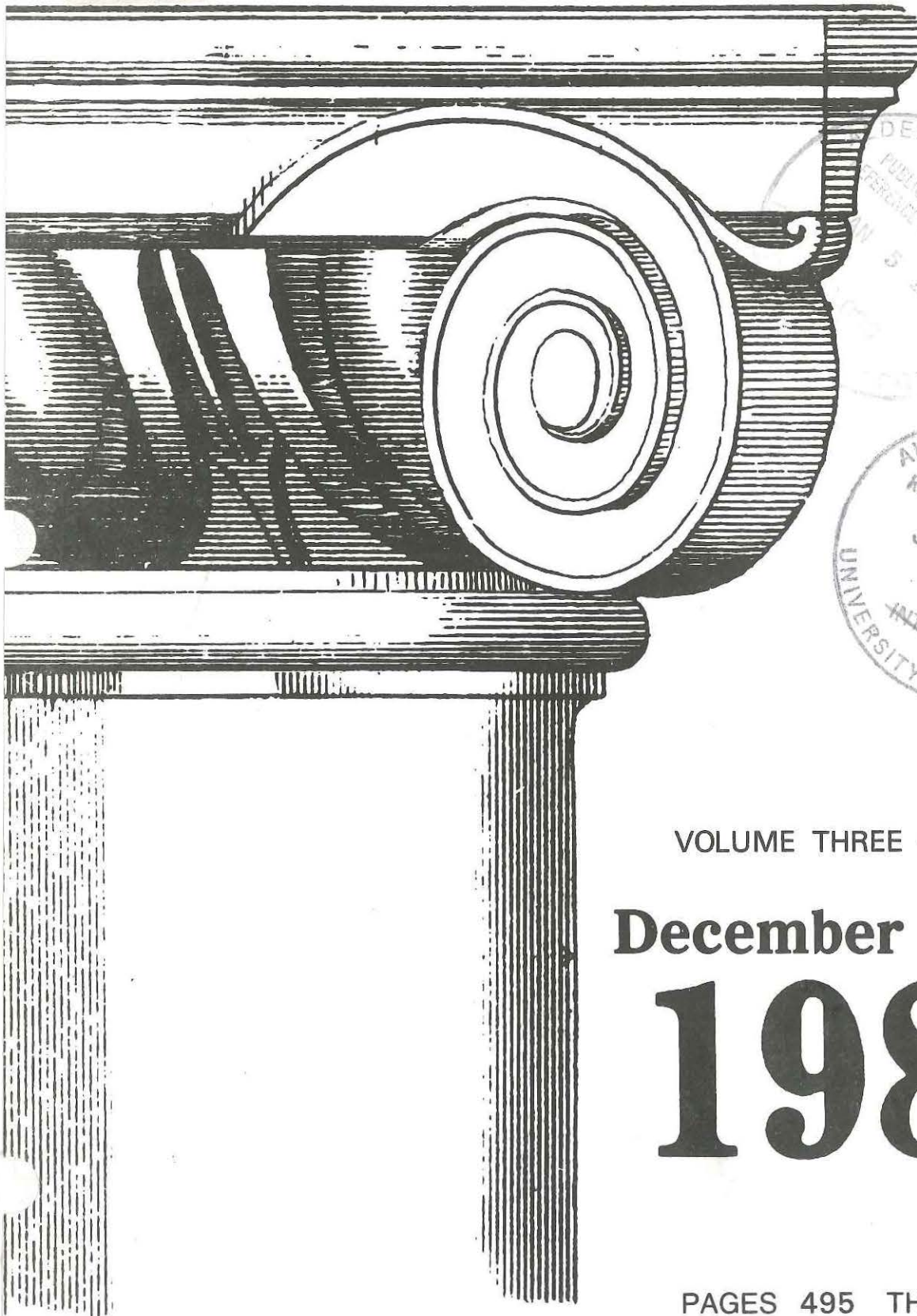


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THE VIRGINIA REGISTER

OF REGULATIONS

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1986

PAGES 495 THROUGH 602

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.

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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

| PUBLICATION DATE | MATERIAL SUBMITTED BY 12 noon Wednesday |
|-------------------------------|--|
| July 7 | June 18 |
| July 21 | July 2 |
| Aug. 4 | July 16 |
| Aug. 18 | July 30 |
| Sept. 1 | Aug. 13 |
| Sept. 15 | Aug. 27 |
| Sept. 29 | Sept. 10 |
| Final Index - Volume II | |
| Oct. 13 | Sept. 24 |
| Oct. 27 | Oct. 8 |
| Nov. 10 | Oct. 22 |
| Nov. 24 | Nov. 5 |
| Dec. 8 | Nov. 19 |
| Dec. 22 | Dec. 3 |
| Index - 1st Issue, Volume III | |
| 1987 | |
| Jan. 5 | Dec. 17 |
| Jan. 19 | Dec. 31 |
| Feb. 2 | Jan. 14 |
| Feb. 16 | Jan. 28 |
| Mar. 2 | Feb. 11 |
| Mar. 16 | Feb. 25 |
| Index - 2nd Issue | |
| Mar. 30 | Mar. 11 |
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| Apr. 27 | Apr. 8 |
| May 11 | Apr. 22 |
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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.

DEPARTMENT OF HEALTH (BOARD OF)

Title of Regulation: VR 355-01-5. Virginia Voluntary Formulary (July, 1987 Revision).

Statutory Authority: §§ 32.1-12 and 32.1-79 et seq. of the Code of Virginia.

Public Hearing Date: February 24, 1987 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The purpose of the Virginia Voluntary Formulary is to provide a list of drugs of accepted therapeutic value, commonly prescribed within the state which are available from more than one source of supply, and a list of chemically and therapeutically equivalent drug products which have been determined to be interchangeable. Utilization of the Formulary by practitioners and pharmacists enables citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards.

The proposed revised Virginia Voluntary Formulary adds and deletes drugs and drug products to the Formulary that becomes effective January 15, 1987. These additions and deletions are based upon recommendations of the Virginia Voluntary Formulary Board following its review of scientific data submitted by pharmaceutical manufacturers. The Formulary Board makes its recommendations to the State Board of Health.

The Virginia Voluntary Formulary is needed to enable citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards. Without the Formulary, physicians, dentists, and pharmacists in Virginia would not have the assurance that those generic drug products that may be substituted for brand name products have been evaluated and judged to be interchangeable with the brand name products.

VR 355-01-5. Virginia Voluntary Formulary (July, 1987 Revision).

ADDITIONS TO THE VIRGINIA VOLUNTARY FORMULARY

ACETAMINOPHEN

Capsules

Private Formulations, Inc. 500mg
(VHA Plus)

ACETAMINOPHEN with CODEINE Tablets

Purepac/Kalipharma, Inc. 300mg-60mg

ACETAMINOPHEN with HYDROCODONE BITARTRATE Tablets

Barr Laboratories 500mg-5mg
(Bioline Labs., Goldline Labs.)

ACETAMINOPHEN with OXYCODONE Tablets

Barr Laboratories 325mg-5mg
(Major Pharm.)

Halsey Drug Co. (Towne Paulsen) 325mg-5mg

ACETAZOLAMIDE Tablets

Bolar Pharmaceutical Co. 250mg
(Towne Paulsen)

Danbury Pharmacal 250mg
(Geneva Generics)

ALLOPURINOL Tablets

Boots Pharmaceuticals 100mg, 300mg
(Major Pharm.)

Cord Laboratories, Inc. 100mg, 300mg
(Geneva Generics)

Purepac/Kalipharma, Inc. 100mg, 300mg

AMANTADINE HYDROCHLORIDE Capsules

DuPont Pharmaceuticals Symmetrel 100mg

Reid-Rowell, Inc./Scherer, Inc. 100mg
(Bioline Labs., Geneva Generics,
Goldline Labs., International Labs.,
Major Pharm., H.L. Moore,
Purepac Pharm., Rugby Labs.,
United Research)

AMILORIDE HYDROCHLORIDE Tablets

Proposed Regulations

Merck, Sharp & Dohme Midamor 5mg
 Par Pharmaceuticals 5mg
 (Bioline Labs., Goldline Labs.)

AMINOPHYLLINE Tablets

Duramed Pharmaceuticals200mg
 (Towne Paulsen)
 Richlyn Laboratories, Inc.100mg
 (Towne Paulsen)

AMITRIPTYLINE HYDROCHLORIDE Tablets

MD Pharmaceuticals10mg, 25mg, 50mg, 75mg, 100mg
 (Towne Paulsen)
 Sidmak Laboratories, Inc.10mg, 25mg, 50mg, 75mg,
 100mg, 150mg
 (Major Pharm.)

ASPIRIN with CAFFEINE & BUTALBITAL Tablets

Boots Laboratories, Inc.325mg-40mg-5mg
 (Major Pharm.)

ASPIRIN with CODEINE Tablets

Barr Laboratories, Inc.325mg-30mg, 325mg-60mg
 (Major Pharm.)

ASPIRIN with OXYCODONE Tablets

Halsey Drug Co. (Towne Paulsen) 325mg-4.5mg-0.38mg

BACITRACIN ZINC-HYDROCORTISONE-NEOMYCIN SULFATE-POLYMYXIN B SULFATE Ophthalmic Ointment

Pharmafair, Inc.400u-1%-3.5mg(Base)-10,000u/Gm
 (Bioline Labs., Goldline Labs.)

BENZTROPINE MESYLATE Tablets

Par Pharmaceuticals 0.5mg, 1mg, 2mg
 (Geneva Generics)

BETHANECHOL CHLORIDE Tablets

Bolar Pharmaceutical Co.10mg, 25mg
 (Towne Paulsen)

BROMODIPHENHYDRAMINE with CODEINE PHOSPHATE Syrup

National Pharm. Mfg. Co.12.5mg-10mg/5ml
 (Major Pharm.)

BROMPHENIRAMINE MALEATE with PHENYLPROPANOLAMINE HCl Elixir

National Pharm. Mfg. Co.2mg-12.5mg/5ml
 (Barr Drug, Bioline Labs., Cooper,
 Goldline Labs., Lederle Labs., Major,
 H.L. Moore, Purepac Pharm.,
 Parmed Pharm., Ascot Pharm.,
 Henry Schein, Glenlawn,
 United Research)

A. H. Robins Co.Dimetapp 2mg-12.5mg/5ml

BROMPHENIRAMINE MALEATE with PHENYLPROPANOLAMINE HCl and CODEINE Syrup

National Pharm. Mfg. Co.2mg-12.5mg-10mg/5ml
 (Barre Drug, Goldline Labs.,
 Lederle, H. Schein, Rugby,
 United Research, Bioline, H.L. Moore,
 Major Pharm., R.A. McNeil)

CARBAMAZEPINE Tablets

Coblmed Labs./Pharmaceutical Basics200mg
 (Bioline Labs., Goldline Labs., Purepac)

CARISOPRODOL Tablets

Bolar Pharmaceutical Co.350mg
 (Towne Paulsen)

CHLORAL HYDRATE Capsules

Scherer, Inc. (Towne Paulsen)500mg

CHLORAMPHENICOL Ophthalmic Ointment

Pharmafair, Inc. (Major Pharm.)1%

CHLORAMPHENICOL Ophthalmic Solution

Pharmafair, Inc. (Major Pharm.)5mg/ml

CHLORDIAZEPOXIDE HCl Capsules

Vitarine Pharmaceuticals, Inc.5mg, 10mg, 25mg
 (Towne Paulsen)

CHLOROTHIAZIDE Tablets

Bolar Pharmaceutical Co.250mg

Proposed Regulations

(Towne Paulsen)

CHLORPHENIRAMINE MALEATE
Controlled Release Capsules

Vitarine Pharmaceuticals8mg, 12mg
(Major Pharm.)

**CHLORPHENIRAMINE MALEATE with
PHENYLPROPANOLAMINE HCl**
Controlled Release Capsules

Smith, Kline & French Labs.Ornade 12mg-75mg
Vitarine Pharmaceuticals, Inc.12mg-75mg

CHLORPROMAZINE HCl
Tablets

Pharmaceutical Basics, Inc. 10mg, 25mg, 50mg, 100mg,
200mg
(Major, Towne Paulsen)

CHLORPROPAMIDE
Tablets

Cord Laboratories 100mg, 250mg
(Geneva Generics)

Duramed Pharmaceuticals 100mg, 250mg
(Towne Paulsen)

CHLORTHALIDONE
Tablets

Parke-Davis & Co.25mg, 50mg

CHOLESTYRAMINE
Powder Packets

Mead Johnson & Co.Questran 4 Gm
Pharmaceutical Basics, Inc. 4 Gm

CLOFIBRATE
Capsules

Chase Chemical/Pharm. Basics500mg
(Bioline Labs., Goldline Labs.)

