or entering notations by anyone other than the originator of any document.

c. When a record is requested, either by court or a directive from the commissioner, a certified copy of the record shall be provided by the counselor.

d. Whoever removes records has the responsibility to assure confidentiality of content while it is out. It must never be left unattended in areas which are accessible to unauthorized individuals.

e. Confidentiality shall be maintained in work areas where casework documents are being prepared, filed or distributed.

2. Violating confidentiality.

Individuals who violate security standards or the confidentiality code by releasing information without obtaining or following procedures may be subject to their name being removed from the access list and to discipline under the standards of conduct.

G. Department's access list.

The following have been approved to have access to the case records of clients served by the department:

1. Administrative and supervisory staff engaged in dutiful performance of their job which requires access to individual client files;

2. Service delivery personnel including, but not limited to: rehabilitation counselors, vocational evaluators,

psychiatrists; and

3. Clerical personnel as appropriate.

§ 20. Periodic review of extended employment in rehabilitation facilities.

Periodic review and reevaluation shall be conducted at least annually, of the status of those clients who have been placed in extended employment in rehabilitation facilities, to determine the feasibility of their employment or their training for future employment in the competitive labor market. Maximum effort shall be made to place these clients in competitive employment or training for competitive employment whenever feasible.

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-10-112. Welfare Assistance Redeemable in Goods (Retail Sales and Use Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

This regulation references the exemption from the sales and use tax enacted by the 1986 session of the General Assembly for purchases of tangible personal property made with food stamps and WIC drafts. In addition, this regulation sets forth the methods that a food dealer may use to account for such exempt sales when filing his sales and use tax returns.

This regulation represents a revision of an earlier emergency regulation on the subject. The emergency text has been revised only to clarify one aspect of accounting for exempt food stamp and WIC sales when a dealer chooses one of the two alternative methods provided in the regulation. The final regulation does not differ from the proposed regulation.

VR 630-10-112. Welfare Assistance Redeemable in Goods (Retail Sales and Use Tax).

§ 1. Generally.

Except as provided in § 2, Food stamps and WIC drafts, the tax applies to tangible personal property purchased by individuals with welfare benefits.

§ 2. Food stamps and WIC drafts.

Effective October 1, 1986, the tax does not apply to tangible personal property purchased by individuals with food coupons ("food stamps") issued by the U.S. Department of Agriculture under the Food Stamp Program

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or drafts (WIC drafts) issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

§ 3. Other purchases by food stamp and WIC program participants.

The exemptions set forth in § 2, Food stamps and WIC drafts, apply only to food or other items of tangible personal property actually purchased with food stamps or WIC drafts. Thus, all other purchases by food stamp and WIC program participants that are not paid for with food stamps or WIC drafts are subject to the tax.

§ 4. Dealer's returns.

In computing the total exempt sales relating to goods paid for with food stamps and WIC drafts, a dealer may make an exact accounting of such sales or may choose one of the two following alternative methods:

ALTERNATIVE 1.

A dealer may compute his exempt food stamp and WIC sales by utilizing the monthly total of all food stamps deposited, plus the total number of \$1 food stamps retained at the end of the month, less reduced by the total amount of coinage given as change from food stamps during the month and the total number of \$1 food stamps on hand on the first day of the month. To this total should be added the total amount of WIC drafts deposited during the month.

Example: Tendered to Dealer A during the month are \$10,000 in food stamps on purchases of eligible foods. In addition, Dealer A had \$40 in food stamps on hand on the first day of the month. Dealer A returns \$1,000 of such stamps and \$180 in coin to customers as change from food stamp purchases. Thus, Dealer A has taken in a net total of ~~\$9,000~~ \$9,040 in food stamps for the month. Of this total, Dealer A deposits with his bank during the month ~~\$8,950~~ \$8,990 and on the last business day of the month withholds fifty food stamps of the \$1 denomination in order to have sufficient change for the next business day. In addition, Dealer A deposits WIC drafts totalling exempt purchases of \$500 during the month. Dealer A would compute his total deduction from gross receipts for exempt food stamp and WIC sales as follows:

Food stamps deposited during month	.....	\$9,000 \$8,990
Food stamps retained at end of month	.....	50
Food stamps on hand at first of month	.....	(40)
WIC drafts deposited during month	.....	500
Coin change from food stamp purchases	.....	(180)
Total deduction for exempt food stamp and WIC sales		\$9,320

ALTERNATIVE 2.

The second option available to a dealer in computing his

exempt food stamp and WIC sales is to utilize the monthly total of food stamps deposited, plus the total number of \$1 food stamps retained at the end of the month (reduced by the total amount of food stamps on hand on the first day of the month), multiplied by 98%. To this total should then be added the total amount of WIC drafts deposited during the month.

Dealers utilizing this approach may also seek authorization from the department to use an alternative percentage to account for coin change returned to customers from food stamps. Any such request must be accompanied by a detailed analysis of not less than one month's food stamp transactions.

Example: Tendered to Dealer B during the month are \$10,000 in food stamps. In addition, Dealer B had on hand \$40 in food stamps on the first day of the month. Returned to customers in change from such stamps are \$1,000 in food stamps; thus, Dealer B has taken in a net total of ~~\$9,000~~ \$9,040 in food stamps during the month. Of this total, Dealer B deposits ~~\$8,950~~ \$8,990 into his bank account and retains \$50 in food stamps on the last day of the month. In addition, Dealer B deposits WIC drafts totalling \$500 during the month. Dealer B would compute his total deduction from gross receipts for exempt food stamp and WIC sales as follows:

Food stamps deposited during month	.....	\$9,000 \$8,990
Food stamps retained at end of month	.....	50
Food stamps on hand on first day of month	.....	(40)
	.....	\$9,000
	.....	<u>x .98</u>
	.....	\$8,820
WIC drafts deposited during month	.....	500
Total deduction for exempt food stamp and WIC sales	.....	\$9,320

The total exempt food stamp and WIC sales arrived at under either option would then be added to the total of other exempt sales and deducted from gross receipts when the dealer files his monthly sales and use tax return, Form ST-9. The option selected by the dealer for purposes of filing his first return for taxable periods beginning on or after October 1, 1986 must be followed for all subsequent returns, unless the dealer obtains written authorization from the Tax Commissioner for the use of an alternative method. Section revised 1/79, 10/86, 7/87.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF EDUCATION

Title of Regulation: **Certification Regulations for Teachers.**

Governor's Comment:

No objections to the proposed regulations as presented.

/s/ Gerald L. Baliles
May 2, 1987

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulations: **VR 380-02-01. Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas, and Certificates.**

Governor's Comment:

No objection to the proposed regulations as presented.
I would request that the Council report to me regarding the paperwork reductions achieved through implementation of the new regulations.

/s/ Gerald L. Baliles
May 2, 1987

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

STATE BOARD OF ACCOUNTANCY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Accountancy intends to consider promulgating, amending, or repealing regulations entitled: **VR 105-01-2. State Board of Accountancy Rules and Regulations.**

The purpose of the proposed action is to amend the fees charged for examination and reexamination and other changes which may be deemed appropriate to the State Board of Accountancy Rules and Regulations.

Statutory Authority: § 54-84 of the Code of Virginia.

Written comments may be submitted until June 25, 1987.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, Va. 23230, telephone (804) 257-8505 (toll-free 1-800-552-3016 (Virginia only))

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Rules and Regulations for the Enforcement of the Phosphate Cleaning Agents Law.** The purpose of the proposed regulation is to establish exceptions for cleaning agents containing phosphorus that the act creates a significant hardship on the user or where the act may be unreasonable because of the lack of an adequate substitute cleaning agent.

STATEMENT

Senate Joint Resolution 54 adopted by the 1984 General Assembly session requested, in part, certain Virginia agencies to study the cost and benefit of a phosphate detergent ban in Virginia. A task force was formed, conducted a series of meetings and studied numerous nationwide studies and reports on the subject produced by

the private sector, government agencies and universities. The task force submitted its report to the Governor and the General Assembly in November, 1985. (See Senate Document #9-1985). The task force concluded "...that a phosphorus detergent ban should reduce the phosphorus levels in wastewater by 20 to 30%."

The 1987 General Assembly passed Senate Bill 248 and companion House Bill 1038. The bills were signed into law by Governor Gerald L. Baliles and have an effective date of January 1, 1988. The bills establish a zero percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5% that is incidental to manufacturing, for cleaning agents which include laundry detergents, dishwashing compound, household cleaner, metal cleaner, industrial cleans, phosphate compound or other substance that is intended to be used for cleaning purposes. The bills provide for detergents used in dishwashing machines, whether commercial or household to contain not more than 8.7% phosphorus and authority for the board to exclude others if they meet the criteria as described below. The bills also provide for exclusion of a cleaning agent that is:

1. Used in dairy production, beverage, or food processing equipment;
2. A product used as an industrial sanitizer, brightener, acid cleaner or metal conditioner, including phosphoric acid products or trisodium phosphate;
3. Used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural or dairy production or in the manufacture of health care supplies;
4. Used in commercial laundry that provides laundry services for a hospital, health care facility or veterinary hospital;
5. Used by industry for metal cleaning or conditioning;
6. Manufactured, stored, or distributed for use or sale outside of the Commonwealth;
7. Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory;
8. Used for cleaning hard surfaces, including household cleansers for windows, sinks, counters, ovens, tubs, or other food preparation surfaces and plumbing fixtures;

9. Used as a water softening chemical, antiscaling chemical, or corrosion inhibitor intended for use in closed systems, such as boilers, air conditioners, cooling towers, or hot water heating systems.

Section 62.1-193.3 of the Code of Virginia charges the Board of Agriculture and Consumer Services to adopt rules and regulations to administer and enforce the provisions of the Act, and under § 62.1-193.2 to adopt regulations to provide for substances exceeding the zero phosphorus limitation, not to exceed 8.7% phosphorus by weight, based on a finding that compliance with the Chapter would:

- a. Create a significant hardship on the user; or
- b. Be unreasonable because of the lack of an adequate substitute cleaning agent.

The board is seeking to identify those users who can document that the Act creates a significant hardship on them or may be unreasonable because of the lack of an adequate substitute cleaning agent.

The board will study the responses and the law to determine if a need exists to promulgate rules and regulations to provide for further exemptions or for the administration and enforcement of the Act.

Statutory Authority: §§ 62.1-193.2 and 62.1-193.3 of the Code of Virginia.

Written comments may be submitted until July 10, 1987, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank Street, Richmond, Virginia 23209.

Contact: C. Kermit Spruill, Director, Division of Dairy and Food, P.O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-8899

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.**

The purpose of the intended amendments is to change the agency's regulations to provide the latest edition of referenced technical and scientific documents and to incorporate newly promulgated federal New Source Performance Standards (NSPS) and National Emission and Standards for Hazardous Air Pollutants (NESHAPS).

Statutory Authority: § 10-17.18(b) of the Code of Virginia.

Written comments may be submitted to Director of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Virginia 23240

Contact: Nancy S. Saylor, Division of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Va. 23240, telephone (804) 786-1249

DEPARTMENT OF HEALTH (State Board of)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Rules and Regulations for the Licensure of Hospitals in Virginia.**

The purpose of the proposed amendments is to require each hospital that provides an obstetrical service to have a protocol for admitting or transferring any woman in labor that presents herself at the hospital; to require each licensed hospital to establish a protocol for organ and tissue procurement.

Statutory Authority: § 32.1-127 of the Code of Virginia.

Written comments may be submitted until June 22, 1987.

Contact: Mary V. Francis, Director, Division of Licensure and Certification, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-2084

VIRGINIA BOARD OF HEARING AID DEALERS AND FITTERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Hearing Aid Dealers and Fitters intends to consider promulgating, amending, or repealing regulations entitled: **Virginia Board for Hearing Aid Dealers and Fitters.**

The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the agency's public participation guidelines and § 54-524.110 of the Code of Virginia.

Statutory Authority: §§ 54-1.28 and 54-524.110 of the Code of Virginia.

Written comments may be submitted until June 25, 1987.

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Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505 (toll-free 1-800-552-3016 (Virginia only))

DEPARTMENT OF LABOR AND INDUSTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider adopting regulations entitled: **VR 425-02-30. Virginia Confined Space Standard for the Telecommunications Industry.** The purpose of the regulations is to provide persons engaged in confined space operations in the telecommunications industry with safe procedures for entry and work in confined spaces.

April 24, 1987

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Request for Public Comment

Subject, substance and issues: On March 23, 1987, the Virginia Safety and Health Codes Board voted to adopt a separate Confined Space Standard for the Telecommunications Industry, 1910.268(t). The board also voted to extend the comment period on subsections 1910.268t.4.A. and .4.C., which deals with the issue of oxygen monitoring versus mechanical ventilation of confined spaces; and subsection 1910.268t.10.B. which deals with whether the start-up date of the standard should be January 1, 1988, or some other date. Questions addressing these issues are set forth below.

Basis: The Virginia Safety and Health Codes Board, with the advice of the Commissioner of the Department of Labor and Industry, is required under § 40.1-22(5) of the Code of Virginia to "adopt, alter, amend or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction...."

Purpose: The Virginia Confined Space Standard for the Telecommunications Industry is designed to require safe practices and procedures for employee entry into and work inside confined spaces. Such uniform, statewide requirements will help to reduce the occupational exposure of Telecommunications Industry employees to the many potential hazards found in working with confined spaces (vehicular hazards when working in a manhole in the middle of a street, atmospheres which are irritative, explosive or oxygen deficient, etc.)

Comments are invited on the following issues:

1. Should the Virginia Confined Space Standard for the Telecommunications Industry, require that oxygen testing be performed prior to and during entries or should the standard allow for mechanical ventilation to be utilized in lieu of oxygen monitoring devices?

2. In the event that mechanical ventilation is allowed to be used in lieu of oxygen monitoring devices; should a professional engineer, a marine chemist or a certified industrial hygienist be required to certify in writing that the mechanical ventilation being used will assure sufficient oxygen concentration for the operations being performed in the confined spaces?

3. Are there any other professional groups capable of evaluating and certifying the adequacy of mechanical ventilation devices used in confined spaces?

4. Are oxygen detectors available which can be stored at temperatures in the range of -10°F to 0°F and still be accurate when used?

5. Are there any documented accidents, injuries or illnesses in Virginia that can be attributed to an oxygen deficiency in a Telecommunications Industry Confined Space where mechanical ventilation had been utilized?

6. Should a start-up date be set for January 1, 1988 or some other date?

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until June 12, 1987, to Carol Amato, Commissioner, Department of Labor and Industry, 205 North Fourth Street, P. O. Box 12064, Richmond, Va. 23241. A second 60-day public comment period is not required under the Administrative Process Act.

Contact: Thomas Rother, Occupational Health Voluntary Compliance and Training Director, telephone (804) 786-0551 or Jay Withrow, VOSH Technical Services Director, telephone (804) 786-8011

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mental Health and Mental Retardation intends to consider promulgating regulations entitled: **VR 470-02-13. Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities.**

The purpose of the proposed regulations is to provide

minimum requirements for the licensure of psychiatric hospitals, psychiatric units in general hospitals and inpatient substance abuse treatment facilities. VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals will be repealed.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until June 12, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Rehabilitative Services intends to consider promulgating regulations entitled: **Provision of Independent Living Rehabilitation Services**. The purpose of the proposed regulations is to establish policies, procedures and requirements governing the provision of services to disabled persons.

Statutory Authority: § 51.01-5(7) of the Code of Virginia.

Written comments may be submitted until June 1, 1987, to David R. Ziskind, Deputy Commissioner, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Va. 23230, telephone (804) 257-6446

COMMONWEALTH TRANSPORTATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending three separate sets of regulations now in use into a single regulation entitled: **Hazardous Materials Transportation Regulations at Tunnel, Ferry and Bridge Facilities Throughout the Commonwealth of Virginia**. The purpose of the proposed amendments is to provide new rules and regulations including operating requirements for the transportation of hazardous materials through tunnels, on bridges and on ferries in form and content consistent with

the Commonwealth's regulations and in conformance with the federal Department of Transportation regulations, as identified in the Code of Federal Regulations (Title 49).

Statutory Authority: §§ 33.1-12 and 33.1-13 of the Code of Virginia.

Written comments may be submitted until July 13, 1987.

Contact: John I. Butner, Engineering Programs Supervisor, Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2878

DEPARTMENT FOR THE AGING

General Notice to the Public

Notice of Intent to Apply for Federal Funds

The Virginia Department for the Aging hereby gives notice of its intent to apply for federal funds for aging services under Title III of the Older Americans Act (as amended), Title V of the Older Americans Act (as amended) and the Job Training Partnership Act. The application for funding will be filed on August 15, 1987, and will include intrastate funding formulas for the distribution of Title III funds, Title V funds, and Job Training Partnership Act funds to local area agencies on aging.

Written comments on this application will be received until 5 p.m., Friday, June 19, 1987. Copies of the proposed application will be available to the public after April 17, 1987. Written comments and requests for copies of the proposed application should be sent to:

Mr. Robert Knox, Director
Division of Program Management
Virginia Department for the Aging
101 North 14th Street, 18th Floor
Richmond, Virginia 23219-2797
telephone (804) 225-2801

Public hearings to receive comments on the proposed application will also be held on the following dates:

June 8, 1987

Wytheville Community College
Wytheville, Virginia

June 9, 1987

Germanna Community College
Locust Grove, Virginia

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June 10, 1987

Richard Bland Community College
Petersburg, Virginia

Public hearings are open to all interested individuals and will begin at 10 a.m. and conclude no later than 1 p.m.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

† Notice to the Public

Pursuant to its public participation guidelines contained in § 5.1 of VR 125-01-1, the board intends to consider the amendment or adoption of regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. §§ 1.7, 1.14, 2.5 and 2.9 of VR 125-01-1 - Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations.

a. **Subject of Proposal** - Amend regulations pertaining to Rules of Practice and Procedure to provide that notices from the board, including Notices of Hearings, Notices of Continuances, Notices of Decisions and other notices during the hearings process may be given by first class United States mail, postage prepaid to the licensees, complainants, objectors or applicants' last known mailing address or principal place of business.

b. **Entities Affected** - Manufacturers, wholesalers, retailers and other persons involved in administrative hearings before the board.

c. **Purpose of Proposal** - To permit the giving of notice by first class United States mail, postage prepaid, instead of giving such notices by certified or registered mail, and to reduce costs and expenses incurred in sending notices by certified mail.

d. **Issues Involved** - Should the board change its current practice of sending notices by certified or registered mail and begin a new practice of giving notice by first class mail only?

e. **Applicable Laws or Regulations** - §§ 4-7(j), 4-11(a), 4-31(b), 4-37 B., 4-105(5)(c), 4-114(b), 4-118.31 B., 4-118.11 B., 9-6.14:12 of the Code of Virginia.

2. Part III of VR 125-01-1 - Wine and Beer Franchise Acts.

a. **Subject of Proposal** - Amend Part III of regulation to provide that the board may issue subpoenas for the production of documents,

attendance of witnesses, requests for admissions, interrogatories, depositions and other forms of discovery.

b. **Entities Affected** - Manufacturers, importers and wholesale wine and beer distributors.

c. **Purpose of Proposal** - To provide for discovery in Wine and Beer Franchise cases as provided in changes to §§ 4-118.11 and 4-118.31 of the Code of Virginia, at the 1987 General Assembly.

d. **Issues Involved** - This is a procedural change mandated by statutory amendment passed by the 1987 General Assembly, HB 1532.

e. **Applicable Laws or Regulations** - §§ 4-7(j), (k) and (l), 4-10, 4-11(a), Chapter 2.1 (4-1183 et seq.), Chapter 2.2 (4-118.21 et seq.) of Title 4 and Chapter 1.1:1 (9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

3. § 1 of VR 125-01-2 - Advertising Generally; Cooperative Advertising; Federal Laws; Beverages and Cider; Exceptions; Restrictions.

a. **Subject of Proposal** - Amend regulation to eliminate the prohibition against the use of advertising of any present or former athlete or athletic team.

b. **Entities Affected** - Manufacturers of spirits, wine and beer, wholesalers and retailers.

c. **Purpose of Proposal** - To permit the alcoholic beverage industry to use athletes or athletic teams in their advertising.

d. **Issues Involved** - Will the removal of this proscription encourage impressionable persons under the legal drinking age to purchase or consume alcoholic beverages?

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

4. § 2 of VR 125-01-2 - Advertising; Interior; Retail Licensees; Show Windows.

a. **Subject of Proposal** - To amend regulation to permit retailers to have interior advertising of any brand of alcoholic beverages sold in this Commonwealth, provided, however, that such advertising materials are not furnished by manufacturers or wholesalers of alcoholic beverages.

b. **Entities Affected** - Retail licensees of the board.

c. **Purpose of Proposal** - To eliminate the proscription of interior advertising by retailers to

any reference to any brand or manufacturer of alcoholic beverages.

d. **Issues Involved** - Should retailers be permitted to advertise brands of alcoholic beverages in the interior if such advertising materials are furnished by the retailer?

e. **Applicable Laws of Regulations** - §§ 4-1(l), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia.

5. § 2 of VR 125-01-2 - Advertising; Interior; Retail Licensees; Show Windows.

a. **Subject of Proposal** - Amend regulation to permit point-of-sale materials on contests and sweepstakes in retail establishments as long as no purchase is required and point-of-sale restricted to cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers of beer and wine and the general public.

c. **Purpose of Proposal** - This would provide another source for the public to enter and participate in contests and sweepstakes.

d. **Issues Involved** - Should the board permit this additional point-of-sale material in retail outlets which is currently permitted in the print media?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia.

6. § 6 of VR 125-01-2 - Advertising; Novelties and Specialties.

a. **Subject of Proposal** - Amend regulation to permit order blanks at the point-of-sale for novelty and specialty items on cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers, retailers and the general public.

c. **Purpose of Proposal** - To permit the general public another means, other than the print media, to obtain novelty and specialty items from suppliers.

d. **Issues Involved** - Should brand identified novelty and specialty items be made more readily available to the public?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14, of the Code of Virginia.