CLONIDINE HCl
Tablets

Par Pharmaceuticals, Inc.0.1mg, 0.2mg, 0.3mg
(Bioline Labs., Geneva Generics,
Goldline Labs.)

CYPROHEPTADINE
Tablets

Par Pharmaceuticals 4mg
(Geneva Generics)

DEXAMETHASONE
Tablets

Par Pharm. 0.25mg, 0.5mg, 0.75mg, 1.5mg, 4mg, 6mg
(Geneva Generics, Major Pharm.)

Roxane Laboratories, Inc.1mg, 4mg, 6mg

**DEXAMETHASONE-NEOMYCIN
SULFATE-POLYMYXIN B SULFATE**
Ophthalmic Ointment

Pharmafair, Inc. 0.1%-3.5mg(Base)-10,000u/Gm
(Major Pharm.)

**DEXAMETHASONE-NEOMYCIN
SULFATE-POLYMYXIN B SULFATE**
Ophthalmic Suspension

Pharmafair, Inc. 0.1%-3.5mg(Base)-10,000u/ml
(Major Pharm.)

DEXAMETHASONE SODIUM PHOSPHATE
Ophthalmic Ointment

Pharmafair, Inc. (Major Pharm.) 0.05%

DEXAMETHASONE SODIUM PHOSPHATE
Ophthalmic Solution

Carter-Glogau Labs. 0.1%
(Geneva Generics)

Pharmafair, Inc. (Major Pharm.) 0.1%

**DEXAMETHASONE SODIUM PHOSPHATE with
NEOMYCIN SULFATE**
Ophthalmic Solution

Pharmafair, Inc. (Major Pharm.)0.1%-3.5mg(Base)/ml

DIAZEPAM
Tablets

Cord Laboratories, Inc.2mg, 5mg, 10mg
(Geneva Generics)

Purepac/Kalipharma, Inc.2mg, 5mg, 10mg

Superpharm Corp. (Bioline, Goldline) 10mg

Zenith Labs., Inc.2mg, 5mg, 10mg
(Major Pharm., Towne Paulsen)

DICLOXACILLIN SODIUM
Capsules

Biocraft Labs., Inc. (Purepac) 250mg, 500mg

DICYCLOMINE HCl
Capsules

Bolar Pharmaceutical Co. 10mg
(Towne Paulsen)

DIETHYLPROPION HCl

Proposed Regulations

Controlled Release Tablets

Riker Labs., Inc. 75mg
(Major Pharm., Towne Paulsen)

DIMENHYDRINATE Tablets

Barr Labs., Inc. 50mg
(Towne Paulsen)

DIPHENOXYLATE HCl with ATROPINE SULFATE Tablets

MD Pharmaceutical, Inc. 2.5mg-0.025mg
(Towne Paulsen)
Zenith Labs., Inc. (Major Pharm.) 2.5mg-0.025mg

DIPYRIDAMOLE Tablets

Cord Labs., Inc. (Geneva Generics) 50mg, 75mg
Par Pharmaceuticals, Inc. 25mg, 50mg, 75mg
(Major Pharm.)
Zenith Labs., Inc. (Towne Paulsen) 25mg, 50mg, 75mg

DISOPYRAMIDE PHOSPHATE Capsules

Biocraft Labs., Inc. 100mg, 150mg
(Purepac Pharm.)
Cord Labs., Inc. 100mg, 150mg
(Geneva Generics)

DOCUSATE CALCIUM Capsules

Pharmacaps, Inc. (Major Pharm.) 240mg

DOCUSATE SODIUM Capsules

R. P. Scherer, Inc. 100mg, 250mg
(Towne Paulsen)

DOCUSATE SODIUM with CASANTHRANOL Capsules

R. P. Scherer, Inc. 100mg-30mg
(Towne Paulsen)

DOXEPIN HYDROCHLORIDE Capsules

Cord Labs., Inc. (Geneva Generics) 25mg, 50mg, 75mg
Mylan Pharm., Inc. 10mg, 25mg, 50mg, 75mg, 100mg

DOXYCYCLINE HYCLATE Capsules

Danbury Pharmacal, Inc. 50mg, 100mg

(E. R. Squibb)

EPHEDRINE SULFATE Capsules

Zenith Labs., Inc. (Major Pharm.) 25mg

ERYTHROMYCIN Ophthalmic Ointment

Pharmafair, Inc. (Major Pharm.) 5mg/Gm

ERYTHROMYCIN STEARATE Tablets

Barr Labs., Inc. (Towne Paulsen) 250mg
Zenith Labs., Inc. (Major Pharm.) 250mg, 500mg

ESTROPIPATE Tablets

Abbott Labs., Inc. Ogen 1.5mg, 3mg
Pharmaceutical Basics, Inc. 1.5mg, 3mg

FERROUS FUMARATE Tablets

Richlyn Labs., Inc. 325mg
(Towne Paulsen)

FERROUS SULFATE Tablets

Richlyn Labs., Inc. 325mg
(Towne Paulsen)

FLUOCINONIDE Cream

K-Line Pharmaceuticals, Inc. 0.05%
(Bioline Labs., Goldline Labs.)

FLURAZEPAM HCl Capsules

Mylan Pharmaceuticals, Inc. 15mg, 30mg
(Purepac Pharm.)
Par Pharmaceuticals 15mg, 30mg
(Geneva Generics)

FOLIC ACID Tablets

Private Formulations, Inc. 1mg

FUROSEMIDE Tablets

Chelsea Labs., Inc. (Rugby Labs.) 20mg, 40mg
Roxane Labs., Inc. 80mg
Zenith Labs. (Major Pharm.) 20mg, 40mg

Proposed Regulations

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| <p style="text-align: center;">GENTAMICIN SULFATE Ophthalmic Ointment</p> <p>Pharmafair, Inc. (Major Pharm.) 3mg/Gm</p> <p style="text-align: center;">GENTAMICIN SULFATE Ophthalmic Solution</p> <p>Pharmafair, Inc. (Major Pharm.) 3mg/ml</p> <p style="text-align: center;">GENTAMICIN SULFATE Ointment</p> <p>Thames Pharmacal Co. 0.1%</p> <p style="text-align: center;">GLYCOPYROLATE Tablets</p> <p>Bolar Pharmaceutical Co. 1mg, 2mg (Major Pharm.)</p> <p style="text-align: center;">GRAMICIDIN with NEOMYCIN SULFATE and POLYMYXIN B SULFATE Ophthalmic Solution</p> <p>Pharmafair, Inc. 0.025mg-1.75mg(Base)-10,000u/ml (Major Pharm.)</p> <p style="text-align: center;">GUAIFENESIN with DEXTROMETHORPHAN HBr. Syrup</p> <p>National Pharm. Mfg. Co. 100mg-15mg/5ml (Bioline Labs., Goldline Labs.)</p> <p style="text-align: center;">HALOPERIDOL Tablets</p> <p>McNeil Pharmaceuticals Haldol 10mg Mylan Pharmaceuticals, Inc. 0.5mg, 1mg, 2mg, 5mg (Bioline Labs., Goldline Labs.) Searle Pharmaceuticals 10mg</p> <p style="text-align: center;">HALOPERIDOL LACTATE Concentrate</p> <p>National Pharm. Mfg. Co. 2mg/ml (Barre Drug, Bioline Labs., Goldline Labs., Major Pharm., Rugby Labs.)</p> <p style="text-align: center;">HYDRALAZINE HCl Tablets</p> <p>Sidmak Labs., Inc. (Towne Paulsen) 25mg, 50mg Zenith Labs., Inc. (Towne Paulsen) 10mg</p> <p style="text-align: center;">HYDRALAZINE with HYDROCHLOROTHIAZIDE Capsules</p> <p>Reid-Rowell, Inc. 25mg-25mg, 50mg-50mg (Geneva Generics, H.L. Moore, Regal labs.)</p> | <p style="text-align: center;">HYDROCHLOROTHIAZIDE Tablets</p> <p>Private Formulations, Inc. 25mg, 50mg</p> <p style="text-align: center;">HYDROCHLOROTHIAZIDE-HYDRALAZINE HCl-RESERPINE Tablets</p> <p>Reid-Rowell, Inc. 15mg-25mg-0.1mg (Bioline Labs., Geneva Generics, Major Pharm., H.L. Moore, Richie Pharmacal, H. Schein)</p> <p style="text-align: center;">HYDROCORTISONE Topical Ointment</p> <p>Clay Park Labs. 1% (Geneva Generics)</p> <p>Thames Pharmacal Co. 1% (Geneva Generics)</p> <p style="text-align: center;">HYDROXYZINE HCl Tablets</p> <p>Par Pharmaceuticals, Inc. 10mg, 25mg, 50mg (Major Pharm.)</p> <p style="text-align: center;">HYDROXYZINE PAMOATE Capsules</p> <p>Par Pharmaceuticals 25mg, 50mg, 100mg (Major Pharm., Towne Paulsen) Zenith Labs., Inc. 25mg, 50mg (Major Pharm., Towne Paulsen)</p> <p style="text-align: center;">IBUPROFEN Tablets</p> <p>Boots Pharmaceuticals, Inc. 400mg, 600mg, 800mg (Major Pharm.) Par Pharmaceuticals 400mg, 600mg (Geneva Generics, Major Pharm.) Upjohn Company Motrin 800mg</p> <p style="text-align: center;">IMIPRAMINE HCl Tablets</p> <p>Biocraft Labs., Inc. 10mg (Geneva Generics) Bolar Pharmaceutical Co. 10mg, 25mg, 50mg (Towne Paulsen)</p> <p style="text-align: center;">INDOMETHACIN Capsules</p> <p>Lemmon Company 25mg, 50mg Par Pharmaceuticals 25mg, 50mg (Major Pharm.)</p> |
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Proposed Regulations

ISOSORBIDE DINITRATE
Tablets

Par Pharmaceuticals 10mg
(Towne Paulsen)

ISOSORBIDE DINITRATE
Sublingual Tablets

Zenith Labs., Inc. (Towne Paulsen) 2.5mg, 5mg

LITHIUM CARBONATE
Capsules

Reid-Rowell, Inc. 300mg
(Bioline, Geneva Generics, Goldline,
International Labs., Major Pharm.,
H. Schein, Wms. Generics,
United Research)

LORAZEPAM
Tablets

Danbury Pharmacal, Inc. 0.5mg, 1mg, 2mg
Duramed Pharmaceuticals, Inc. 0.5mg, 1mg, 2mg
Quantum Pharmics Ltd. 0.5mg, 1mg, 2mg
(Geneva Generics, Purepac Pharm.,
Towne Paulsen)

MECLIZINE HCl
Chewable Tablets

Richlyn Labs., Inc. (Major Pharm) 25mg

METHADONE HCl
Tablets

Eli Lilly & Co. Dolophine 5mg, 10mg
Roxane Labs., Inc. 5mg, 10mg

METHENAMINE MANDELATE
Suspension

National Pharm. Mfg. Co. 500mg/5ml
(Major Pharm.)

METHOCARBAMOL
Tablets

Bolar Pharmaceutical Co. 500mg, 750mg
(Towne Paulsen)

METHOCARBAMOL with ASPIRIN
Tablets

Zenith Labs., Inc. 400mg-325mg
(Major Pharm.)

METHYLDOPA
Tablets

Danbury Pharmacal, Inc. 250mg, 500mg
Duramed Pharmaceuticals, Inc. 250mg, 500mg
Mylan Pharmaceuticals, Inc. 250mg, 500mg
(Major Pharm.)
Purepac/Kalipharma, Inc. 250mg, 500mg
Zenith Labs., Inc. (Major Pharm.) 250mg, 500mg

METHYLDOPA with HYDROCHLOROTHIAZIDE
Tablets

Cord Labs., Inc. 250mg-15mg, 250mg-25mg
(Geneva Generics) 500mg-30mg, 500mg-50mg
Merck, Sharp & Dohme Aldoril D 30 500mg-50mg
..... Aldoril D 50 500mg-50mg
Purepac/Kalipharma, Inc. 250mg-25mg
..... 500mg-50mg

METHYLPHENIDATE HCl
Tablets

MD Pharmaceutical, Inc. 5mg, 10mg, 20mg
(Purepac, Towne Paulsen)

METOCLOPRAMIDE HCl
Tablets

Biocraft Labs., Inc. 10mg
(Towne Paulsen)
Purepac/Kalipharma, Inc. 10mg
Quantum Pharmics, Ltd. (Adria) 10mg
Watson Labs., Inc. 10mg

METRONIDAZOLE
Tablets

Zenith Labs., Inc. (Towne Paulsen) 250mg, 500mg

NEOMYCIN SULFATE
Tablets

Lannett Co. (Towne Paulsen) 500mg

**NEOMYCIN SULFATE with HYDROCORTISONE and
POLYMYXIN B SULFATE**
Otic Suspension

Lemmon Co. 3.5mg(Base)-1%-10,000u/ml
(Major Pharm.)
Pharmafair, Inc. 3.5mg(Base)-1%-10,000u/ml
(Major Pharm.)