7. § 9 of VR 125-01-2 - Advertising; Coupons.

a. **Subject of Proposal** - Amend regulations to define

"normal retail price."

b. **Entities Affected** - Manufacturers of spirits, wine and beer.

c. **Purpose of Proposal** - To define "normal retail price" and insert example in amended language.

d. **Issues Involved** - Merely to clarify "normal retail price" for industry.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

8. § 9 of VR 125-01-2 - Advertising; Coupons.

a. **Subject of Proposal** - Amend regulation to eliminate the prohibition against the use of discount coupons.

b. **Entities Affected** - Manufacturers of spirits, wine and beer, retailers and general public.

c. **Purpose of Proposal** - To permit the use of discount coupons as is presently permitted for refund coupons.

d. **Issues Involved** - Should manufacturers be permitted to offer discount coupons?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

9. § 10 of VR 125-01-2 - Advertising; Sponsorship of Public Events; Restrictions and Conditions.

a. **Subject of Proposal** - Amend regulation to eliminate the restriction that events must be of a limited duration.

b. **Entities Affected** - Manufacturers and wholesalers of alcoholic beverages and banquet licensees.

c. **Purpose of Proposal** - Deregulation of restriction governing sponsorship of public events.

d. **Issues Involved** - Should manufacturers and wholesalers of alcoholic beverages be permitted to sponsor public events without time restrictions?

e. **Applicable Laws or Regulations** - §§ 5-7(l), 4-11(a) and 4-69 of the Code of Virginia.

10. § 10 of VR 125-01-2 - Advertising; Sponsorship of Public Events; Restrictions and Conditions.

a. **Subject of Proposal** - Amend regulation to permit sponsorship of events on an amateur,

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semi-professional or intercollegiate level by wineries, distilleries and breweries and expand the scope of public events to include cultural events.

b. **Entities Affected** - Wineries, distilleries, breweries and the general public.

c. **Purpose of Proposal** - To permit sponsorship by wineries and distilleries of certain types of events presently permitted by breweries and to authorize sponsorship of cultural events only.

d. **Issues Involved** - Should all manufacturers of alcoholic beverages be allowed to sponsor the same types of public events?

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

This requested by Brown-Forman Company.

11. § 8 of VR 125-01-3 - Solicitation of Mixed Beverage Licensees Generally; Disqualifying Factors.

a. **Subject of Proposal** - Amend regulation to permit a representative of a distillery to solicit mixed beverage licensees.

b. **Entities Affected** - Mixed Beverage licensees and manufacturers of distilled spirits.

c. **Purpose of Proposal** - To remove present prohibition of the solicitation of mixed beverage licensees by representatives of a distillery.

d. **Issues Involved** -

(1) Should distillery representatives be permitted to solicit mixed beverage licensees?

(2) What control would the board have over such a representative who holds no license or permit from this agency?

e. **Applicable Laws or Regulations** - §§ 4-98.14 and 4-98.16 of the Code of Virginia.

This requested by Brown-Forman Company.

12. § 9 of VR 125-01-3 - Inducements to Retailers; Tapping Equipment; Bottle or Can Openers; Banquet Licenses; Cut Case Cards; Clip-ons and Table Tents.

a. **Subject of Proposal** - Amend regulation to permit three-dimensional printed matter for wine or beer cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers and retailers of alcoholic beverages.

c. **Purpose of Proposal** - To remove the present

restriction on cut case cards of two-dimensional printed matter.

d. **Issues Involved** - To permit manufacturers, bottlers or wholesalers to furnish to retailers interior advertising of a more substantial nature.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

13. § 9 of VR 125-01-3 - Inducements to Retailers; Tapping Equipment; Bottle or Can Openers; Banquet Licenses; Cut Case Cards; Clip-ons and Table Tents.

a. **Subject of Proposal** - Amend regulation to permit manufacturers and wholesalers of beer to furnish retail licensees beer table tents and beer clip-ons.

b. **Entities Affected** - Manufacturers, wholesalers of beer, and retailers.

c. **Purpose of Proposal** - To comply with change in § 4-79 of the Code of Virginia, as amended at the 1987 session of the General Assembly, effective July 1, 1987, HB 1415.

d. **Issues Involved** - Amendment will permit manufacturers and wholesalers of beer to furnish to retailers beer table tents and beer clip-ons as manufacturers and wholesalers of wine are now authorized.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

14. § 2 of VR 125-01-4 - Wines; Qualifying Procedures; Disqualifying Factors; Samples; Exceptions.

a. **Subject of Proposal** - Amend regulation to eliminate subsection dealing with approval of wines to which fruit juice, or artificial flavoring has been added.

b. **Entities Affected** - Manufacturers, wholesalers and retailers of wine products.

c. **Purpose of Proposal** - Deregulation of approval by the board relating to wines containing fruit juice, artificial coloring and sangria-type wines.

d. **Issues Involved** -

(1) The rescission of this subsection would remove an undue burden on the manufacturers, as the product has the approval of the appropriate federal agency.

(2) The current market trend involves more of

these types of wines.

e. **Applicable Laws or Regulations** - §§ 4-7(h) and (l) and 4-11(a) of the Code of Virginia.

15. § 1 of VR 125-01-5 - Restrictions Upon Sale and Consumption of Alcoholic Beverages and Beverages.

a. **Subject of Proposal** - Amend regulation to prohibit the sale and consumption of beer by a person under the age of 21 years.

b. **Entities Affected** - Retail licensees and the general public.

c. **Purpose of Proposal** - To conform with the statutory provisions effective July 1, 1987 raising the legal drinking age to 21 for all alcoholic beverages.

d. **Issues Involved** - To clarify the regulation that a person must be 21 years of age to purchase and consume all alcoholic beverages.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-37(a)(l)(j), 4-62, 4-103(b) and 4-112, of the Code of Virginia.

16. § 2 of VR 125-01-5 - Determination of Legal Age of Purchaser.

a. **Subject of Proposal** - Amend regulation deleting any reference to "Virginia operator's or chauffeur's licenses, or such licenses issued by any other state" and amend language referring to Virginia Division of Motor Vehicles to "Department of Motor Vehicles."

b. **Entities Affected** - Wholesale wine and beer distributors, retail licensees and the general public.

c. **Purpose of Proposal** - Merely housekeeping in nature to clarify types of identification accepted as proof of legal age to purchase alcoholic beverages issued by the Virginia Department of Motor Vehicles.

d. **Issues Involved** - To provide licensees of the board clarification as to bona fide evidence of legal drinking age.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-62, 4-98.14 and 4-103(b) of the Code of Virginia.

17. § 6 of VR 125-01-5 - Procedures for Mixed Beverage Licensees Generally; Mixed Beverage Restaurant Licensees; Sale of Spirits in Closed Containers; Employment of Minors.

a. **Subject of Proposal** - Amend regulation to permit premixing of spirits drinks.

b. **Entities Affected** - Mixed beverage restaurant licensees and mixed beverage caterers.

c. **Purpose of Proposal** - To allow mixed beverage licensees to premix spirits drinks prior to a patron's order.

d. **Issues Involved** -

1. Should mixed beverage licensees be permitted to premix spirits drinks prior to a patron's order?

2. Would the removal of this restriction ensure that the customer receives the drink ordered?

e. **Applicable Laws or Regulations** - §§ 4-7(a), (b), (h) and (l), 4-11(a), 4-98.10, 4-98.11 and 4-98.14 of the Code of Virginia.

18. § 10 of VR 125-01-5 - Definitions and Qualifications for Retail Off-Premises Wine Beer Licenses and Off-Premises Beer Licenses; Exceptions; Further Conditions; Temporary Licenses.

a. **Subject of Proposal** - Amend Regulation to change monetary requirements for monthly sales and inventory.

b. **Entities Affected** - Specialty shop licensees.

c. **Purpose of Proposal** - To reduce the monetary qualifications for monthly sales and inventory from \$2,000 to \$750.

d. **Issues Involved** - Should the board lower the qualifications for a specialty shop classification with respect to the inventory and sales of the required cheese and gourmet foods?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-25(jl) and 4-31(a) of the Code of Virginia.

19. § 11 of VR 125-01-5 - Definitions and Qualifications For Retail On-Premises and On-and-Off Premises Licenses Generally; Mixed Beverage Licensee Requirements; Exceptions; Temporary Licenses.

a. **Subject of Proposal** - Amend regulation to clarify the definition of designated room to include room "or area" to be approved by the board.

b. **Entities Affected** - Retail licensees.

c. **Purpose of Proposal** - To incorporate the current interpretation dealing with the definition of "room."

d. **Issues Involved** - To expand the privileges of the license in rooms or other areas.

e. **Applicable Laws or Regulations** - §§ 4-2(8),

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4-7(l), 4-11(a), 4-25, 4-98.2 and 4-98.14 of the Code of Virginia.

20. § 18 of VR 125-01-5 - Adopt a New Section Concerning Volunteer Fire Stations and Rescue Squads.

a. **Subject of Proposal** - Adopt a new regulation permitting volunteer fire departments/rescue squads to exercise the privileges of banquet facility licenses on the premises other than their stations and under the control of the fire department/rescue squad.

b. **Entities Affected** - Volunteer fire departments or rescue squads.

c. **Purpose of Proposal** - To clarify and set forth conditions by the board for the locations to be used for functions under the control of the fire department or rescue squad while the privileges of the license are being exercised as provided by a change in § 4-25(pl) of the Code of Virginia, as by the 1987 General Assembly, HB 1268.

d. **Issues Involved:** - To comply with statutory changes and provide guidance and clarification.

e. **Applicable Laws or Regulations** - § 4-7(l), 4-11(a), 4-25(pl) and 4-103(b) of the Code of Virginia.

21. § 2 of VR 125-01-6 - Wines; Purchase Orders Generally; Wholesale Wine Distributors.

a. **Subject of Proposal** - Amend regulation to remove the proscription against wholesale wine distributors peddling wine.

b. **Entities Affected** - Wholesale wine distributors and retail licensees.

c. **Purpose of Proposal** - To permit wholesale wine distributors to peddle wine.

d. **Issues Involved** - Should wine wholesalers be permitted to peddle wine, as is presently permitted wholesale beer distributors?

e. **Applicable Laws or Regulations** - §§ 4-7(a), (b) and (l), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

This requested by Loveland Distributing Co. and Guiffre Distributing Co.

22. § 2 of VR 125-01-6 - Wines; Purchase Orders Generally; Wholesale Wine Distributors.

a. **Subject of Proposal** - Amend regulation to eliminate requirement of taking an actual physical inventory monthly and change such inventory to a

quarterly basis.

b. **Entities Affected** - Wholesale wine distributors.

c. **Purpose of Proposal** - To relieve wholesale distributors an economic burden of taking actual monthly physical inventories monthly.

d. **Issues Involved** - Should the regulation be amended eliminating monthly physical inventories and would a change be detrimental to collecting state wine tax?

e. **Applicable Laws or Regulations** - §§ 4-7(a), (b) and (l), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

This requested by the Virginia Wine Wholesalers Association.

23. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(l), 4-11(a), 4-98.14, 4-103(b), 4-6.14 and 9-6.4:1 et seq. of Title 9 of the Code of Virginia.

24. The board requests that all persons interested in the above described subjects please submit comments in writing by **June 25, 1987** to the undersigned, P. O. Box 27491, Richmond, Virginia 23261 or attend the public meeting scheduled below.

25. The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia at 10 a.m. on June 25, 1987.

Contact Robert N. Swinson, if you have questions, at 2901 Hermitage Road, Richmond, Va. 23227 or by phone at (804) 257-0616.

DEPARTMENT OF WASTE MANAGEMENT

Notice to the Public

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia (Administrative Process Act) that the Virginia Waste Management Board intends to amend the regulations entitled: **Regulations Governing the Transportation of Hazardous Materials.**

The proposed Amendment 6 to these regulations includes changes to the U.S. Department of Transportation (DOT) regulations on hazardous materials transportation and motor carrier safety. These new provisions enacted by the U.S. Department of Transportation during 1985-86, require that changes be made to the existing state regulations. These proposed changes maintain consistency with the

federal regulations.

On May 28, 1987 at 10 a.m. an open meeting will be held at the James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. The location is accessible to the handicapped. The purpose of the open meeting is to explain this proposed draft of Amendment 6 to the regulated community, the public, and any interested persons, prior to a final draft for comment at the public hearing to be scheduled for later in 1987.

STATEMENT

Amendment 6 to the Regulations Governing the Transportation of Hazardous Materials

Basis and authority: Section 10-305 (Chapter 24, Title 10) of the Code of Virginia directs the Virginia Waste Management Board to promulgate rules and regulations concerning the transportation of hazardous materials in the Commonwealth, but shall be no more restrictive than applicable federal laws and regulations. Changes in the federal regulations promulgated in 1985-86 necessitate an amendment which keeps the Virginia Regulations Governing the Transportation of Hazardous Materials consistent with these federal regulations.

Purpose: The Virginia Waste Management Board and the executive director of the Virginia Department of Waste Management promulgate these amended regulations in order to ensure that hazardous materials transported within the Commonwealth are loaded, packed, identified, marked, and placarded in order to protect public health and safety and the environment.

Summary and analysis: Amendment 6 proposes to incorporate, by reference, changes that were made by the U.S. Department of Transportation to Title 49 Code of Federal Regulations, §§ 171-179 and 390-397 from January 1, 1985, to December 31, 1986. Changes in the U.S. Department of Transportation regulations include: (i) changes made to reflect new requirements regarding the international transportation of hazardous materials, (ii) reclassification of some explosive materials to reduce risks associated with the transportation of these materials, (iii) improvements in all requirements relating to certain poisonous liquids which pose a potential inhalation risk if there is a release, (iv) improvements in the placarding and shipping paper requirements relating to empty tank cars, (v) incorporate into the hazardous materials tables the CERCLA hazardous substances which require notification if a discharge occurs, (vi) conversion of individual exemptions to make new packagings and shipping alternatives available to the entire regulated community, (vii) extensions provided for certain exemptions and regulatory deadlines, and (viii) corrections, editorial changes, and other minor reversions.

Impact: These requirements have already been through the federal rulemaking process and are in force in the

interstate, and some intrastate, transport of hazardous materials. Therefore, these proposed changes in the initial draft of the amendment are not expected to have a significant impact on the regulated community.

Written comments on proposed Amendment 6 can be submitted until 5 p.m., May 28, 1987, to William F. Gilley, Director, Division of Regulation, Virginia Department of Waste Management, James Monroe Building, 11th Floor, 101 North 14th Street, Richmond, Virginia 23219.

Contact: Cheryl Cashman, Information Officer, Virginia Department of Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667

NOTICES TO STATE AGENCIES

RE: 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: Ann M. Brown, Deputy Registrar of Regulations, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

FORMS:

PROPOSED (Transmittal Sheet) - RR01
FINAL (Transmittal Sheet) - RR02
NOTICE OF MEETING - RR03
NOTICE OF INTENDED REGULATORY ACTION - RR04
NOTICE OF COMMENT PERIOD - RR05
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

ERRATA

STATE AIR POLLUTION CONTROL BOARD

Publication: VA.R 3:16, p. 1658, May 11, 1987

Correction: Second paragraph of the Notice of Intended Regulatory Action

Correction to the notice is as follows:

The second paragraph concerning the purpose of the

General Notices/Errata

intended amendments includes "and" by mistake at the end of the fifth line. The last two lines of the second paragraph should read "Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS)."

DEPARTMENT OF HEALTH

Title of Regulation: VR 360-01-03. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Nursing Home Services.

Publication: VA.R 3:15, p. 1397, April 27, 1987

Correction: Chart in § 2.5

Correction to the final regulation is as follows:

The revised demand rate for Health Service Area I, Planning District 10, age group 75084, was adopted by the council as 48.0 rather than 48.8.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Title of Regulation: VR 400-01-0001. Rules and Regulations.

Publication: VA.R 3:16, p. 1521, May 11, 1987

Correction: Paragraph A of § 2.1

Correction to the final regulation is as follows:

After the word development, the text should read "construction and rehabilitation and/or the ownership" rather than "construction and/or rehabilitation or the ownership."

CALENDAR OF EVENTS

Symbols Key	
†	Indicates entries since last publication of the Virginia Register
☒	Location accessible to handicapped
☎	Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

..... VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

† July 16, 1987 - 9:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

The council will discuss the work of Virginia's Long-Term Care Ombudsman Program and hear interim reports from various subcommittees.

Contact: Virginia Dize, Department for the Aging, 101 N. 14th St., 18th Floor, Richmond, Va. 23219-2797, telephone (804) 225-2271/3141

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 28, 1987 - 2 p.m. - Public Hearing
Washington Building, Board Room, 2nd Floor, 1100 Bank Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to adopt regulations entitled: VR 115-02-15. Rules and

Regulations for the Registration of Poultry Dealers. The proposed regulations would require that poultry dealers doing business in Virginia keep records of their transactions as a means of tracing poultry disease to its source. They also would require that poultry dealers maintain a regimen of sanitation in their dealings.

Statutory Authority: §§ 3.1-726, 3.1-735 and 3.1-736 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: A. J. Roth, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Virginia Department of Agriculture and Consumer Services, Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

* * * * *

September 28, 1987 - 3 p.m. - Public Hearing
Washington Building, Board Room, 2nd Floor, 1100 Bank Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds Into Virginia. The proposed amendment to the above-referenced regulation would set health requirements for the admission of South American camelids of the genus lama into Virginia.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until June 29, 1987.

Contact: A. J. Roth, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Virginia Department of Agriculture and Consumer Services, Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

STATE AIR POLLUTION CONTROL BOARD

† July 27, 1987 - 9 a.m. - Open Meeting
General Assembly Building, Senate Room A, Richmond, Virginia. ☒

This is a general meeting of the board.

Calendar of Events

Contact: Dick Stone, State Air Pollution Control Board, P. O. Box 10089, Richmond, Virginia 23240, telephone (804) 786-5478

* * * * *

† July 29, 1987 - 10 a.m. - Public Hearing
Town of Abingdon Municipal Building, Council Chambers,
133 West Main Street, Abingdon, Virginia

† July 29, 1987 - 10 a.m. - Public Hearing
West Central Regional Office, State Water Control Board,
Executive Office Park, 5312 Peters Creek Road, N.W.,
Roanoke, Virginia

† July 29, 1987 - 10 a.m. - Public Hearing
Lynchburg Library, 2315 Memorial Avenue, Lynchburg,
Virginia

† July 29, 1987 - 1 p.m. - Public Hearing
Chesterfield Public Library, 9501 Lori Road, Chesterfield,
Virginia

† July 29, 1987 - 10 a.m. - Public Hearing
Hampton Roads Regional Office, State Air Pollution Control
Board, Old Greenbriar Village, Suite A, 2010 Old
Greenbriar Road, Chesapeake, Virginia

† July 29, 1987 - 10 a.m. - Public Hearing
National Capital Regional Office, State Air Pollution
Control Board, Springfield Towers, Suite 502, 6320 Augusta
Drive, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia and the requirements of § 110(a)(1) of the Federal Clean Air Act that the State Air Pollution Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution: Permits for New and Modified Sources (Part III)**. The regulations establish limits for sources of air pollution to the extent necessary to attain and maintain levels of air quality as will protect human health and welfare.

STATEMENT

Subject: Permits for New and Modified Sources (Part VIII).

Substance: The substance of the amendments is as follows:

1. Clarify the relationship between the definitions of "modification" and "reconstruction" with respect to what constitutes replacement.
2. Revise the exemption levels for the general permit system.
3. Add a requirement that permit applicants notify adjacent land owners of the proposed facility.

4. Clarify the requirements for public hearings for permits for major stationary sources under the general permit system with respect to the hearing requirements for modifications to major stationary sources.

5. Specify the requirements for changes in ownership or name of a permitted facility.

6. Add a requirement that copies of permits be available on the premises of the permitted facility.

7. Update the permit regulations for Prevention of Significant Deterioration Areas to be consistent with EPA regulations with respect to modeling guidance requirements.

8. Update the permit regulations for Nonattainment Areas to be consistent with EPA regulations with respect to the inclusion of fugitive emissions in determining whether a source is a major stationary source.

Purpose: The purpose of the proposed amendments is to change the agency's regulations concerning permits for new and modified sources in order to address comments, suggestions and complaints received pursuant to the agency's Regulatory Reform Program and the Notice of Intended Regulatory Action dated July 7, 1986.

Basis: The legal basis for the intended regulation amendments is Chapter 1.2 (§ 10-17.18(b)) of Title 10 of the Code of Virginia.

Issues: The issue is whether to leave the regulation as is, and thus fail to address certain valid needs identified by the users of the regulation, or address the needs identified by amending the regulation.

Statutory Authority: § 10-17.18(b) of the Code of Virginia.

Written comments may be submitted until July 29, 1987.

Contact: Robert A. Mann, Director of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5789

ALCOHOLIC BEVERAGE CONTROL BOARD

- † May 26, 1987 - 9 a.m. - Open Meeting
† June 16, 1987 - 9:30 a.m. - Open Meeting
† June 30, 1987 - 9:30 a.m. - Open Meeting
† July 14, 1987 - 9:30 a.m. - Open Meeting
† July 28, 1987 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

† June 25, 1987 - 10 a.m. - Open Meeting
2901 Hermitage Road, Main Offices, 1st Floor, Richmond,
Virginia. ☒

Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines for Adoption or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the board will conduct a public meeting on June 25, 1987, at 10 a.m. in the Hearing Room, 1st Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of board regulations. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation.

Contact: Robert N. Swinson, 2901 Hermitage Road, P. O. Box 27491, Richmond, Virginia 23261, telephone (804) 257-0617

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

May 29, 1987 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The board will meet to (i) approve minutes of the March 13, 1987, meeting; (ii) review disciplinary cases; (iii) review correspondence; and (iv) conduct a regulatory review.

Virginia Board of Land Surveyors

May 28, 1987 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The board will meet to (i) approve minutes of the February 20, 1987 meeting; (ii) consider the psychometrician study; (iii) discuss NCEE Part IV exam; (iv) discuss enforcement cases; and (v) review applications.

Contact: Joan L. White, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555

VIRGINIA ATHLETIC BOARD

† June 4, 1987 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Board Room 1, Richmond, Virginia. ☒

Annual commission meeting.

Contact: Doug Beavers, Assistant Director, 3600 W. Broad St., Richmond, Va., telephone (804) 257-8507

GOVERNOR'S ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

June 5, 1987 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

Presentation of Certificate of Appreciation Awards and regularly scheduled meeting.

Contact: D. Ray Sirry, Division Director, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9308

BOARD OF COMMERCE

June 5, 1987 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☒

A public hearing on Senate Joint Resolution 144 (study of the establishment of a Private Investigator's Board). A subcommittee of the Board of Commerce will hear views on the study of the establishment of a Private Investigator's Board.

All interested parties or individuals are invited to attend and present testimony. Written comments may be submitted in addition to or in lieu of verbal testimony. Written comments must be received by 5 p.m., June 12, 1987.

Contact: Iva Frizzell, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8563 (toll-free number 1-800-552-3016)

June 10, 1987 - 9 a.m. - Public Hearing
City Hall Building, Council Chambers, 10455 Armstrong Street, Fairfax, Virginia

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

June 10, 1987 - 1:30 p.m. - Public Hearing
City Hall Building, Council Chambers, 10455 Armstrong Street, Fairfax, Virginia

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

Calendar of Events

June 11, 1987 - 9 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. ☐

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers

June 11, 1987 - 1:30 p.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. ☐

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

June 22, 1987 - 9 a.m. - Public Hearing
Hotel Roanoke, 19 North Jefferson Street, Roanoke,
Virginia. ☐

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

June 22, 1987 - 1:30 p.m. - Public Hearing
Hotel Roanoke, 19 North Jefferson Street, Roanoke,
Virginia. ☐

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

June 29, 1987 - 9 a.m. - Public Hearing
City Hall Building, Council Chambers, 810 Union Street,
Norfolk, Virginia

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

June 29, 1987 - 1:30 p.m. - Public Hearing
City Hall Building, Council Chambers, 810 Union Street,
Norfolk, Virginia

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

Contact: Sylvia W. Bryant, Hearings Coordinator,
Department of Commerce, 3600 W. Broad St., Richmond,
Va. 23230, telephone (804) 257-8524

BOARD OF COMMERCIAL DRIVER TRAINING SCHOOLS

† **May 29, 1987 - 10 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street,
Conference Room 2, Richmond, Virginia. ☐

An open board meeting to (i) conduct regulatory review; (ii) discuss revenue and expenditures; (iii) discuss complaints; (iv) elect officers for the term

ending September 30, 1987.

Contact: Geralde W. Morgan, Assistant Director, 3600 W. Broad St., 5th Fl., Richmond, Va. 23230-4917, telephone (804) 257-8508

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Soil and Water Conservation Board

† **July 8, 1987 - 2 p.m. - Open Meeting**
Blacksburg Marriott Inn, 900 Prices Fork Road, N.W.,
Blacksburg, Virginia. ☐

A regular bimonthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206,
Richmond, Va. 23219-2094, telephone (804) 786-2064

Upper James River Advisory Board

June 2, 1987 - 11:30 a.m. - Open Meeting
Sunny Brook Inn, Hollins, Virginia

A quarterly business meeting of the Upper James River Advisory Board to discuss matters pertaining to that section of the Scenic River.

Contact: Richard G. Gibbons, Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-4132

STATE BOARD OF CORRECTIONS

June 17, 1987 - 10 a.m. - Open Meeting
Department of Corrections, 4615 West Broad Street,
Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

CRIMINAL JUSTICE SERVICES BOARD

† **June 10, 1987 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

Committee on Criminal Justice Information Systems

June 17, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, 9th and Grace Streets,
Governor's Cabinet Conference Room, 6th Floor,
Richmond, Virginia. ☒

A meeting to discuss projects and business of the committee.

Contact: Dr. Jay W. Malcan, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

VIRGINIA BOARD OF DENTISTRY

† June 14, 1987 - 12 noon - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia. ☒

A special called meeting to discuss procurement of exam services (only).

Contact: Nancy T. Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906

BOARD FOR RIGHTS OF THE DISABLED

† July 29, 1987 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Rights of the Disabled intends to adopt regulations entitled: **VR 602-01-1. Public Participation Guidelines.** These guidelines will enable the board to carry out its responsibility to promulgate regulations under § 51.01-40 of the Code of Virginia regarding nondiscrimination under state grants and programs. The board desires maximum public participation when promulgating regulations.

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

Written comments may be submitted until August 1, 1987.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, 101 N. 14th St., 17th Fl., Richmond, Va., telephone (804) 225-2042 (toll-free 1-800-552-3962)

DEPARTMENT FOR RIGHTS OF THE DISABLED

Protection and Advocacy Board for the Mentally Ill

† June 15, 1987 - 10 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room, 15th Floor, Richmond, Virginia. ☒

A regular meeting to continue development and intergration of P.L. 99-319 for Virginians who are labeled mentally ill. Agenda items should be submitted before June 5, 1987.

Contact: Barbara Hoban, Program Manager, Department for Rights of the Disabled, 101 N. 14th St., 17th Fl., Richmond, Va. 23219, telephone (804) 225-3212 (toll-free 1-800-552-3962)

STATE BOARD OF EDUCATION

June 11, 1987 - 7 p.m. - Public Hearing
Hermitage High School, 8301 Hungary Spring Road, Richmond, Virginia

June 11, 1987 - 7 p.m. - Public Hearing
Lake Taylor High School, 1384 Kempsville Road, Norfolk, Virginia

June 11, 1987 - 7 p.m. - Public Hearing
George Wythe High School, 1500 West Pine Street, Richmond, Virginia

June 11, 1987 - 7 p.m. - Public Hearing
Warrenton Junior High School, 244 Waterloo Street, Warrenton, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **VR 270-01-0012. Standards for Accrediting Schools in Virginia.** These regulations cover the accreditation of elementary and secondary education programs in Virginia.

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

Written comments may be submitted until June 11, 1987.

Contact: Dr. Robert B. Jewell, Associate Director, Department of Education, Accreditation Service, P.O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2105

* * * * *

† June 18, 1987 - 9 a.m. - Open Meeting
† June 19, 1987 - 9 a.m. - Open Meeting
† July 23, 1987 - 9 a.m. - Open Meeting
† July 24, 1987 - 9 a.m. - Open Meeting

Calendar of Events

James Monroe Building, 101 North 14th Street, Conference Rooms C and D, 1st Floor, Richmond, Virginia. ☒

The Board of Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, James Monroe Bldg., 101 N. 14th St., 25th Fl., Richmond, Va., telephone (804) 225-2540

VIRGINIA EMPLOYMENT COMMISSION

Advisory Board

† June 9, 1987 - 1 p.m. - Open Meeting

† June 10, 1987 - 9 a.m. - Open Meeting

Pavillion Tower Hotel, Virginia Beach, Virginia. ☒

A regular meeting of the advisory board to conduct general business.

Contact: Ronald M. Montgomery, 703 E. Main St., Richmond, Va. 23219, telephone (804) 786-1070

BOARD OF FORESTRY

June 24, 1987 - 10 a.m. - Open Meeting

National Resources Building, Alderman and McCormick Roads, Charlottesville, Virginia

A regular meeting of the board to conduct general business.

Contact: Harold L. Olinger, Department of Forestry, P. O. Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

DEPARTMENT OF FORESTRY

July 1, 1987 - 10 a.m. - Public Hearing

Department of Forestry, 2229 East Nine Mile Road, Sandston Office, Sandston, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to adopt regulations entitled: **Public Participation Guidelines**. Guidelines to be followed by the Department of Forestry to obtain public participation in development of regulations.

Statutory Authority: § 10-31.2 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: Harold L. Olinger, Chief, Administration, Department of Forestry, Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

June 5, 1987 - 10 a.m. - Open Meeting

Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. ☒

The board will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Rancord, Wildman & Krause, Architects & City Planning Consultants, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

State Insurance Advisory Board

June 12, 1987 - 9:30 a.m. - Open Meeting

Department of General Services, Ninth Street Office Building, Room 209, Conference Room of the Director, Richmond, Virginia. ☒

A quarterly meeting of the State Insurance Advisory Board.

Contact: Charles F. Scott, Department of General Services, Division of Risk Management, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-5968

DEPARTMENT OF HEALTH

June 4, 1987 - 9 a.m. - Open Meeting

Ramada Inn, Duffield, Virginia. ☒

The State Board of Health will have a working session from 9 a.m. to noon. The regular business meeting of the board will begin at 1 p.m. The agenda will be available two weeks in advance of the meeting.

Contact: Sally Camp, James Madison Bldg., Room 400, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3561

BOARD OF PROFESSIONAL COUNSELORS

† June 12, 1987 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rollings
Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business, (ii)
review correspondence, and (iii) review credentials.

Contact: Joyce D. Williams, 1601 Rollings Hills Dr.,
Richmond, Va., telephone (804) 662-9912

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 27, 1987 - 9:30 a.m. - Open Meeting
Johnston-Willis Hospital, 1401 Johnston-Willis Road,
Richmond, Virginia. ☒

A monthly business meeting of the council for the
purpose of addressing financial, policy or technical
matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th
Floor, Richmond, Va. 23219, telephone (804) 786-6371

STATE COUNCIL OF HIGHER EDUCATION

† June 3, 1987 - 9 a.m. - Open Meeting
Mary Washington College, Fredericksburg, Virginia

A regular monthly meeting. The agenda is available
upon request.

Contact: Grace I. Lessner, 101 N. 14th St., 9th Fl.,
Richmond, Va., telephone (804) 225-2638

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

† June 11, 1987 - 8:30 a.m. - Open Meeting
205 North Fourth Street, 7th Floor Conference Room,
Richmond, Virginia. ☒

A meeting to develop recommended regulations
pertaining to the construction, maintenance, operation
and inspection of amusement devices for consideration
by the board.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division
of Building Regulatory Services, Department of Housing
and Community Development, 205 N. Fourth St.,
Richmond, Va. 23219-1747, telephone (804) 786-4751

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

† June 4, 1987 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☒

The meeting is open to the public. This special
working session is being held so that council may
decide the ratio and program sponsor evaluation
issues. There will be no other items on the agenda
and council will not receive public comments.

Contact: Robert S. Baumgardner, Director of
Apprenticeship, Department of Labor and Industry, P. O.
Box 12064, Richmond, Va. 23241, telephone (804) 786-2381

VIRGINIA STATE LIBRARY BOARD

June 23, 1987 - 11 a.m. - Open Meeting
Virginia State Library, Supreme Courtroom, 3rd Floor, 11th
Street and Capitol Square, Richmond, Virginia. ☒

A regular meeting to discuss administrative matters.