**NEOMYCIN SULFATE with HYDROCORTISONE and
POLYMYXIN B SULFATE**
Otic Solution

Carter Glogau, Inc. 3.5mg(Base)-1%-10,000u/ml
(Geneva Generics)
Lemmon Co. 3.5mg(Base)-1%-10,000u/ml
(Major Pharm.)
Pharmafair, Inc. 3.5mg(Base)-1%-10,000u/ml
(Major Pharm.)

Proposed Regulations

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| <p>NITROFURANTOIN (NOT MACROCRYSTALLINE) Tablets</p> <p>Bolar Pharmaceutical Co.100mg (Towne Paulsen)</p> <p>NYSTATIN Suspension</p> <p>National Pharm. Mfg. Co.100,000u/ml (Purepac Pharm.)</p> <p>NYSTATIN Cream</p> <p>Clay Park Labs., Inc.100,000u/Gm (Towne Paulsen)</p> <p>NMC Labs., Inc. (Geneva Generics)100,000u/Gm</p> <p>NYSTATIN Oral Tablets</p> <p>Quantum Pharmics, Ltd.500,000u Vitarine Pharmaceuticals, Inc.500,000u (Geneva Generics)</p> <p>NYSTATIN with TRIAMCINOLONE ACETONIDE Cream</p> <p>Altana, Inc. (Fougera, 100,000u-lmg/Gm Pharmaderm, Savage)</p> <p>Clay Park Labs., Inc. 100,000u-lmg/Gm (Bioline Labs., Goldline Labs.)</p> <p>NYSTATIN with TRIAMCINOLONE ACETONIDE Ointment</p> <p>Altana, Inc. (Fougera, 100,000u-lmg/Gm Pharmaderm, Savage)</p> <p>Clay Park Labs., Inc. 100,000u-lmg/Gm (Bioline Labs., Goldline Labs.)</p> <p>PAPAVERINE HYDROCHLORIDE Controlled Release Capsules</p> <p>Vitarine Pharmaceuticals, Inc.150mg (Major Pharm.)</p> <p>PENICILLIN V POTASSIUM Tablets</p> <p>Biocraft Labs., Inc.500mg (Towne Paulsen)</p> <p>Mylan Pharmaceuticals, Inc.250mg (Towne Paulsen)</p> <p>PHENAZOPYRIDINE HYDROCHLORIDE Tablets</p> <p>Copley Pharmaceutical, Inc. 100mg, 200mg</p> | <p>(Purepac Pharm.) Quantum Pharmics, Ltd. 100mg, 200mg (Geneva Generics)</p> <p>PHENOBARBITAL Tablets</p> <p>Pharmaceutical Basics, Inc. 30mg (Geneva Generics)</p> <p>PHENYTOIN SODIUM Extended Capsules</p> <p>Bolar Pharmaceutical Co.100mg (Major Pharm., Purepac Pharm.)</p> <p>PREDNISOLONE Tablets</p> <p>Private Formulations, Inc. 5mg</p> <p>PREDNISONE Tablets</p> <p>Heather Drug Co. 5mg, 10mg, 20mg, 50mg (Major Pharm.)</p> <p>Mutual Pharmaceutical5mg, 10mg, 20mg Private Formulations, Inc.5mg, 20mg</p> <p>PRIMIDONE Tablets</p> <p>Danbury Pharmacal, Inc.250mg (Major Pharm.)</p> <p>PROCAINAMIDE HYDROCHLORIDE Capsules</p> <p>Cord Labs., Inc.250mg, 375mg, 500mg (Geneva Generics)</p> <p>PROCAINAMIDE HYDROCHLORIDE Controlled Release Tablets</p> <p>Bolar Pharmaceutical Co.250mg, 500mg, 750mg (Major Pharm., Purepac Pharm.)</p> <p>Danbury Pharmacal, Inc.250mg, 500mg, 750mg (Geneva Generics)</p> <p>PROMETHAZINE HCl Tablets</p> <p>Richlyn Labs., Inc. (Major Pharm.) 25mg</p> <p>PROMETHAZINE HCl with CODEINE PHOSPHATE Syrup</p> <p>National Pharm. Mfg. Co.6.25mg-10mg/5ml (Bioline Labs., Goldline Labs., Major Pharm.)</p> <p>PROMETHAZINE HCl with DEXTROMETHORPHAN</p> |
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Proposed Regulations

Syrup

National Pharm. Mfg. Co. 6.25mg-15mg/5ml
(Major Pharm.)

**PROMETHAZINE HCl with PHENYLEPHRINE HCl
Syrup**

National Pharm. Mfg. Co. 6.25mg-5mg/5ml
(Major Pharm.)

**PROMETHAZINE HCl with PHENYLEPHRINE HCl
and CODEINE PHOSPHATE
Syrup**

National Pharm. Mfg. Co. 6.25mg-5mg-10mg/5ml
(Major Pharm.)

**PROPANTHELINE BROMIDE
Tablets**

Par Pharmaceuticals, Inc. (Major) 15mg

**PROPARACAINE HCl
Ophthalmic Solution**

Pharmafair, Inc. (Major Pharm.) 0.5%

**PROPOXYPHENE NAPSYLATE with
ACETAMINOPHEN
Tablets**

Lemmon Company (Major Pharm.) 100mg-650mg
Mylan Pharmaceuticals, Inc. 100mg-650mg
(Major Pharm.)
Zenith Labs., Inc. (Major Pharm.) 100mg-650mg

**PROPRANOLOL HCL
Tablets**

Ayerst Labs., Inc. Inderal 60mg, 90mg
Cord Labs., Inc. 10mg, 20mg, 40mg, 80mg
(Geneva Generics)
Duramed Pharmaceuticals, Inc. 60mg, 90mg

**PROPRANOLOL with HYDROCHLOROTHIAZIDE
Tablets**

Ayerst Labs., Inc. Inderide 40/25 40mg-25mg
..... Inderide 80/25 80mg-25mg
Duramed Pharmaceuticals, Inc. 40mg-25mg, 80mg-25mg
Purepac/Kalipharma, Inc. 40mg-25mg, 80mg-25mg
(Bioline Labs., Goldline Labs.)

**PSEUDOEPHEDRINE HCl
Tablets**

Cord Labs., Inc. (Geneva Generics) 60mg
Private Formulations, Inc. 30mg
(VHA Plus)

**PSEUDOEPHEDRINE with TRIPROLIDINE
Tablets**

Private Formulations, Inc. 60mg-2.5mg
(VHA Plus)

**QUINIDINE SULFATE
Tablets**

Private Formulations, Inc. 200mg

**QUININE SULFATE
Tablets**

Danbury Pharmacal, Inc. 260mg
(Geneva Generics)

**QUININE SULFATE
Capsules**

Danbury Pharmacal, Inc. 200mg
(Geneva Generics)

**SELENIUM SULFIDE
Lotion/Shampoo**

National Pharm. Mfg. Co. 2.5%
(Major Pharm.)

**SPIRONOLACTONE with HYDROCHLOROTHIAZIDE
Tablets**

Purepac/Kalipharma, Inc. 25mg-25mg

**SUCRALFATE
Tablets**

Marion Labs., Inc. Carafate 1 Gm
Pharmaceutical Basics, Inc. 1 Gm

**SULFABENZAMIDE with SULFACETAMIDE
SULFATHIAZOLE and UREA
Vaginal Cream**

NMC Labs., Inc. 3.7%-2.8%-3.42%-0.64%
(Major Pharm.)

**SULFACETAMIDE SODIUM with PREDNISOLONE
ACETATE
Ophthalmic Suspension**

Pharmafair, Inc. (Major Pharm.) 10%-0.5%

**SULFIN PYRAZONE
Capsules**

Barr Labs. (Major Pharm.) 200mg
Par Pharmaceuticals, Inc. (Geneva) 200mg

**SULFINPYRAZONE
Tablets**

Proposed Regulations

Barr Labs., Inc. (Major Pharm.)100mg
 Par Pharmaceuticals, Inc.100mg
 (Geneva Generics)

SULFISOXAZOLE Tablets

Zenith Labs.; Inc. (Major Pharm.)500mg

TEMAZEPAM Capsules

Mylan Pharmaceuticals, Inc.15mg, 30mg
 Quantum Pharmics, Ltd.15mg, 30mg
 (Bioline Labs., Geneva Generics,
 Goldline Labs.)

THEOPHYLLINE with GUAIFENESIN Liquid

National Pharm. Mfg. Co. 150mg-90mg/15ml
 (Major Pharm.)

THIORIDAZINE HCl Tablets

Danbury Pharmacal, Inc. (Geneva)150mg

TOLAZAMIDE Tablets

Cord Labs., Inc. (Geneva Generics) 250mg, 500mg

TRAZODONE HCl Tablets

Chelsea Labs., Inc. (Rugby Labs.) 50mg, 100mg
 Danbury Pharmacal, Inc. 50mg, 100mg
 Mead Johnson & Co. Desyrel 50mg, 100mg
 Pharmaceutical Basics, Inc. 50mg, 100mg

TRIAMCINOLONE ACETONIDE Lotion

National Pharm. Mfg. Co. (Major)0.025%, 0.1%

TRIMETHOPRIM with SULFAMETHOXAZOLE Tablets

Biocraft Labs., Inc.80mg-400mg
 (Purepac Pharm.)
 Danbury Pharmacal, Inc.80mg-400mg, 160mg-800mg
 (E.R. Squibb)
 Par Pharmaceuticals, Inc.80mg-400mg, 160mg-800mg
 (Major)
 Sidmak Labs., Inc.80mg-400mg, 160mg-800mg

TRIMETHOPRIM with SULFAMETHOXAZOLE Suspension

Biocraft Labs., Inc.40mg-200mg/5ml

(Purepac Pharm.)(Pediatric) 40mg-200mg/5ml

TRIPLENNAMINE HCl Tablets

Danbury Pharmacal, Inc. (Geneva) 50mg

VALPROIC ACID Capsules

Par Pharmaceuticals, Inc.250mg
 (Bioline Labs., Goldline Labs., Purepac Pharm.)
 Pharmaceutical Basics, Inc.250mg
 Reid-Rowell/Scherer, Inc.250mg
 (International Labs.)

VERAPAMIL HCl Tablets

Chelsea Labs., Inc. 80mg, 120mg
 (Rugby Labs.)
 Danbury Pharmacal, Inc. 80mg, 120mg

DELETIONS FROM THE VIRGINIA VOLUNTARY FORMULARY

NYSTATIN with NEOMYCIN SULFATE, GRAMICIDIN and TRIAMCINOLONE ACETONIDE Cream

Deletion of Drug Category.

NYSTATIN with NEOMYCIN SULFATE, GRAMICIDIN and TRIAMCINOLONE ACETONIDE Ointment

Deletion of Drug Category.

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

Title of Regulation: VR 360-01-03. Standards for
 Evaluating Certificate of Public Need Applications to
 Establish or Expand Nursing Home Services.

Statutory Authority: § 32.1-120 of the Code of Virginia.

Public Hearing Date: February 23, 1987 - 1 p.m.
 (See Calendar of Events section
 for additional information)

Summary:

The proposed regulation amends the Virginia State Health Plan to provide a new set of standards for evaluating Certificate of Public Need applications, including a new official method for computing nursing home bed need.

Proposed Regulations

VR 360-01-03. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Nursing Home Services.

PART I. INTRODUCTION.

§ 1.1. General criteria for evaluating all Certificate of Public Need applications are set forth in § 32.1-102.3 of the Code of Virginia. Section 32.1-102.3 provides that "any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan." However, to be valid under Virginia's Administrative Process Act, specific provisions within the State Health Plan or State Medical Facilities Plan, which are to be used by the State Health Commissioner in determining public need for a proposed project by a medical care facility, shall be adopted as official regulations of state government, following procedures specified by the Administrative Process Act.