Automated Systems and Networking Committee

June 23, 1987 - 9:30 a.m. - Open Meeting
Virginia State Library, Conference Room B, 3rd Floor, 11th
Street and Capitol Square, Richmond, Virginia. ☒

A meeting to discuss automated systems and
networking committee matters.

Mrs. Jean K. Reynolds, Virginia State Library, 11th Street
and Capitol Square, Richmond, Va. 23219, telephone (804)
786-2332

COMMISSION ON LOCAL GOVERNMENT

May 27, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, Room 901, Richmond,
Virginia. ☒

A regular meeting to consider such matters as may be
presented.

Contact: Barbara W. Bingham, Ninth Street Office Bldg.,
Room 901, Richmond, Va. 23219 (804) 786-6508

LONG-TERM CARE COUNCIL

Calendar of Events

June 11, 1987 - 9:30 a.m. – Open Meeting
Ninth Street Office Building, 6th Floor, Cabinet Conference Room, Richmond, Virginia. ☐

A meeting to discuss issues relating to the development and coordination of long-term care services in Virginia.

Contact: Catherine P. Saunders, Department for the Aging, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2912

VIRGINIA MARINE PRODUCTS BOARD

† **June 3, 1987 - 6 p.m. – Open Meeting**
The Ships Cabin, 4110 East Ocean View Avenue, Norfolk, Virginia

The board will meet 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.

Contact: Shirley Estes Berg, 97 Main Street, Room 103, Newport News, Va. 23601, telephone (804) 599-7261

MARINE RESOURCES COMMISSION

† **June 2, 1987 - 9:30 a.m. – Open Meeting**
Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia. ☐

The Virginia Marine Resources Commission meets on the first Tuesday of each month, at 9:30 a.m., in Newport News City Council Chambers, located at 2400 Washington Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing; environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Patricia A. Leonard, Acting Secretary to the Commission, 2401 West Ave., P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2206

BOARD OF MEDICAL ASSISTANCE SERVICES

June 9, 1987 - 10 a.m. – Open Meeting
Department of Medical Assistance Services, Suite 1300, 600 East Broad Street, Richmond, Virginia. ☐

A meeting to discuss (i) State Plan amendments mandated by COBRA; a) Medicaid eligibility and service coverage for certain aliens covered under the amnesty provisions of the Immigration Reform and Control Act of 1986; b) Medicaid eligibility for employed disabled individuals as provided under the Employment Opportunities for Disabled Americans Act; c) Medicaid eligibility for a protected group of SSI disabled children who lost SSI eligibility due to an increase in Title II disability benefits. The following is mandated by state legislation: (a) burial trust, (b) board authority, (c) return on equity capital; (ii) proposed legislation; and (iii) other business pertinent to the board.

Contact: Jacqueline M. Fritz, Department of Medical Assistance Services, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

May 11, 1987 - June 9, 1987 – Public Comment Period

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 amend regulations entitled: **VR 460-03-2.0152. Definition of Home Ownership or Contiguous Property.** These regulations set limits on the amount of property contiguous to the homesite which can be considered for Medicaid eligibility.

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

Written comments may be submitted until June 9, 1987, 5 p.m., to Ann E. Cook.

Other pertinent information: A copy of the regulation is available from Victoria Simmons, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

Contact: Ann E. Cook, Division of Medical Social Services, Department of Medical Assistance Services, Suite 1300, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 225-4218

COMMISSION ON MEDICAL CARE FACILITIES

June 8, 1987 - 10 a.m. – Open Meeting
July 13, 1987 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference

Room B, Richmond, Virginia. ☒

By Executive Order 31 (86) Governor Baliles created an advisory commission with two responsibilities: (i) to examine the effectiveness of the Certificate of Public Need program in controlling medical care costs while making good quality, accessible health care available to all Virginians; and (ii) if this examination demonstrates that the Commonwealth's existing health planning process no longer effectively meets these objectives, the commission shall assess alternatives and recommend revisions to the existing Certificate of Public Need process.

Contact: E. George Stone, State Health Department, James Madison Bldg., 109 Governor St., Room 1010, Richmond, Va. 23219, telephone (804) 786-6970

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

June 2, 1987 - 2 p.m. - Open Meeting
Marriott Hotel, 600 East Broad Street, Richmond, Virginia.
☒

A meeting to discuss (i) proposed legislation; (ii) ventilator dependent children; (iii) subcommittee reports; and (iv) other business pertinent to the board.

Contact: Jacqueline M. Fritz, Department of Medical Assistance Services, Suite 1300, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

VIRGINIA STATE BOARD OF MEDICINE

Credentials Committee

May 29, 1987 - 8:30 a.m. - Open Meeting
May 30, 1987 - 8:30 a.m. - Open Meeting
Department of Health Regulatory Boards, Surry Building,
1601 Rolling Hills Drive, 2nd Floor, Richmond, Virginia. ☒

A meeting to conduct general business, interview, and review medical credentials of applicants applying for licensure in Virginia in open and executive session and to discuss any other items which may come before this Committee.

Executive Committee

June 5, 1987 - 10 a.m. - Open Meeting
Hyatt Richmond Hotel, 6624 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review cases previously acted on by

the executive director; (ii) review reports and recommendations of the Ad Hoc Committee appointed to study the issue of debridement by physical therapists; (iii) develop an interpretation of the definition of the Scope of Chiropractic with more specific parameters; and (iv) develop policy relative to the use of information from insurance carriers on settlements of malpractice claims and any other business which may come before the committee.

Informal Conference Committee

May 29, 1987 - 10 a.m. - Open Meeting
Ramada Inn, Interstate 95 and Route 3, Fredericksburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 (A) (6) of the Code of Virginia, executive and closed meetings.

Legislative Committee

June 10, 1987 - 10 a.m. - Open Meeting
Holiday Inn Club Fanny's, 6531 West Broad Street, Richmond Room, Richmond, Virginia. ☒

The Legislative Committee will meet to consider (i) amendments to the Code of Virginia regarding chiropractic assistants; (ii) § 54-317 (12) of the Code of Virginia as it relates to physicians dispensing; (iii) regulations governing the practice of physical therapy and physical therapy assistants, and (iv) any other items which may come before the committee.

Podiatry Examination Committee

June 26, 1987 - 9 a.m. - Open Meeting
Springfield Hilton, 6550 Loisdale Road, Springfield, Virginia. ☒

The committee will meet to review and evaluate the examination questions for the board's June podiatry examination to develop cut scores for that exam.

Contact: Eugenia K. Dorson, Board Administrator, Surry Bldg., 2nd Floor, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

May 27, 1987 - 10 a.m. - Open Meeting
Alleghany-Highlands Community Services Board, Covington,

Calendar of Events

Virginia. ☒

A regular monthly meeting. The agenda will be published on May 19, 1987 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State MH/MR Board Secretary, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

* * * * *

July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, Conference Room E, 101 North 14th Street, Richmond, Virginia. ☒

July 28, 1987 - 10 a.m. - Public Hearing
Roanoke City Hall, Municipal Building, Room 450, 215 Church Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations and adopt new regulations entitled: **VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.** The proposed regulations will establish the minimum requirements for the licensure of outpatient facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

* * * * *

July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, Conference Room E, 101 North 14th Street, Richmond, Virginia. ☒

July 28, 1987 - 10 a.m. - Open Meeting
Roanoke City Hall, Municipal Building, Room 450, 215 Church Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations and adopt new regulations entitled: **VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.** The proposed regulations will establish the minimum requirements for the licensure of residential facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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NOTICE: The State Board of Mental Health and Mental Retardation Board proposes to REPEAL the two regulations listed below:

† **July 21, 1987 - 10 a.m. - Public Hearing**
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

† **July 28, 1987 - 1 p.m. - Public Hearing**
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations entitled: **VR 470-02-04. Rules and Regulations for the Licensure of Group Homes and Halfway Houses.**

STATEMENT

Subject: Public comment and public hearings on the repeal of the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons. These regulations articulate the minimum requirements for licensure of group homes, halfway houses, residential treatment centers and other nonhospital level residential facilities serving mentally ill and mentally retarded adults. As part of an effort to revise and improve all of its licensure regulations, it is the intention of the department to repeal **VR 470-02-04. Rules and Regulations for the Licensure of Group Homes and Halfway Houses** and to replace them with an entirely new set of regulations: **VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.**

Issues: These regulations are comprised of the following issues which have impact on group homes, halfway houses, residential treatment centers and other nonhospital level residential facilities subject to licensure:

Physical facility and safety, health and safety, organization and management, personnel practices, admissions to facility, individual program plan, religious services, records, educational programs, orientation and education, and food service.

Basis: Chapter 1, § 37.1-10, Subsection 6 and Chapter 8, §

37.1-179 of Title 37.1 of the Code of Virginia.

Purpose: To establish the minimum requirements for group homes, halfway houses, residential treatment centers and other nonhospital level residential facilities subject to licensure in the areas of physical facility and safety, health and safety, organization and management, personnel practices, admissions to facility, individual program plan, religious services, records, educational programs, orientation and education, and food service, in order to protect the health and safety of mentally ill and mentally retarded clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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† July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

† July 28, 1987 - 10 a.m. - Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal regulations entitled: **VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.**

STATEMENT

Subject: Public comment and public hearings on the repeal of the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons. These regulations articulate the minimum requirements for licensure of inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, which serve adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants. As part of an effort to revise and improve all of its licensure regulations, it is the intention

of the department to repeal **VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities** and to replace them with three entirely new sets of regulations:

1. **VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities** which will serve as the basic licensure regulations for, among other types of residential facilities, intermediate care facilities, social detoxification facilities, transitional domiciliary facilities serving substance abusing clients, and residential facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone;

2. **VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities** which will serve as the basic licensure regulations for, among other types of outpatient facilities, outpatient facilities serving substance abusing clients and outpatient facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; and

3. **VR 470-02-13. Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities** which will serve as the basic licensure regulations for, among other types of hospital-based treatment facilities, hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone.

Concurrently with the effective date of the above three sets of regulations, **VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities** will be repealed with respect to the types of facilities that are subject to licensure under each set of new regulations, which will then serve as the basic licensure regulations for those facilities.

Issues: These regulations are comprised of the following issues which have impact on inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, that are subject to licensure:

Patient rights; health and safety; space usage; sanitary, health and special medical requirements; personnel practices; programs and services; requirements for treatment in inpatient, intermediate care, subacute detoxification and transitional domiciliary substance abuse treatment facility only; record keeping and accountability; organization and management; and methadone treatment facilities.

Calendar of Events

Basis: Chapter 1 (§ 37.1-10, Subsection 6) and Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

Purpose: To establish the minimum requirements for inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, which serve adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants, in order to protect the health and safety of clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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† July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

† July 28, 1987 - 10 a.m. - Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to adopt regulations entitled: **VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Shelter Facilities.** The proposed action establishes minimum requirements for the licensure of supported residential programs and residential respite care/emergency shelter facilities.