While this regulation's official location is within the State Health Plan, it may also be published in whole or in part in the State Medical Facilities Plan or elsewhere as a convenience to the public. Traditionally, the State Medical Facilities Plan contains current projection methodologies so that the reader may understand the derivation of future resource requirements published elsewhere in that document. This does not make the State Medical Facilities Plan a regulatory document, since it merely presents information (current regulations and the results of their application) that could be obtained through other means.

This regulation provides specific standards to be used by the State Health Commissioner to determine whether a public need exists for a proposed project to establish or expand nursing home services. This regulation supersedes the "Nursing Home Bed Need Projection Methodology" adopted by the State Board of Health March 16, 1982, with an effective date of July 15, 1982, and recently published as § B.4 of Part II of the 1985 State Medical Facilities Plan. It also supersedes paragraph NH 1.1B on page 714 of Volume I of the Virginia State Health Plan 1980-84 as well as § E of Part II of the 1982 Amendment to the 1980-84 Virginia State Health Plan, adopted March 16, 1983, with an effective date of September 1, 1983.

As a convenience to the public, a summary of how to compute nursing home bed need may be published in the State Medical Facilities Plan, as may the results of such computations with respect to one or more future time periods and the implications of those computations given the availability of resources as of a specified date.

NH 1.1.B. The Statewide Health Coordinating Council and the State Health Department should not approve any new nursing home beds where excess capacity has been identified in the State Medical Facilities Plan or where excess capacity would occur as a result of such approval.

PART II. STANDARDS FOR EVALUATING CERTIFICATE OF PUBLIC NEED APPLICATIONS.

Article I. Definitions.

§ 2.1. Definitions.

Unless the context clearly indicates otherwise, the following definitions shall be used in carrying out these regulations.

"Contractholder" means an individual with a valid life care contract.

"Department" means the Virginia Department of Health.

"Estimated nursing home bed demand rate" means the number of nursing home beds per 1,000 population estimated by the department to be necessary to meet that population's demand for nursing home services. The department's most recent official estimates of such rates are published as part of this regulation. Factors considered by the department in computing these estimates may include, but are not limited to, one or more of the following: persons occupying nursing home beds, persons awaiting placement in nursing home beds, migration, desirable average occupancy of nursing home beds, and the likelihood that observed demand is reflective of actual need.

"Fifth planning horizon year" means the fifth year following the title year of the State Medical Facilities Plan currently in effect.

"Health service area" (abbreviation: HSA) means one of the following groups of planning districts:

1. Planning Districts 6, 7, 9, 10, and 16 (HSA I).
2. Planning District 8 (HSA II).
3. Planning Districts 1, 2, 3, 4, 5, 11, and 12 (HSA III).
4. Planning Districts 13, 14, 15, and 19 (HSA IV).
5. Planning Districts 17, 18, 20, 21, and 22 (HSA V).

"Life care community" means a place, used for group living, whose arrangements for residential occupancy are provided under life care contracts. Its residential capacity is the sum of the following: nursing care capacity, which is the number of nursing home beds licensed by the department as part of the life care community's physical plant regardless of the contract status of the occupants of those beds; and nonnursing care capacity, which is the maximum number of residents that the life care community is designed to accommodate exclusive of its nursing care capacity.

Proposed Regulations

"Life care contract" means a written agreement guaranteeing, for the life of the contractholder, that at least board, lodging, licensed or certified home health agency services, and nursing home services will be provided to the contractholder when and as needed in consideration of either the payment of fixed periodic charges adjustable once annually or an entrance fee, or both.

"Nursing home" means a nursing home as defined in § 32.1-123 of the Code of Virginia.

"Nursing home services" means services provided by a nursing home.

"Sixth planning horizon year" means the sixth year following the title year of the State Medical Facilities Plan currently in effect.

Article 2. General Standards.

E. NURSING HOME SERVICES

1. The following criteria will be used, as applicable, in the consideration of applications for Certificates of Public Need for nursing home construction or modernization:

- (a) a need for additional beds exists in the Health Service Area;
- (b) in a Health Service Area where a need for beds is indicated, the proposed facility would be located within a Planning District where a need is also indicated.
- (c) the applicant has provided adequate evidence that the proposed facility is reasonably accessible to acute care facilities and medical services
- (d) sufficient health manpower resources are available;
- (e) the proposed facility is designed to be accessible to major transportation arteries;
- (f) the proposed facility is designed to meet all applicable codes and requirements;
- (g) water, sewage and other utilities will be available;
- (h) the applicant proposes a facility of a viable operational size;
- (i) the conversion of other types of underutilized beds is not possible under current law or would not prove cost effective for funding by government financed programs;

(j) appropriate alternatives to long-term inpatient care services are not available; and

(k) alternatives to the proposed project have been explored and documented in the proposal and reasonable rationale is provided for the option chosen.

§ 2.2. An application to establish new or expand existing nursing home services may be approved only if it demonstrates to the satisfaction of the department that each of the following can reasonably be expected to occur:

1. Essential personnel will be available in sufficient quantity to meet the needs of the proposed services upon completion of the project; and
2. The proposed services will be provided in one or more facilities that are:

- a. Reasonably accessible to acute care facilities and medical services, and,
- b. Linked by paved roads to a state or federal highway, and
- c. Of a viable operational size, and
- d. Designed to meet all applicable codes and requirements, and
- e. Properly served by essential utilities (such as water, sewage, and power).

Article 3. Standards Pertaining to Bed Complement.

§ 2.3. An application to establish new or expand existing nursing home services in a given planning district may be approved only if the resulting number of licensed or approved nursing home beds in that planning district does not exceed the number of such beds projected to be needed in that planning district in the fifth planning horizon year.

4.0 NURSING HOME BED NEED PROJECTION METHODOLOGY

1. Estimate the number of beds needed to satisfy total demand without community services development, by multiplying the 1981 total demand rate (per the 1981 Nursing Home Survey) times the estimated population* for the projection year, for each of the following age groups within each Health Service Area: under 65, 65 to 74, 75 or older. The 1981 total demand rate, which reflects an average occupancy level of 95%, is as follows:

| | Beds per 1,000 Population** | | | |
|------------|-----------------------------|--------------|------------|--|
| <u>HSA</u> | <u>Under 65</u> | <u>65-74</u> | <u>75+</u> | |

Proposed Regulations

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|-----|------|------|------|
| I | 0.62 | 14.0 | 90.0 |
| II | 0.21 | 0.6 | 94.4 |
| III | 0.51 | 0.6 | 72.2 |
| IV | 0.45 | 10.0 | 77.0 |
| V | 0.47 | 12.5 | 81.1 |

*As most recently reported by the State Department of Planning and Budget

**Revised to correct inaccuracies in previous estimates of waiting lists at non-reporting facilities.

2. Estimate the number of beds not needed if community services were more readily available, by multiplying the Medicaid portion (67% of the preceding step's results) by 15% and the remainder by 5%.

3. Subtract the results of step 2 from the results of step 1 to obtain the number of beds needed in the projection year, assuming 95% average occupancy and assuring community services are readily available as an alternative to nursing home care.

4. Compare the results of step 3 with the inventory of licensed beds corrected for any changes in capacity approved through the certificate of need process, to determine the additional number of beds needed (or the expected excess of beds) for the projection year.

5. To obtain projected need for a specific Planning District (PD), multiply the PD's projected age specific populations by its HSA's total demand rate, and proceed with steps 2-4.

NOTE: This methodology assumes no significant change will occur after 1981 with respect to the reliance of out-of-state residents upon Virginia facilities.

§ 2.4. The number of nursing home beds projected to be needed in a given planning district in a given year shall be computed by multiplying that planning district's population, in thousands (for that year, for each specified age group) times its corresponding estimated nursing home bed demand rates, rounding these products to the nearest whole bed, and summing the results. The population of a planning district for a given year shall be that most recently published as such by the Virginia Department of Planning and Budget.

§ 2.5. Estimated nursing home bed demand rates are as follows:

| Health Service Area | Planning District | Age 0-64 | Age 65-74 | Age 75-84 | Age 85+ |
|---------------------|-------------------|----------|-----------|-----------|---------|
| I | 6 | 0.593 | 10.920 | 50.629 | 205.184 |
| I | 7 | 0.416 | 9.852 | 45.755 | 174.376 |
| I | 9 | 0.395 | 8.182 | 42.697 | 192.273 |

| | | | | | |
|-----|----|-------|--------|--------|---------|
| I | 10 | 0.343 | 9.418 | 44.602 | 197.731 |
| I | 16 | 0.329 | 7.021 | 39.266 | 188.521 |
| II | 8 | 0.329 | 6.877 | 46.753 | 218.905 |
| III | 1 | 0.540 | 7.833 | 42.815 | 194.097 |
| III | 2 | 0.346 | 6.877 | 35.001 | 169.289 |
| III | 3 | 0.586 | 8.953 | 35.001 | 171.957 |
| III | 4 | 0.329 | 9.035 | 42.282 | 218.905 |
| III | 5 | 0.593 | 11.030 | 50.629 | 186.881 |
| III | 11 | 0.593 | 8.777 | 41.864 | 175.111 |
| III | 12 | 0.460 | 9.398 | 41.993 | 211.289 |
| IV | 13 | 0.593 | 10.133 | 40.404 | 180.864 |
| IV | 14 | 0.403 | 8.484 | 37.374 | 206.880 |
| IV | 15 | 0.427 | 8.955 | 41.136 | 176.237 |
| IV | 19 | 0.585 | 11.030 | 50.629 | 211.336 |
| V | 17 | 0.446 | 7.041 | 38.644 | 218.905 |
| V | 18 | 0.513 | 7.420 | 48.330 | 205.659 |
| V | 20 | 0.368 | 10.394 | 47.802 | 183.184 |
| V | 21 | 0.447 | 10.399 | 50.629 | 208.452 |
| V | 22 | 0.443 | 7.549 | 36.710 | 210.646 |

Article 4. Exceptions.

§ 2.6. An application that would result in an increase in the number of nursing homes located within a given planning district may be approved notwithstanding § 2.3 if:

1. The number of beds projected to be needed in that planning district does not increase by at least 60 beds between the fifth and sixth planning horizon years, and

2. The resulting number of beds in that planning district does not exceed the number projected to be needed in that planning district in the sixth planning horizon year, and

3. Accessibility of services, geographic distribution of nursing homes, and competition among nursing homes would be enhanced within that planning district as a result of the proposed project.

§ 2.7. An application involving nursing home beds within a life care community (LCC) may be approved notwithstanding § 2.3 so long as:

1. It would not result in the LCC's nursing care capacity exceeding 15.29% of its nonnursing care capacity for life care contractholders; and

2. The application contains written assurances that:

a. All admissions to the LCC's nursing care beds occurring after three years from the date of the project's completion shall be restricted to the LCC's contractholders, and

b. The LCC's average number of contractholders shall be at least 7.25 times its total number of licensed or approved nursing care beds for each year beginning with the third year following the

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date of the project's completion, and

c. Beginning with the third year following the date of the project's completion, the LCC will promptly submit all data requested by the department pertaining to its number of contractholders and its policies with respect to admission to its nursing care beds; and

3. The application contains written acknowledgement that a breach of any of the preceding assurances shall constitute grounds for revocation of the certificate of public need whose issuance was predicted upon those assurances.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-50-3. Minimum Standards for Local Agency Operated Volunteer Respite Care Programs.

Statutory Authority: §§ 63.1-25 and 63.1-55 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until February 20, 1987.

(See Calendar of Events section for additional information)

Summary:

This regulation establishes minimum standards for the provision of volunteer staffed respite care for children by local departments of social services/public welfare. This regulation sets forth requirements in the areas of staffing, standards for care, physical environment, and compliance. This regulation will require local agency operated volunteer respite care programs to meet standards that do not currently exist for such programs.

VR 615-50-3. Minimum Standards for Local Agency Operated Volunteer Respite Care Programs.

PART I. INTRODUCTION.

§ 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 18 years of age or over.

"Agency" means the local welfare/social service agency.

"Child/children" means any child who needs services and seeks assistance in meeting those needs from the local

welfare/social service agency.

"Child Protective Service Central Registry" means the centralized system in Virginia for collecting information on complaints and dispositions of child abuse and neglect.

"Client" means any adult or child who needs services and seeks assistance in meeting those needs from the local welfare/social service agency.

"Corporal punishment" means any type of physical punishment inflicted in any manner upon the body of a child including but not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

"Infant" means any child from birth up to two years of age.

"Respite child care" means nonresidential child care provided to agency clients who have been identified as needing occasional relief from continuous child care responsibility. This relief is designed to enhance parental functioning.

"Staff" means paid employees of the agency.

"Volunteer" means any person providing direct or indirect services on behalf of the agency who has registered with the local agency by completing a Volunteer Services Application.

PART II. STANDARDS.

§ 2.1. Standards for volunteers.

A. Age.

Volunteers who are considered in the children to adult ratio shall be 18 years of age or over.

B. Criminal records.

1. Volunteers who come in contact with children shall identify any criminal convictions and be willing to consent to a criminal records search.

2. Volunteers who come in contact with children shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of children.

C. Child abuse or neglect records.

1. Volunteers who come in contact with children shall consent to a search of the Child Protective Services Central Registry.

2. The agency will consider any information found in the Child Protective Services Central Registry before

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placing volunteers in contact with children.

D. Interviews and references.

The agency shall assure through interviews and reference checks that the volunteer:

1. Is knowledgeable in and physically and mentally capable of providing the necessary care for children;
2. Is able to sustain positive and constructive relationships with children in care, and to relate to clients with respect, courtesy and understanding;
3. Is capable of handling emergencies with dependability and good judgment; and,
4. Is able to communicate and follow instructions sufficiently to assure adequate care, safety, and protection for children.

E. Training.

The volunteer shall attend any orientation and training required by the agency.

F. Medical requirements.

The volunteer shall submit the results of a physical and mental health examination when requested by the agency based on indications of a physical or mental health problem.

§ 2.2. Standards for care.

A. Nondiscrimination.

Respite child care shall be provided which does not discriminate on the basis of race, color, sex, national origin, age, religion, or handicap.

B. Supervision.

1. There shall be a plan for seeking assistance from police, firefighters, and medical professionals in an emergency.
2. Children shall be supervised by an adult at all times. Volunteers under the age of 18 cannot be left in charge.
3. The ratio of adults to children shall be based on the following:
 - a. There shall be one adult to four infants.
 - b. There shall be one adult to six children two years old and older.
 - c. Any child with a handicap which requires extra attention of volunteers counts as two children.

C. Food.

1. Children shall receive meals and snacks appropriate to the number of hours in care and the daily nutritional needs of each child.
2. Children shall receive special diets if prescribed by a licensed physician or in accordance with religious or ethnic requirements or other special need.
3. Drinking water shall be available at all times.

D. Transportation.

1. Transportation of clients shall be in accordance with agency policy.
2. Children shall be transported using restraint devices in accordance with the weight and age requirement of the Code of Virginia.

E. Medical care.

1. The respite care program shall have:
 - a. The name, address, and phone number of each child's physician easily accessible;
 - b. First aid supplies easily accessible in case of accidents; and
 - c. At least one staff person with a current certificate in basic first aid accessible during hours of operation.
2. The respite care program staff and volunteers shall:
 - a. Give prescription medication only in accordance with an order signed by a licensed physician or authentic prescription label and with a parent/guardian's written consent;
 - b. Give the child nonprescription medications, including but not limited to vitamins and aspirin, only with the parent/guardian's written consent;
 - c. Report all major injuries and accidents and all head injuries to the child's parent/guardian promptly;
 - d. Have authorization for emergency medical care for each child; and
 - e. Have documentation that each child in care is current with required immunizations.

F. Management of behavior.

1. The staff and volunteers shall establish rules that encourage desired behavior and discourage undesired behavior in cooperation with the parent/guardian of

children in care.

2. The staff and volunteers shall not use corporal punishment.

3. The staff and volunteers shall not humiliate or frighten the child in disciplining the child.

4. The staff and volunteers shall not withhold food, force naps, or punish toileting accidents in disciplining the child.

G. Activities.

The staff and volunteers shall provide structured activities appropriate to the children's ages as well as unstructured experiences in social interaction.

H. Abuse or neglect reporting responsibilities.

Volunteers shall report any suspected abuse or neglect of any child in the program in accordance with procedures prescribed by the agency.

§ 2.3. Physical environment.

A. Accommodations.

The facility used by the respite care program shall:

- a. Be in compliance with all state and local ordinances;
- b. Include a working telephone; and
- c. Have the phone numbers for police, fire, and rescue personnel easily accessible.

B. Space.

The facility shall provide at least 25 square feet of space per child in care.

PART III. COMPLIANCE REGULATIONS.

§ 3.1. Documentation of compliance.

Documentation of compliance with these regulations shall be the responsibility of the agency.

§ 3.2. Allowable variance.

Variance on a particular standard is permissible if the variance does not jeopardize the safety and proper care of children or violate federal, state, or local law. Variances will be discussed with and approved by the appropriate Regional Office Services Specialist.

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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.

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: VR 115-04-14. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Bollweevil Quarantine.

Statutory Authority: §§ 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Effective Date: May 15, 1986

Summary:

The purpose of the amendments to this regulation is to require (i) farmers to declare their cotton acreage to be grown each year; and (ii) a payment of \$10 per acre of cotton grown to defray the cost of the monitoring and eradication program (same as Northern North Carolina cotton growers).

VR 115-04-14. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Bollweevil Quarantine.

§ 1. Definitions.

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

"ASCS" means United States Department of Agriculture, Agricultural Stabilization and Conservation Service.

"Bollweevil" means the live insect, "*Anthonomus grandis*" Boheman, in any stage of development.

"Board" means the Board of the Virginia Department of Agriculture and Consumer Services.

"Certificate" means a document issued or authorized by an inspector to be issued under these regulations to allow the movement of regulated articles to any destination.

"Compliance agreement" means a written agreement between a grower, dealer, or mover of regulated articles and the Virginia Department of Agriculture and Consumer Services, in which the former agrees to comply with conditions specified in the agreement by the inspector who executes the agreement on behalf of the department, to prevent the spread of the bollweevil.

"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services or his designee.

"Cotton" means parts and products of plants of the genus "*Gossypium*", before processing.

"Cottonseed" means cottonseed from which the lint has been removed.

"Gin trash" means all of the material produced during the cleaning and ginning of seed cotton, bollies, or snapped cotton, except for the lint, cottonseed, and gin waste.

"Grower" means a farm operator or producer, whether the owner of the land or not.

"Infestation" means the presence of the bollweevil, or the existence of circumstances that make it reasonable to believe that bollweevil is present.

"Inspector" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and regulations.

"Limited Permit" means a document issued by an inspector to allow the movement of noncertifiable regulated articles to a specified destination for limited handling, use, process, or treatment.

"Lint" means all forms of raw ginned cotton, either baled or unbaled, except linters and waste.

"Moved (*Movement, Move*)" means shipped; offered for shipment to a common carrier; received for transportation or transported by a common carrier; or carried, transported, moved, or allowed to be moved by any means.

"Person" means any individual, corporation, company, society, or association or other organized group.

"Regulated area" means the entire Commonwealth of Virginia.

"Seed cotton" means cotton as it comes from the field prior to ginning.

"Used cotton harvesting equipment" means equipment previously used to harvest, strip, transport or destroy cotton.

§ 2. Notice of quarantine.

Under the authority of §§ 3.1-188.20 through 3.1-188.31:2

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of the Code of Virginia, a quarantine of the Commonwealth of Virginia and all cotton producing states and countries infested with the bollweevil is hereby established to control, eradicate, and prevent the spread of the cotton bollweevil, "Anthonomus grandis" Boheman.

§ 3. Regulated articles.

A. The following shall not be moved from outside Virginia into this Commonwealth, or between points within Virginia, or interstate, in any manner or method, except in compliance with the conditions prescribed in these regulations:

1. The bollweevil, "Anthonomus grandis" Boheman, in any living state of development.
2. Seed cotton.
3. Gin trash.
4. Used cotton harvesting equipment.
5. Any other products, articles, or means of conveyance of any kind not covered by subdivisions 1 through 4 above, when it is determined by an inspector that they present a hazard of spread of the bollweevil and the person in possession is notified.

§ 4. Requirements for program participation.

A. All cotton farm operators in Virginia are hereby required to participate in the eradication program. Participation shall include timely reporting of acreage and field locations, compliance with regulations, and payment of fees. Farm operators within the Commonwealth shall be notified through either the extension offices, VDACS, ASCS, or newspapers of their program costs on a per acre basis on or before March 15 of each year. The following procedures are required for participation in the program:

[1. Completing a Cotton Acreage Reporting Form at the ASCS office by April 15 of the current growing season for which participation is desired. At this time a nonrefundable fee of \$5.00 per acre, based on that acreage reported by the farm operator, shall be paid. All acreage reported after April 15 will be subject to an additional assessment of \$5.00 per acre in addition to the program cost.

1. Completing a Cotton Acreage Reporting Form at the ASCS office and the payment of a fee based on the measured or certified acreage. The fee and the reporting date to be set by March 1 of each year by the Commissioner of Agriculture and Consumer Services after consultation with the growers.

2. On or before the July 1, the remaining share of the farm operators payment of \$5.00 for those acreages shall be paid. Final adjustment will be based on ASCS

measured acreage of reported fields. If measured acreage is not available by July 1 the remaining share shall be based on the ASCS certified acreage. Any final adjustment based on measured acreage shall be made upon notification of actual measured acreage by ASCS or program personnel.]

[2. 2.] All fees shall be paid by the farm operator. Fees shall be made payable to Treasurer of Virginia and collected by ASCS.

[4. 3.] Noncommercial cotton shall not be planted in Virginia unless the grower applies for and receives an exemption to grown cotton. Applications, in writing, shall be made to the State Entomologist stating the conditions under which the grower requests such exemption. The decision of whether all or part of these requirements shall be exempted shall be based on the following:

- a. Location of growing area,
- b. Size of growing area,
- c. Pest conditions in the growing area,
- d. Accessibility of growing area,
- e. Any stipulations set forth in a compliance agreement between the individual and the Department of Agriculture and Consumer Services that are necessary for the effectuation of the program.

B. Farm operators whose ASCS measured acreage exceeds the grower reported acreage by more than 10%, shall be assessed an additional \$5.00 per acre on that acreage in excess of the reported acreage. Any person whose reported acreage exceeds the ASCS measured acreage by more than 10% due to emergency or hardship conditions may apply for a waiver of the additional assessment. Any farm operator applying for a waiver of the additional assessment shall make application in writing to the State Entomologist stating the conditions under which the waiver is requested.

C. Failure to pay all [remaining] fees on or before [July 1 of the current growing season the date established by the commissioner] will result in an additional assessment of \$10 per acre. Failure by a farm operator to pay all program costs as of August 1 or upon notification of ASCS measured acreage, whichever is later, shall be a violation of The Virginia Cotton Bollweevil Quarantine. The farm operator when found in violation and upon notification shall completely destroy all cotton not found to be in compliance with the provisions of this section. If such farm operator fails to comply with these regulations, the Commissioner of Agriculture and Consumer Services, through his duly authorized agents, shall proceed to destroy such cotton, and shall compute the actual costs of labor and materials used, and the farm operator shall pay

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to the commissioner such assessed costs. No damage shall be awarded the grower of such cotton for entering thereon and destroying any cotton when done by the order of the commissioner.

D. The decision of whether to waive all or part of these additional assessments or payment dates shall be made by the State Entomologist and notification given to the farm operator within two weeks after receipt of such application. The decision shall be based on the following: (i) meteorological conditions, (ii) economic conditions, and (iii) any other uncontrollable destructive forces.

E. Acreage subject to emergency or hardship conditions after all the growers' share of the program have been paid and prior to the initiation of field operations may be considered for a refund. The refund amount will be determined by the actual program cost per acre up to the time of emergency or hardship.

F. The commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the ASCS farm established yield for the current year.

§ 5. Conditions governing the issuance of certificates and permits to allow the movement of regulated articles.

A. Certificates shall be issued by the inspector for movement of the regulated articles designated in § 3 under any of the following conditions when:

1. In the judgment of the inspector, they have not been exposed to infestation.
2. They have been examined by the inspector and found to be free of infestation.
3. They have been treated, under the observation of the inspector, in compliance with methods selected by him.
4. Grown, produced, stored, or handled in such manner that, in the judgment of the inspector, no infestation would be transmitted.

B. Limited permit. Limited permits may be issued by the inspector for the movement of noncertified regulated articles specified under § 3 to specified destinations for limited handling, use, processing, or treatment, when he determines that no hazard of spread of the bollweevil exists.

C. Special permits. Special permits may be issued by the Virginia Department of Agriculture and Consumer Services to allow the movement of bollweevil in any living stage and any other regulated articles for scientific purposes, under conditions prescribed in each specific case.

D. Compliance agreement. Compliance agreements may be issued by the inspector. As a condition of receiving a

certificate or limited permit for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such article may be required to sign a compliance agreement. The agreement shall stipulate that the required safeguards against the establishment and spread of infestation will be maintained and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.