STATEMENT

Subject: Public comment and public hearings on the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons. These regulations articulate the minimum requirements for licensure of supported residential programs and residential respite care/emergency shelter facilities providing care or treatment to these groups. These are new regulations which will subject supported residential programs to

licensure for the first time.

Issues: The regulations are comprised of the following issues which have impact on supported residential programs and residential respite care/emergency shelter facilities that are subject to licensure: (i) organization and administration, (ii) personnel, (iii) physical environment, (iv) programs and services, and (v) disaster or emergency plans.

Basis: Chapter 1 (§ 37.1-10) and Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

Purpose: To establish the minimum requirements for supported residential programs and residential respite care/emergency shelter facilities in the areas of organization and administration, personnel, physical environment, programs and services, and disaster or emergency plans, in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in supported residential programs and residential respite care/emergency shelter facilities and to assure that they receive services that are appropriate to meet their identified needs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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† July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

† July 28, 1987 - 10 a.m. - Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby give in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to adopt regulations entitled: **VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.** These regulations propose minimum requirements for the licensure of day support programs.

STATEMENT

Subject: Public comment and public hearings on the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities

and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons. These regulations articulate the minimum requirements for licensure of day support programs providing care or treatment to these groups. These are new regulations that will subject this type of facility to licensure for the first time.

Issues: The regulations are comprised of the following issues which have impact on day support programs subject to licensure: (i) organization and administration, (ii) personnel, (iii) physical environment, (iv) programs and services, (v) disaster or emergency plans, and (vi) special requirements for methadone treatment facilities.

Basis: Chapter 1 (§ 37.1-10) and Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

Purpose: To establish the minimum requirements for day support programs in the areas of organization and administration, personnel, physical environment, programs and services, disaster or emergency plans, and special requirements for methadone treatment facilities, in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in day support programs and to assure that they receive services that are appropriate to meet their identified needs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY

Division of Continuing Education and Office of Continuing Medical Education

May 28, 1987 - Open Meeting
May 29, 1987 - Open Meeting
Conference Center, Colonial Williamsburg Lodge, Williamsburg, Virginia. ☐

Tenth Annual Symposium on Mental Health and the Law, entitled: "Professional Liability in the Mental Health, Mental Retardation and Substance Abuse Professions."

An annual symposium addressing issues related to mental health and the law. Ten hours in Category 1 CME, 1 CEU and 10 CLE credits applied for.

Contact: Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Blue Ridge Hospital, Box 100, Charlottesville, Va. 22901, telephone (804) 924-5435

DEPARTMENT OF MOTOR VEHICLES

† June 23, 1987 - 9:30 a.m. - Open Meeting
Dulles Holiday Inn, 1000 Sully Road, Sterling, Virginia

† June 23, 1987 - 2:30 p.m. - Open Meeting
James Madison University, Chandler Hall, Shenandoah Room, Harrisonburg, Virginia

† June 24, 1987 - 9:30 a.m. - Open Meeting
Roanoke Airport Marriott, Roanoke, Virginia

† June 24, 1987 - 2:30 p.m. - Open Meeting
Virginia Department of Transportation Auditorium, 870 Bonham Road, Bristol, Virginia

† June 29, 1987 - 9:30 a.m. - Open Meeting
South Hill Municipal Building, 117 West Atlantic Street, Town Council Meeting Room, South Hill, Virginia

† June 29, 1987 - 2:30 p.m. - Open Meeting
Hilton (next to airport), Norfolk, Virginia

† June 30, 1987 - 9:30 a.m. - Open Meeting
Richmond DMV Headquarters, 2300 West Broad Street, Agecroft Room, Richmond, Virginia

A meeting to discuss proposed revisions to the Dealer Licensing Act. The existing act was adopted in 1944 and does not adequately reflect the changes which have occurred in the industry since that time. A committee comprised of industry, consumer, administrative and judicial representatives drafted a rewrite of the Act.

DMV is conducting public meetings throughout the Commonwealth for the purpose of presenting the draft and to allow interested parties to give their comments and suggestions. Copies of the draft may be obtained by contacting the DMV employee listed below.

DMV's goal is to submit proposed legislation to the 1988 session of the General Assembly with an implementation date of January 1, 1990.

Written comments will be accepted by the below listed contact person until June 19, 1987.

Contact: Kevin R. Dunne, Vehicle Services Administrator, P. O. Box 27412, Room 521, Richmond, Va. 23269, telephone (804) 257-1832

VIRGINIA STATE BOARD OF NURSING

Calendar of Events

† June 2, 1987 - 9:30 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested) ☞

Formal hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated, on:

David Empey, R.N. at 9:30 a.m.
Patricia Bradley, R.N. at 1 p.m.
Joyce Fleischmann, L.P.N. at 3 p.m.

June 25, 1987 - 8:30 a.m. - Open Meeting
Department of Health Regulatory Boards, Koger Center, Surry Building, Conference Room 2, Richmond, Virginia. ☒

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Informal Conference Committee

June 9, 1987 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested) ☞

The committee will inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

OLD DOMINION UNIVERSITY

Board of Visitors

June 18, 1987 - Time to be announced - Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia. ☒

The annual meeting of the Board of Visitors to handle affairs of the university. (Specific times included in agenda distributed two weeks prior to meeting.)

Contact: Gordon A. McDougall, Office of the Board of Visitors, Old Dominion University, Norfolk, Va. 23508, telephone (804) 440-3072

VIRGINIA BOARD OF OPTOMETRY

† July 13, 1987 - 8 a.m. - Open Meeting
Egyptian Building, 1223 East Marshall Street, Baruch Auditorium, Richmond, Virginia

Administer the Virginia Practical Examination and Diagnostic Pharmaceutical Agents Examination.

† July 14, 1987 - 9 a.m. - Open Meeting
† July 15, 1987 - 9 a.m. - Open Meeting
Koger Center, 1601 Rolling Hills Drive, Surry Building, Conference Room 1, Richmond, Virginia. ☒

A general business meeting.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

STATE BOARD OF PHARMACY

† June 12, 1987 - 9 a.m. - Open Meeting
Howard Johnson Hotel, 3207 North Boulevard, Richmond, Virginia. ☒

The annual board meeting and regular business meeting.

June 23, 1987 - 7:45 a.m. - Open Meeting
June 24, 1987 - 7:45 a.m. - Open Meeting
NOTE CHANGE OF MEETING PLACE
George Washington Inn, 500 Merrimac Trail, Williamsburg, Virginia. ☒

A regular board meeting and board examinations on both days.

Informal Conference Committee

† June 11, 1987 - 9 a.m. - Open Meeting
Howard Johnson Hotel, 3207 North Boulevard, Richmond, Virginia. ☒

Informal conferences relating to disciplinary actions.

Contact: J. B. Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9921

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

July 16, 1987 - 10 a.m. - Open Meeting
Hasler and Company, 212 Tazewell Street, Norfolk, Virginia

The board will meet to conduct routine business at its regular quarterly meeting.

Contact: David E. Dick 3600 W. Broad St., Richmond, Va.

23220, telephone (804) 257-8515 or William L. Taylor, 3327 Shore Dr., Virginia Beach, Va. 23451, telephone (804) 496-0995

VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

† **June 2, 1987 - 10 a.m.** – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☒

An informal conference.

† **June 15, 1987 - 1 p.m.** – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A formal hearing for disciplinary action.

Contact: Joyce D. Williams, 1601 Rolling Hills Dr., Richmond, Va., telephone (804) 662-9912

VIRGINIA REAL ESTATE BOARD

† **May 29, 1987 - 9 a.m.** – Open Meeting
Holiday Inn Waterside, Nansemond Room, Norfolk, Virginia

† **June 16, 1987 - 9 a.m.** – Open Meeting
† **June 17, 1987 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A regular business meeting of the board. The agenda will consist of investigative cases (files) to be considered, files to be reconsidered, matters relating to fair housing, property registration, and licensing issues (e.g., reinstatement, eligibility requests).

Contact: Florence R. Brassier, Assistant Director for Real Estate, Department of Commerce, 3600 W. Broad St., 5th Fl., Richmond, Va. 23230, telephone (804) 257-8552

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† **July 24, 1987** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-50-4. Family Based Social Services.** These regulations establish a philosophy and requirements of a family based social service delivery approach by local social service agencies.

STATEMENT

Basis: This regulation is issued under authority granted by the Code of Virginia, §§ 63.1-25, 63.1-55 et seq., 63.1-56 and 63.1-248.1.

Subject: This regulation sets forth the philosophy, services and requirements for family based social service delivery by local social service agencies.

Purpose: The intent of this regulation is to focus service delivery on the family, not individual members viewed in isolation.

Substance: This regulation places requirements on the local social service agency and the Virginia Department of Social Services to support family based social services and serve certain target populations of families in need.

Issues: This regulation identifies certain beliefs in serving families when intervention into a family's life by a local social service agency is necessary. It identifies the broad services to be provided. It also identifies which families are required to be served, which are encouraged to be served to the extent funds are available, and which are optional to be served.

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

Written comments may be submitted until July 24, 1987.

Contact: Linda N. Booth, Administrative Planning Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9638 (toll-free 1-800-552-7091)

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May 26, 1987 - 9 a.m. – Public Hearing
Richmond Regional Office, Wythe Building, 1604 Santa Rosa Road, Conference Rooms A and B, Richmond, Virginia

June 1, 1987 - 1 p.m. – Public Hearing
Northern Virginia Regional Office, 11166 Main Street, 2nd Floor Training Room, Fairfax, Virginia

June 4, 1987 - 10 a.m. – Public Hearing
Roanoke Regional Office, Commonwealth Building, 210 Church Avenue, S.W., Suite 100, Roanoke, Virginia

July 10, 1987 - 2 p.m. – Public Hearing
Blair Building, 8007 Discovery Drive, Conference Room A, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-08-1. Virginia Fuel Assistance Program.**

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

Written comments may be submitted until July 9, 1987.

Calendar of Events

Contact: Charlene Chapman, Supervisor, Energy and Emergency Assistance, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Va. 23229-8699, telephone (804) 281-9050 (toll-free number 1-800-552-7091)

VIRGINIA BOARD OF SOCIAL WORK

† June 19, 1987 - 1 p.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia

A meeting to (i) conduct general board business; (ii) review applications; (iii) respond to correspondence; and (iv) to discuss regulations.

Contact: Beverly Putnam, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9914

COMMONWEALTH TRANSPORTATION BOARD

† June 18, 1987 - 10 a.m. - Open Meeting
† July 16, 1987 - 10 a.m. - Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, 3rd Floor, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

VIRGINIA BOARD OF VETERINARY MEDICINE

June 9, 1987 - 8 a.m. - Open Meeting
Medical College of Virginia, 1101 East Marshall Street, Sanger Hall, Room 1-044, Richmond, Virginia

A meeting to administer the national board and state board examinations to animal technician applicants.