§ 6. Cancellation of certificates and permits.

Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if determined that the holder has not complied with any condition for the use of the documents.

§ 7. Compliance agreements; and cancellation thereof.

A. Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this quarantine. Compliance agreement forms may be obtained from an inspector.

B. Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds that the party covered by the agreement has failed to comply with the conditions as stated. Cancellation appeals may be taken to the commissioner in writing within seven calendar days of the cancellation.

§ 8. Assembly and inspection of regulated articles.

Persons who desire to move regulated articles shall, as far in advance as possible, request an inspector to examine the articles prior to movement. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.

§ 9. Attachment and disposition of certificates or permits.

A. If a certificate or permit is required for the movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which the articles are moved. However, if the certificate or permit is attached to the way-bill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, then the certificate or permit need not be attached to each container.

B. In all cases, certificates, or permits shall be given by the carrier to the consignee at the destination of the shipment.

§ 10. Inspection of shipments.

Any product to be moved either within or out of the

Commonwealth, which is suspected of containing the bollweevil, shall be subject to inspection. The shipment may be stopped at any time or place by an inspector. When such a product is found to threaten the spread of the bollweevil to noninfested areas, the inspector may require measures to eliminate the infestation.

§ 11. Rules.

The commissioner, pursuant to § 3.1-188.30 of the Code of Virginia, may determine costs for services, products, or articles that shall be paid by the persons affected when those services, products, or articles are beyond the reasonable scope of the law.

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

Title of Regulation: VR 360-01-04. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Ambulatory Surgical Services.

Statutory Authority: § 32.1-120 of the Code of Virginia.

Effective Date: January 22, 1987

Summary:

This regulation revises the existing Virginia State Health Plan with respect to ambulatory surgical services. It provides specific minimum standards for Certificate of Public Need approval including current area utilization of and charges for ambulatory surgical services, proposed capital and operating costs, professional accreditation, and quality assurance.

VR 360-01-04. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Ambulatory Surgical Services.

PART I. GENERAL PROVISIONS.

§ 1.1. Authority.

General criteria for evaluating all Certificate of Public Need applications are set forth in § 32.1-102.3 of the Code of Virginia. Section 32.1-102.3 provides that "any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan". The specific provisions within the State Health Plan or State Medical Facilities Plan that are to be used by the State Health Commissioner in determining public need for a proposed project by a medical care facility shall be adopted as official regulations of state government, following procedures specified by the Administrative Process Act.

§ 1.2. Application of regulations.

This regulation provides specific standards to be used by the State Health Commissioner to determine whether a public need exists for a proposed project to establish or expand ambulatory surgical services. This regulation shall apply to the evaluation of Certificate of Public Need applications which propose to add operating rooms, intended to be used solely or principally for ambulatory surgery, to a planning district's current total inventory of operating rooms for inpatient and ambulatory surgery. This regulation, except § 2.1 ("Need for additional operating rooms"), shall also apply to Certificate of Public Need applications which propose relocation of existing operating room capacity for the purpose of providing ambulatory surgical service.

This regulation supersedes, for Certificate of Public Need applications for operating rooms to be used solely or principally for ambulatory surgery only, portions of Volume I, Virginia State Health Plan 1980-84, adopted July 30, 1980, and effective December 15, 1980, dealing with ambulatory surgical services; specifically, parts of the text found on pages 468-470 and 472-475 [would be are] superseded. This regulation does not apply to the Certificate of Public Need applications for construction of operating rooms which are to be used solely or principally for inpatient surgery; the current regulations, cited in the previous sentence, shall continue to be applied to such applications.

The Statewide Health Coordinating Council will evaluate this regulation within two years after its effective date.

2.2.3 Ambulatory Surgery

Outpatient surgery is presently performed in all but 12 of the 114 hospitals reporting surgical facilities. The amount of surgery being performed on an outpatient basis (based on the number of outpatient operations that were reported on the licensure survey; refer to Appendix A) ranges widely but averages for the State as a whole approximately 15% of all surgery done in Virginia. Of the 102 hospitals with ambulatory surgery programs, forty hospitals had a percentage of ambulatory surgery greater than or at the level of 15%. Estimates obtained from several studies of the number of surgical procedures that could be performed on an outpatient basis range from 20%-40%. (Finarelli, 1979). This would suggest under utilization of the ambulatory surgery within the existing surgical facilities in Virginia. There are four licensed outpatient surgical hospitals which did not report on the licensure survey: Ambulatory Surgical Center, Norfolk; Fairfax Surgery Center, Fairfax; Hampton General Outpatient Emergency Center, Hampton; and Virginia Heart Institute, Richmond. Data that should be available in 1981 from these outpatient surgical hospitals could significantly alter the statewide average of 15%.

The appropriateness of ambulatory surgery for the individual patient depends upon a number of factors.

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These factors include the patient's physical status and consent; the decision of the physician or surgeon; the type of surgical procedure; anesthesia requirements; and the resources of the ambulatory surgery unit or facility.

Based on 33,000 same day surgeries performed at Surgicenter in Phoenix, Arizona, the ten most frequently performed procedures in an ambulatory facility setting include: dilation and curettage (D + C); laparoscopy; myringotomy; inguinal herniography; adenoidectomy; excision of skin lesions; ganglionectomy; vasectomy; cystoscopy; and eye muscle operations. (Finarelli, 1979)

There are no procedures that can be performed on an ambulatory basis in every case. However, the types of surgical procedures that can be performed on a same day basis will continue to increase as surgical techniques and the state of the art of anesthesiology advances. Other than cost reduction, there are some significant advantages that are frequently cited:

- 1) generally less psychological stress than inpatient hospitalization;
- 2) more effective use of physicians' time;
- 3) less medication required, including less painkillers; and;
- 4) less risk of acquiring hospital induced infections due to reduced exposure to the hospital environment but not necessarily fewer wound infections will occur.

Conversely, there are many factors that contribute to the continued utilization of inpatient surgery over ambulatory surgery, some of which are as follows:

- 1) many patients feel that inpatient care is of superior quality and that they are entitled to that;
- 2) third party reimbursement policies;
- 3) the practical difficulties for physicians to change practice patterns;
- 4) the physician's fear of malpractice if the "optimal" level of care under direct professional supervision is not provided;
- 5) no uniformly accepted standards of quality control for ambulatory services;
- 6) the potential impact on hospital bed utilization with its economic ramifications; and;
- 7) The unavailability of needed pre- and post operative areas appropriate for ambulatory patients.

Increased utilization of ambulatory surgery in Virginia will not be realized until there is increased patient acceptance of this type of surgery and medical and

financial support for its appropriate utilization.

In summary, it is not possible at this time to effectively examine utilization of surgical resources in Virginia. It is possible to conclude that there is substantial diversity in the utilization of inpatient and outpatient surgical resources, and in some areas of the State substantial under utilization of the capacity for surgical services in Virginia does appear probable. To what extent under utilization is acceptable in some areas of the State as necessary to the quality delivery of surgical services cannot be determined.

Medically appropriate ambulatory surgical services have been encouraged by all the Virginia Health Systems Plans as an option that should be available to any person whose physical condition and need for surgical services are appropriate, because of the potential for ambulatory surgery to provide quality care at reduced cost. It should be emphasized, however, that expanding or building new surgical facilities should be avoided while present hospital facilities remain under utilized. The limitations imposed by the scarcity of reliable and uniform data to assess both inpatient and ambulatory surgical utilization and to determine the impact of expanded ambulatory surgery on inpatient facilities and medical/surgical bed occupancies preclude complete analysis of this issue.

There is significant debate as to the extent of cost savings associated with an ambulatory surgery program. Further research into this issue is necessary.

NOTE: Reference is made to the Virginia State Health Plan: 1980-1984.

3.0. Findings and conclusions.

The availability of surgeons and surgical capacities in Virginia has been examined and from the information presented in this plan the following can be summarized:

-there are 1,944 surgeons in Virginia who represent 26% of the licensed physicians in the State *Commonwealth* ;

-58% of the Virginia surgeons are certified by an American Surgical Specialty Board;

-general surgeons and obstetrician/gynecologists are available in every planning district;

-the distribution of surgeons is consistent with the distribution of operating facilities, with greater availability of services and more specialized surgical services in urban areas;

-there has been 14.5% increase in the number of surgeons since 1974, an increase greater than the population rate increase for 1978 over 1974 of 5.6%;

-surgical facilities are available in 114 Virginia hospitals and only 12 of these hospitals do not have

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outpatient surgery programs.

-the adequacy of surgical facilities has been broadly agreed upon by the health systems agencies and the range of 1,000-1,400 operations per operating room per year has been recognized as a guide for decision-making on the need for additional inpatient surgical facilities until more accurate data is available.

-ambulatory surgery represents an average of 15% of all surgery performed in the State, as compared to national estimates that 20-40% of all surgery could be performed on a same day basis.

It has not been possible with the available information to effectively examine or determine the appropriate utilization of surgical services in Virginia. Substantial diversity and under utilization in the use of inpatient and ambulatory surgical capacities in some areas of the States appear probable and merits closer examination.

Medically appropriate ambulatory surgical services have been encouraged as an option that should be available because of the potential for cost-savings without sacrificing quality surgical care. However, it is emphasized that expanding or building new surgical facilities should be avoided if the utilization of existing inpatient and outpatient resources remain under utilized within the same medical service area.

SU 1.2.

A. The SHCC, under the Certificate of Public Need law, should recommend approval of additional inpatient and ambulatory operating room capacity only in those cases where it is clearly demonstrated that the demand for surgical care cannot be met by existing facilities and that additional facilities would contribute to more cost-effective use of all surgical resources within the area to be served and be consistent with the provision of quality care.

The range of 1,000-1,400 operations per operating room per year should be one of the factors considered in determining the need for additional inpatient surgical capacity. The use of existing facilities for medically appropriate ambulatory surgery should also be considered in determining need for additional facilities.

§ 1.3. Definitions.

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

"Ambulatory (outpatient) surgical services" means the provision of surgery to patients who are not expected to require inpatient (overnight) hospitalization but who require treatment in a medical environment exceeding the normal capability found in a physician's office. For the purposes of this regulation, ambulatory surgical services refers only to surgical services that are provided in

operating rooms in licensed general or outpatient surgical hospitals, and does not include surgical services provided in outpatient departments, emergency rooms or treatment rooms, or in physician offices.

"Ambulatory surgical operating room" means an operating room in a licensed general or outpatient surgical hospital, which is intended to be used solely or principally for the provision of surgery to ambulatory patients.

"Licensed" means facilities that have been licensed as general or outpatient surgical hospitals in accordance with the Rules and Regulations for the Licensure of Hospitals in Virginia, Virginia Department of Health.

"Operating room capacity" means 1,600 available service hours per operating room per year. This is based on 80% utilization of an operating room that is available 40 hours per week, 50 weeks per year.

"Operating room use" means the amount of time that a patient occupies an operating room, plus estimated or actual preparation and cleanup time.

"Operating room visit" means one session in one operating room in a licensed general or outpatient hospital, which may involve several procedures. Operating room visit may be used interchangeably with "operation". Operating room visit and related data employed in this regulation are collected in annual surveys, conducted by the Department of Health, of licensed general hospitals and outpatient surgical hospitals.

"Population" means population figures shown in [the final estimates of population prepared by the Taylor Murphy Institute, University of Virginia, for those years for which such estimates have been published. For later years, population means] the most current series of population projections published by the Virginia Department of Planning and Budget.

"Surgical services" means the provision of surgery to inpatients or ambulatory patients in licensed general or outpatient surgical hospitals.

PART II STANDARDS FOR EVALUATING CERTIFICATE OF PUBLIC NEED APPLICATIONS.

A Certificate of Public Need for the addition of ambulatory surgical operating rooms may be issued only if the following standards regarding need, costs and charges, and quality assurance are met. [; as documented by information supplied by the applicant or information developed by the Virginia Department of Health.]

§ 2.1. Need for additional operating rooms.

Need for additional ambulatory surgical operating rooms shall be demonstrated only if the conditions described in subsection A, B, or C are found to exist.

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[The Commissioner may issue a public notice identifying planning districts in which a need for ambulatory surgical services, as defined in the following criteria, is found to exist, and inviting submission of Certificate of Public Need applications within a specified period of time.]

A. Projected demand exceeds supply.

[Need In consideration of the need for ambulatory surgical operating rooms, need] for additional operating room capacity shall be demonstrated if the number of [total (inpatient and outpatient)] of existing and approved operating rooms, in the planning district where the proposed project will be located, is less than the number of operating rooms that will be necessary to meet the projected demand for all (inpatient and outpatient) surgical services within 36 months after the initiation of the applicant's review cycle. The number of existing and approved operating rooms shall be based on the inventory presented in the most current State Medical Facilities Plan or amendment thereof, and may also include any subsequent reductions or additions of operating rooms for which acceptable documentation is available to the department. The number of operating rooms required to meet projected demand shall be computed according to the following method:

1. Determine projected operating room visits: sum the total inpatient and outpatient operating room visits for the most recent three years, for all licensed facilities in the planning district. Sum the planning district's total population for the corresponding three years. Divide the sum of visits by the sum of the population. Express the resulting rate as visits per 1,000 population. Then multiply the visits per 1,000 population rate by the projected population of the planning district (expressed in 1,000's) for the appropriate year.

2. Determine future operating room use in hours per year: multiply the total number of projected operating room visits by the average hours per operating room visit (expressed to the nearest one-tenth hour) in the planning district or health service area if [relevant] planning district data are not available. Average time per operating room visit is computed from the most recent data collected by the Department of Health.

3. Compare the future operating room use in hours per year in the planning district with the existing and approved operating room capacity: if the projected use exceeds capacity, determine the net additional hours per year of operating room capacity needed in the planning district.

4. Determine the number of additional [ambulatory surgical] operating rooms needed: divide the net additional hours by 1,600. The result shall be the maximum increase in [ambulatory surgical] operating rooms in the planning district allowable under the

condition of subsection A.

B. Proportion of outpatient surgery too low.

Need for additional [ambulatory surgical] operating room capacity shall be demonstrated if less than 45% of total operating room visits, in the planning district where the proposed project will be located, were outpatient operating room visits, based on annual data collected most recently by the Department of Health. No additional ambulatory surgical operating rooms shall be allowed under the conditions of this subsection B if the total number of existing or approved operating rooms in the planning district exceeds 125% of the number of existing or approved operating rooms reported by the Department of Health for the 1985 annual period. The number of additional operating rooms allowed under this subsection B shall be computed according to the following method:

1. Determine the targeted number of additional outpatient operating room visits: multiply the reported total number of operating room visits in the planning district by 15%, or the difference between 45% and the proportion of surgery performed on an outpatient basis, whichever is lower. The result is expressed as the targeted number of additional outpatient operating room visits.

2. Determine the operating room equivalent of the targeted number of additional outpatient operating room visits: divide the targeted number of additional outpatient operating room visits by 1,200. The result shall be the maximum allowable increase in operating rooms in the planning district.

C. Current area charges excessive. (This subsection will become effective January 1, 1988.)

Need for additional [ambulatory surgical] operating room capacity shall be demonstrated if the index of current charges for ambulatory surgical procedures in the planning district exceeds the comparable index of reasonable charges by more than 10%. This shall apply only if [either] 45% or more of total operating rooms visits in the planning district were outpatient visits [or if less than 45% of total operating room visits in the planning district were outpatient visits but the number of operating rooms allowed under subsection B is 0]. Current charges shall be determined from the results of annual surveys of charges conducted by or on behalf of the Virginia Health Services Cost Review Council. If adequate current charge data are not available from the Virginia Health Services Cost Review Council, the Commissioner of Health shall specify the method or source for obtaining current charge data to be used. No additional ambulatory surgical operating rooms shall be allowed under the conditions of this subsection C if the total number of existing or approved operating rooms in the planning district exceeds 125% of the number of existing or approved operating rooms reported by the Department of Health for the 1985 survey period. The index of

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reasonable charges and index of current charges and allowable number of [ambulatory surgical] operating rooms will be computed by the following methods:

1. Index of reasonable charges.

a. Determine the reasonable charge for each surgical procedure in the index: average, for each procedure listed below, the prospective outpatient payment rates established by the U.S. Health Care Financing Administration (HCFA) for Medicare and by Blue Cross and Blue Shield of Virginia.

(1) If either HCFA or Blue Cross and Blue Shield of Virginia has not established a prospective outpatient payment rate for a procedure, use the rate established by the other source as the reasonable charge.

(2) If different outpatient prospective payment rates are established for general hospitals and outpatient surgical hospitals, use the rate for general hospitals.

b. Determine the index of reasonable charges: multiply each procedure's reasonable charge by the relative weight for that procedure, as listed in the relative weight table below. (The relative weight reflects the estimated relative frequency of that procedure as an outpatient surgical procedure compared to the other procedures included in the index.) Sum the products; this sum is the index of reasonable charges.

2. Index of current charges.

a. Determine the current charge for each surgical procedure in the index: average for each procedure, the current charges at facilities in the planning district as determined by the Virginia Health Services Cost Review Commission (VHSCRC) in its most recent survey of outpatient surgical charges. If information is not available from VHSCRC, the Commissioner of Health shall specify another source of charges to be used in computing the index of current charges.

b. Determine the index of current charges: multiply each procedure's current charge by the relative weight for that procedure, using the same weights used in the computation of the reasonable charge index. Sum the products; this sum is the index of current charges.

3. Number of additional [ambulatory surgical] operating rooms allowed under this subsection C: multiply the [total] number of existing or approved operating rooms in the planning district, reported by the Department of Health for the 1985 survey period, by 10%. The result shall be the maximum allowable increase in [ambulatory surgical] operating rooms in the planning district.

RELATIVE WEIGHT TABLE

| Procedure Code | Procedure Name | Relative Weight |
|-------------------------|---|-----------------|
| 69.09 | Diagnostic D&C (as a single procedure) | .212 |
| 20.01 | Myringotomy with insertion of tube | .141 |
| 13.11- 13.69 w/13.71 | Cataract extraction with intraocular lens implant | .141 |
| 86.3 | Local excision lesion skin | .114 |
| 54.21 | Diagnostic laparoscopy (without D&C) | .084 |
| 85.12 | Biopsy of breast, diagnostic | .073 |
| 57.32 | Cystoscopy/ Cystourethroscopy (as a single procedure) | .068 |
| 04.43 | Release of carpal tunnel | .042 |
| 14.34 | Repair of retinal tear by laser photocoagulation | .035 |
| 45.23 | Colonoscopy [with biopsy] | .034 |
| 80.26 | Diagnostic arthroscopy of knee (as a single procedure) | .032 |
| 82.21 | Excision of ganglion, wrist | .024 |
| | | 1.000 |

§ 2.2. Capital and operating costs and proposed charges.

A. Capital and operating costs.

Proposed capital and operating costs shall be reasonable and comparable to these costs in similar facilities. Applications which propose relocation of existing operating room capacity shall also demonstrate that the projected operating costs and charge structure are comparable to or less than those associated with maintaining services in the existing location, and shall show, in specific detail, changes in the existing facility's costs and charge structure that are expected to result from the shift in location of operating rooms.

B. Proposed charges.

The proposed charges for the surgical procedures to be performed in the proposed facility shall be in reasonable

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conformity with the reasonable charges for such procedures as defined in § 2.1.C, as applicable.

§ 2.3. Quality assurance.

A. State licensure requirements.

Assurance shall be given that the proposed facility will be designed to comply with applicable state licensure regulations.

B. Professional accreditation.

The application shall state that [~~within six months after the facility begins providing surgical services, it will have a presurvey~~ the applicant will apply] for accreditation by either the Joint Commission on Accreditation of Hospitals or the Association for Accreditation of Ambulatory Health Centers [at the earliest date allowable,] and within 12 months [after the facility begins providing surgical services, it] will meet accreditation requirements.

C. Utilization review.

The application shall document written policies and procedures for a quality assurance program and a utilization review program, including:

1. A written agreement with the Professional Review Organization which has a contract with the Health Care Financing Administration, or other private review organization, to conduct on-going utilization review;
2. A provision that physicians with a financial interest in the facility shall not make up a majority of members in utilization review, medical audit, or the medical staff committee responsible for tissue review.

§ 2.4. Additional considerations.

In addition to the requirements set forth in §§ 2.1, 2.2 and 2.3 of these regulations, consideration shall be given to the following:

1. Intent of the applicant to obtain Medicare certification as an Ambulatory Surgical Center.
2. Stated agreement of the applicant to hold proposed charges constant for at least the first two years of operation.
3. The array and distribution of operating rooms by surgical specialty in the applicant's proposed service area.
4. Access to services, including travel time and waiting periods for scheduling ambulatory surgical procedures.
5. The probable effect of the proposed project in terms of fostering competition and promoting cost-effectiveness.

DEPARTMENT OF HIGHWAYS AND TRANSPORTATION (BOARD OF)

Title of Regulation: VR 385-01-4. Rules and Regulations of the State Highway and Transportation Commission for the Administration of Waysides and Rest Areas.

Statutory Authority: § 33.1-218 of the Code of Virginia.

Effective Date: January 21, 1987

Summary:

The purpose of this regulation is to allow sale of items in rest areas with the board's permission. The immediate impact will be a pilot program to contract with the Virginia Department for the Visually Handicapped for vending services in several rest areas. This action will increase the safety of the travelling public by encouraging stops for refreshments in convenient locations.

VR 385-01-4. Rules and Regulations of the State Highway and Transportation Commission for the Administration of Waysides and Rest Areas.

§ 1. Waysides identified by name and without lights shall be open from 8 a.m. to one hour after sunset. Areas having security lighting will be open at all times.

§ 2. When an area is posted for limited parking, the operator of each vehicle may be required to sign a register setting forth the time arrival.

§ 3. When posted, parking shall be limited to the period specified.

§ 4. No overnight parking will be permitted.

§ 5. Camping is not permitted at any time.

§ 6. No vehicle shall be parked in such manner as to occupy more than one marked parking space.

§ 7. No domestic animals shall be permitted to go at large. Dogs must be kept on lease and shall not be taken into any shelter or other building.

§ 8. No person shall pick any flowers, foliage, or fruit, or cut, break, dig up, or in any way mutilate or injure any tree, shrub, plant, grass, turf, railing, seat, fence, structure, or anything within this area, or cut, carve, paint, mark or paste on any tree, stone, fence, wall, building, monument or other object therein, any bill, advertisement, or inscription whatsoever.

§ 9. No person shall disturb or injure any bird, birds' nests, or eggs, or any squirrel or other animal within this area.

§ 10. No person shall dig up, or remove any dirt, stones,

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rock or other thing, make any excavation, quarry any stone or lay or set off any blast, or cause or assist in doing any of said things within this area without the special order or license of the Commissioner.

§ 11. No threatening, abusive, boisterous, insulting or indecent language or gesture shall be used within this area. Nor shall any oration, or other public demonstration be made, unless by special authority of the Commissioner.

§ 12. No person shall offer any article or thing for sale within this area *except by permission of the State Highway and Transportation Board*.

§ 13. No person shall bathe or fish in any waters within this area, except in such places and subject to such regulations as the Commissioner may, from time to time, specially designate by a public notice set up for that purpose within the same.

§ 14. No person shall light, kindle or use any fire within this area, except at fireplaces designed and built for such purposes and the person or persons building a fire therein will be responsible for having it completely extinguished before leaving it.

§ 15. No person shall discharge or set off within this area, any firearms, firecrackers, torpedoes, rockets, or other fireworks, except by permit from ~~said~~ the Commissioner.

§ 16. No bottles, broken glass, ashes, waste paper, or other rubbish shall be left within this area, except at such places as may be provided for the same.

§ 17. No automobile or other vehicle shall be taken into or driven upon this area, except upon such drives and subject to such regulations as the Commissioner may, from time to time, designate by a public notice set up for that purpose within the same.

§ 18. Sleeping in any section of the rest area building is not permitted at any time.

§ 19. Any person violating any of the preceding rules and regulations shall be guilty of a misdemeanor and, upon conviction, be fined not less than five dollars nor more than one hundred dollars for each offense.

DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: VR 485-30-8601. Regulations Governing Grants to be Made Pursuant to the Virginia Alcohol Fuel Production Incentive Program Fund.

Statutory Authority: Article 3.1 of Chapter 21 of Title 58.1 (§ 58.1-2127.1 et seq.) of the Code of Virginia.

Effective Date: January 22, 1987

Summary:

These regulations and accompanying forms are to be used in the administration of the Virginia Alcohol Fuel Production Incentive Program Fund. The regulations: (i) provide instructions for registering plants; filing annual reports and filing monthly reports and grant applications; (ii) define three classes of plants; and (iii) describe payment of grants. These regulations replace emergency regulations which were effective as of July 11, 1986.