June 17, 1987 - 8:30 a.m. - Open Meeting
NOTE CHANGE OF MEETING PLACE
General Assembly Building, House Room C, Richmond, Virginia. ☒

A meeting to (i) review disciplinary cases, (ii) discuss implementation of regulations; (iii) prepare state licensing examinations; and (iv) conduct general board business.

June 18, 1987 - 8 a.m. - Open Meeting
Medical College of Virginia, 1101 East Marshall Street, Sanger Hall, Room 2-020, Richmond, Virginia. ☒

A meeting to administer the state licensing examinations to veterinarian applicants.

Contact: Moira C. Lux, Executive Director, Virginia Board of Veterinary Medicine, 1601 Rolling Hills Drive, Richmond, Va. 23229, telephone (804) 662-9915

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

July 18, 1987 - 10:30 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A quarterly meeting to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145 (TTD number 264-3140)

VIRGINIA VOLUNTARY FORMULARY BOARD

† June 4, 1987 - 10:30 a.m. - Open Meeting
Department of Health, James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

VIRGINIA WASTE MANAGEMENT BOARD

May 28, 1987 - 10 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

An informational meeting will be held for Amendment 6 to the Virginia Hazardous Waste Regulations Governing the Transportation of Hazardous Materials. The proposed amendment will incorporate, by

reference, changes made from January 1, 1985 – December 31, 1986 to the U. S. Department of Transportation Hazardous Materials Regulations.

Contact: Cheryl Cashman, Information Officer, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219, telephone (804) 225-2667

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June 15, 1987 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. FT3001 5

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: **Hazardous Waste Management Regulations: Amendment 8.**

The proposed Amendment 8 to these regulations includes changes to the U. S. Environmental Protection Agency's regulations on solid and hazardous waste management. These new provisions enacted by U. S. EPA during 1985-86, require that changes be made to existing, April 1, 1985, state regulations. These proposed changes maintain consistency with the federal program, as required. The amended regulations will be renumbered to VR 672-10-1.

The purpose of the public hearing is to obtain comments on the proposed draft of Amendment 8 from the regulated community, the public, and any interested persons.

Statutory Authority: § 10-266(11) of the Code of Virginia.

Written comments may be submitted until July 24, 1987, to Dr. Wladimir Gulevich, Director, Division of Technical Services, Virginia Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219.

Free copies of these final draft materials are available from the Information Officer.

Contact: Cheryl Cashman, Information Officer, Virginia Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219, telephone (804) 225-2667, or the Hazardous Waste Hotline 1-800-552-2075

STATE WATER CONTROL BOARD

June 11, 1987 - 9 a.m. – Open Meeting
June 12, 1987 - 9 a.m. – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

LEGISLATIVE

HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEE

Joint Meeting

June 1, 1987 - 9:30 a.m. – Open Meeting
George Mason University, 4400 University Drive, Fairfax, Virginia

A joint monthly meeting with agenda including education and transportation topics.

Contact: Donna C. Johnson, Appropriations Committee, General Assembly Bldg., 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

MEDIATION OF CHILD SUPPORT, CUSTODY AND VISITATION

Joint Subcommittee

† **June 3, 1987 - 10 a.m. – Open Meeting**
General Assembly Building, House Room C, Richmond, Virginia. ☒

This subcommittee will meet for organizational purposes and to establish agendas for interim meetings. (HJR 246)

Contact: Barbara Hanback, House of Delegates, General Assembly Bldg., Richmond, Va., telephone (804) 786-7681 or Susan C. Ward, Staff Attorney, Division of Legislative Services, General Assembly Bldg., Richmond, Va., telephone (804) 786-3591

INVESTIGATING THE EXTENT OF UNFAIR COMPETITION BETWEEN NONPROFIT ORGANIZATIONS AND SMALL FOR-PROFIT BUSINESSES IN VIRGINIA

Joint Subcommittee

Calendar of Events

† May 26, 1987 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, Richmond,
Virginia. ☐

The subcommittee will meet for organizational purposes and to establish course of study for interim. (HJR 303)

Contact: Barbara Hanback, House of Delegates, General Assembly Bldg., Richmond, Va., telephone (804) 786-7681 or Terry Barrett, Research Associate, Division of Legislative Services, General Assembly Bldg., Richmond, Va., telephone (804) 786-3591

VIRGINIA CODE COMMISSION

June 16, 1987 - 10 a.m. - Open Meeting
June 17, 1987 - 9:30 a.m. - Open Meeting
General Assembly Building, Speaker's Conference Room,
6th Floor, Richmond, Virginia. ☐

The Code Commission will continue with the revision of Title 54.

Contact: Joan W. Smith, Registrar of Regulations, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23219, telephone (804) 786-3591

SUBCOMMITTEE STUDYING PROBLEMS OF TEEN PREGNANCY IN THE COMMONWEALTH

June 12, 1987 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. ☐

A second meeting and work session of interim for continued joint legislative study. (HJR 280)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, General Assembly Bldg., 2nd Floor, or P.O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591

COMMISSION ON VETERANS' AFFAIRS

June 6, 1987 - 10 a.m. - Public Hearing
Virginia Military Institute, Nickols Engineering Hall, Room 507, Lexington, Virginia. ☐

July 11, 1987 - 10 a.m. - Public Hearing
Clarke County Circuit Court, Main Court Room, Berryville,
Virginia. ☐

August 8, 1987 - 10 a.m. - Public Hearing
Rappahannock Community College (North Campus), Main

Lecture Hall, Warsaw, Virginia. ☐

The commission will conduct a public hearing, taking testimony from individual veterans, representatives of veterans' organizations, and the general public on any matters concerning Virginia's veterans.

Contact: Alan Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

May 26, 1987

† Alcoholic Beverage Control Board
† Unfair Competition Between Nonprofit Organizations and Small For-Profit Businesses in Virginia
- Joint Subcommittee

May 27

Health Services Cost Review Council, Virginia
Local Government, Commission on
Mental Health and Mental Retardation Board, State

May 28

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
- Virginia Board of Land Surveyors
Mental Health and Mental Retardation, Department of;
University of Virginia Institute of Law, Psychiatry and Public Policy
- Division of Continuing Education and Office of Continuing Medical Education
Waste Management Board, Virginia

May 29

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
† Commercial Driver Training Schools, Board of Medicine, Virginia State Board of
- Credentials Committee
- Informal Conference Committee
Mental Health and Mental Retardation, Department of;
University of Virginia Institute of Law, Psychiatry and Public Policy
- Division of Continuing Education and Office of Continuing Medical Education
† Real Estate Board, Virginia

May 30

Medicine, Virginia State Board of
- Credentials Committee

Calendar of Events

- June 1**
Appropriations and Senate Finance Committee, House;
Joint Meeting
- June 2**
Conservation and Historic Resources, Department of
- Upper James River Advisory Board
† Marine Resources Commission
Medicare and Medicaid, Governor's Advisory Board on
† Nursing, Virginia State Board of
† Professional Counselors, Virginia Board of
- June 3**
† Higher Education, State Council of
† Marine Products Board, Virginia
† Mediation of Child Support, Custody and Visitation
- Joint Subcommittee
- June 4**
† Athletic Board, Virginia
Health, Department of
† Labor and Industry, Department of
- Apprenticeship Council
† Voluntary Formulary Board, Virginia
- June 5**
Child Abuse and Neglect, Governor's Advisory Board
on
General Services, Department of
- Art and Architectural Review Board
Medicine, Virginia State Board of
- Executive Committee
- June 8**
Medical Care Facilities, Commission on
- June 9**
† Employment Commission, Virginia
- Advisory Board
Medicial Assistance Services, Board of
Nursing, Virginia State Board of
- Informal Conference Committee
Veterinary Medicine, Virginia Board of
- June 10**
† Criminal Justice Services Board
Employment Commission, Virginia
- Advisory Board
Medicine, Virginia State Board of
- Legislative Committee
- June 11**
† Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
Long-Term Care Council
† Pharmacy, State Board of
Water Control Board, State
- June 12**
General Services, Department of
- State Insurance Advisory Board
- † Health Regulatory Boards, Department of
† Pharmacy, State Board of
Teen Pregnancy in the Commonwealth, Subcommittee
Studying Problems of
Water Control Board, State
- June 14**
† Dentistry, Board of
- June 15**
† Disabled, Department of Rights of the
- Protection and Advocacy Board for the Mentally
Ill
† Professional Counselors, Virginia Board of
- June 16**
† Alcoholic Beverage Control Board
Code Commission, Virginia
† Real Estate Board, Virginia
- June 17**
Code Commission, Virginia
Corrections, State Board of
Criminal Justice Services Board
- Committee on Criminal Justice Information Systems
† Real Estate Board, Virginia
Veterinary Medicine, Virginia Board of
- June 18**
† Education, State Board of
Old Dominion University
- Board of Visitors
† Transportation Board, Commonwealth
Veterinary Medicine, Virginia Board of
- June 19**
† Education, State Board of
† Social Work, Virginia Board of
- June 23**
Elections, State Board of
Library Board, Virginia State
Library Board, Virginia State
- Automated Systems and Networking Committee
† Motor Vehicles, Department of
Pharmacy, State Board of
- June 24**
Forestry, Board of
† Motor Vehicles, Department of
Pharmacy, State Board of
- June 25**
† Alcoholic Beverage Control Board
Nursing, Virginia State Board of
- June 26**
Medicine, Virginia State Board of
- Podiatry Examination Committee
- June 29**

Calendar of Events

- † Motor Vehicles, Department of
- June 30**
† Alcoholic Beverage Control Board
† Motor Vehicles, Department of
- July 8**
† Conservation and Historic Resources, Department of
- Virginia Soil and Water Conservation Board
- July 13**
Medical Care Facilities, Commission on
† Optometry, Virginia Board of
- July 14**
† Alcoholic Beverage Control Board
† Optometry, Virginia Board of
- July 15**
† Optometry, Virginia Board of
- July 16**
† Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
Pilots, Board of Commissioners to Examine
† Transportation Board, Commonwealth
- July 18**
Visually Handicapped, Department for the
- Advisory Committee on Services
- July 23**
† Education, State Board of
- July 24**
† Education, State Board of
- July 27**
† Air Pollution Control Board, State
- July 28**
† Alcoholic Beverage Control Board
- Veterans' Affairs, Commission on
- June 10**
Commerce, Board of
- June 11**
Commerce, Board of
Education, State Board of
- June 15**
Waste Management Board, Virginia
- June 22**
Commerce, Board of
- June 29**
Commerce, Board of
- July 1**
Forestry, Department of
- July 10**
Social Services, Department of
- July 11**
Veterans' Affairs, Commission on
- July 21**
† Mental Health and Mental Retardation Board, State
- July 28**
† Mental Health and Mental Retardation Board, State
- July 29**
† Air Pollution Control Board, State
† Disabled, Board for Rights of the
- August 8**
Veterans' Affairs, Commission on
- September 28**
Agriculture and Consumer Services, Department of

PUBLIC HEARINGS

- May 26, 1987**
Social Services, Department of
- June 1**
Social Services, Department of
- June 4**
Social Services, Department of
- June 5**
Commerce, Board of
- June 6**