VR 485-30-8601. Regulations Governing Grants to be Made Pursuant to the Virginia Alcohol Fuel Production Incentive Program Fund.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Act" means Article 3.1 of Chapter 21 of Title 58.1 of the Code of Virginia.

"Department" means the Department of Motor Vehicles of this Commonwealth.

"Person" means every natural person, firm, partnership, association or corporation.

"Producer" means every person who owns or operates a plant in Virginia which produces denatured anhydrous ethyl alcohol.

"Program" means the Alcohol Fuel Production Incentive Program established pursuant to the Act.

"Registration" means Certificate of Registration issued by the Department of Motor Vehicles.

§ 1.2. These regulations are made and promulgated pursuant to Chapters 1.1:1 and 1.2 of Title 9, and § 58.1-2127.7 of the Code of Virginia. They are intended only as a supplement to the provisions of Article 3.1 of Chapter 21 of Title 58.1 of the Code of Virginia and shall be read in conjunction with that act.

§ 1.3. All registration applications, annual reports and monthly report and grant applications required by these rules shall be filed at the Headquarters Building of the Department of Motor Vehicles, P.O. Box 27422, Richmond, Virginia, 23261-7422. If mailed to said address, they shall be deemed filed on the date postmarked. If mailed to any other address or if delivered other than by mail, they shall be considered filed when received at 2300 West Broad Street, Richmond, Virginia.

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PART II. REGISTRATION.

§ 2.1. Every plant for which an Alcohol Fuel Production Incentive Program Grant will be sought shall be registered with the Department of Motor Vehicles. There will be no charge for such registration. Application for such registration shall be made on forms prescribed by the department. Applications shall be filed with the department on or before July 15, 1986, for all Class I and Class III plants; and on or before July 15, 1986, for all Class II plants installed or substantially completed on or before that date. Class II plants installed or substantially completed after July 15, 1986, shall file an application [~~not less than~~ at least] 15 days prior to the date production begins. The registration certificate shall:

1. Describe fully the physical characteristics of the plant facility;
2. State fully the person or persons who own or operate the plant as producers;
3. State the ethanol production capacity of the plant;
4. State whether the plant is a Class I, II, or III plant; and
5. Identify the plant by a unique numerical designation which the department shall assign to the plant and which shall not change for the duration of the program.

§ 2.2. Registration certificates shall be transferrable provided that notice is given to the department within 15 days after any change in ownership of the plant including any change in the identity of the producers associated with the plant.

§ 2.3. Each applicant for registration shall state on the application for such registration whether the plant is a Class I, II, or III plant, and shall identify every individual who holds an ownership interest in the plant or is the primary producer if the primary producer is other than an individual, except that if the producer is a publicly held corporation only those individuals holding more than 10% ownership interest in the producer need be identified.

A. Class I plants.

A Class I plant is a plant, located in Virginia, in which denatured anhydrous ethyl alcohol is produced and which was installed or substantially completed as of January 1, 1986. For each Class I plant the total annual production for which grants will be paid, per fiscal year, pursuant to the program shall be limited to the lesser of 3.5 million gallons or the installed annual production capacity of such Class I plant as of January 1, 1986 (using feedstock of 194 proof or less ethyl alcohol). An applicant for a Class I plant registration shall state on the application the installed annual production capacity of such plant, as of

January 1, 1986, using feedstock of 194 proof or less ethyl alcohol. This figure shall be stated upon the registration certificate and shall not be changed for such plant for the duration of the program, unless the department determines that the figure improperly reflects such capacity. The total annual statewide production for which grants will be paid for Class I plants cannot exceed 45 million gallons per fiscal year, but may be less than 45 million gallons if the qualifying production of Class I plants does not reach that level or if the production of Class II and Class III plants reduces the number of gallons to be allocated to Class I plants below 45 million gallons.

B. Class II plants.

A Class II plant is a plant, located in Virginia, in which denatured anhydrous ethyl alcohol is produced, and which was not installed or substantially completed before January 1, 1986. No grants shall be paid for the alcohol produced by a Class II plant unless both the fermentation and distillation processes are conducted entirely in Virginia. Applicants for a Class II plant registration shall state on the application whether the fermentation process will be conducted at the plant, and, if not, where such fermentation will take place. There is no limit on the number of gallons for which grants will be paid for the production of Class II plants, except for the total statewide limit of 65 million gallons for all alcohol fuel production plants for each fiscal year.

C. Class III plants.

A Class III plant is a plant, located in Virginia, in which denatured ethyl alcohol is produced, and which was not installed or substantially completed as of January 1, 1986. To qualify as a Class III plant, the producer must have had on March 1, 1986, a binding contractual agreement for the purchase of the terminal facility which is the site where the Class III plant will be built. The denatured anhydrous ethyl alcohol produced by a Class III plant need not have been fermented in Virginia in order to qualify for grants. The total annual production for which grants will be paid shall not exceed 3.5 million gallons per fiscal year for each Class III plant, subject to the statewide limit of 65 million gallons for all alcohol fuel production plants for each fiscal year.

PART III. ANNUAL REPORTS.

§ 3.1. An annual report as required by § 58.1-2127.3 of the Code of Virginia shall be filed separately for each plant registered with the department on forms provided by the department. Each such report shall state clearly the plant identification number assigned to the plant on the registration certificate issued for it. If no registration has been issued, then the annual report form shall accompany the application for registration. Annual reports shall be filed on or before July 15, 1986, for the fiscal year 1986-87, and on or before May 31 of each subsequent fiscal year. Plants which begin operations after the time

for filing an annual report shall file such report not later than 15 days from the date production begins.

§ 3.2. Annual reports shall project, as accurately as possible, the approximate monthly production of denatured anhydrous ethyl alcohol for the plant, including the number of gallons of alcohol for which grants will be sought, for the upcoming fiscal year. No applications for grants shall be processed unless a current annual report is on file with the department.

PART IV. MONTHLY REPORT AND GRANT APPLICATION.

§ 4.1. A "Monthly Report and Grant Application" shall be filed separately for each plant registered with the department, on forms provided by the department. Such report shall be filed, and shall report all ethyl alcohol produced during the reporting month, even if no grants are sought for the month being reported and even if no ethyl alcohol is produced for that month. Each such report shall state the plant identification number assigned to the plant on the registration certificate issued for it.

§ 4.2. Monthly report and grant applications which are not filed on or before the 15th business day of the month following the month being reported shall not be considered for grant payments, nor shall any further grants be made for that plant until all delinquent monthly reports have been filed. A business day shall be every day except Sundays and those holidays observed by the Commonwealth of Virginia.

PART V. PAYMENT OF GRANTS.

§ 5.1. Payment of all grants will be made on the basis of the plant registration and will be made to the primary producer or producers listed on the registration certificate in the percentages stated thereon. Grants shall be paid only for actual production, during the month reported, of denatured anhydrous ethyl alcohol produced for resale and intended for blending with motor fuel. The amount of the grant will be calculated by multiplying the grant rate per gallon as provided in the Act for the month being reported, times the number of qualifying gallons of anhydrous ethyl alcohol produced during the reporting month, subject to the gallonage limitations provided by statute. In the event the total grant applications for a particular month will cause the fiscal year's production total to exceed the production limits established in the Act (45 million gallons for all Class I plants and 65 million gallons for all plants), proportional grants will be allocated to each plant from the remaining available production gallonage based upon the amount requested compared to the number of gallons available. Grants for Class I plants will be satisfied before considering requests for Class II and Class III plants. The general formula for figuring the entitlement for an individual plant when the fiscal year limits of the fund are to be exceeded is as follows:

Remaining available gallons

Month's total grant request = Percent of plant grant
..... requested to be awarded

(Percent) x (grant request for each plant) = amount of
..... actual grant for each plant

Example 1: As of April 30, 44 million gallons worth of grants have been awarded for all Class I plants for the fiscal year. Therefore, the remaining gallonage available for all Class I plant grants would be one million gallons. If the applications for all Class I plants for the month of May equals 2 million gallons, then each Class I plant would be allocated 50 percent of its grant request (subject to each plant's 3.5 million gallon limitation):

$\frac{1 \text{ million gallons}}{2 \text{ million gallons}} = 50\%$ of request for each Class I plant

If a grant for 200,000 gallons was sought for Class I plant XYZ, and a grant for 300,000 gallons was sought for Class I plant ABC, the actual grants would be as follows:

Plant XYZ: $50\% \times 200,000 \text{ gallons} = \text{grant for } 100,000 \text{ gallons}$

Plant ABC: $50\% \times 300,000 \text{ gallons} = \text{grant for } 150,000 \text{ gallons}$

..... and so on for all Class I plants.

Example 2: As of May 31, 63 million gallons worth of grants have been awarded for all plants for the fiscal year. Therefore, the remaining gallonage available for all plants would be two million gallons. If the total applications for all plant grants for the month of June equals five million gallons, one million for Class I plants and four million for Class II and III plants, then grants for all Class I plants would be paid in full (assuming that the 45 million gallon limit for Class I plants would not be exceeded and subject to each Class I plant's million gallon limitation) and grants for one million gallons would be available for all Class II and Class III plants. In this example, each Class II and III plant would be allocated 25 percent of its grant request (subject to each Class III plant's 3.5 million gallon limitation).

$\frac{1 \text{ million gallons}}{4 \text{ million gallons}} = 25\%$ of requests for Class II and III plants

If a grant for 200,000 gallons was sought for Class II plant ABC, and a grant for 100,000 gallons was sought for Class III plant XYZ, the actual grants would be as follows:

Plant ABC: $25\% \times 200,000 \text{ gallons} = \text{grant for } 50,000 \text{ gallons}$

Plant XYZ: $25\% \times 100,000 \text{ gallons} = \text{grant for } 25,000 \text{ gallons}$

..... and so on for all Class II and III plants

Example 3: As of May 31, 64 million gallons worth of grants have been awarded to all plants for the fiscal year. Therefore, the remaining gallonage available for all plants would be for one million gallons. If the total applications

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from all plant grants for the month of June equals three million gallons, two million from Class I plants and one million from Class II and III plants, then each Class I plant would be allocated 50 percent of its grant request (assuming that the 45 million gallon limit for Class I plants would not be exceeded and subject to each Class I plant's 3.5 million gallon limitation) while Class II and III plants would not receive any grants for that month:

$\frac{1 \text{ million gallons}}{2 \text{ million gallons}} = 50\%$ of request for each Class I plant

If a grant for 200,000 gallons was sought for Class I plant XYZ, and a grant for 300,000 gallons was sought for Class I plant ABC, the actual grants would be as follows:

Plant XYZ: $50\% \times 200,000 \text{ gallons} = \text{grant for } 100,000 \text{ gallons}$

Plant ABC: $50\% \times 300,000 \text{ gallons} = \text{grant for } 150,000 \text{ gallons}$

..... and so on for all Class I plants.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF MOTOR VEHICLES
 P. O. BOX 15432, RICHMOND, VIRGINIA 23261-7432

APPLICATION FOR CERTIFICATE OF REGISTRATION FOR PLANTS PRODUCING DENATURED ANHYDROUS ETHYL ALCOHOL UNDER PROVISIONS OF THE ALCOHOL FUEL PRODUCTION INCENTIVE PROGRAM FUND (ARTICLE 3.1, CHAPTER 51, TITLE 58.1 CODE OF VIRGINIA)

(Complete a separate application for each plant. Use Page 4 or attach additional sheet(s), if necessary.)
 NAME OF PRIMARY PRODUCER (AS IT IS TO APPEAR ON THE REGISTRATION CERTIFICATE) SOCIAL SECURITY NO. OR FEDERAL ID NO.

| | |
|---|----------|
| STREET | STATE |
| CITY | ZIP CODE |
| MAILING ADDRESS (IF DIFFERENT FROM ABOVE) | |

| | |
|---------|----------|
| NAME | STREET |
| ADDRESS | CITY |
| STATE | ZIP CODE |
| NAME | STREET |
| ADDRESS | CITY |
| STATE | ZIP CODE |

| | |
|---|---|
| FORM OF ORGANIZATION OF PRIMARY PRODUCER (Check appropriate box) | <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Unincorporated Association |
| IF THE OWNER IS A/JAN..... | GIVE THE..... |
| Sole Proprietorship..... | name and address of the proprietor. |
| Partnership..... | names and addresses of all partners. |
| Corporation..... | names, titles and addresses of the principal officers and all shareholders. |
| Unincorporated Association..... | name and address of the member authorized to sign in behalf of the association. |

*(In the case of publicly held companies only shareholders holding more than a 10% ownership interest.)

| | |
|---------|-------|
| NAME | TITLE |
| ADDRESS | |
| NAME | TITLE |
| ADDRESS | |
| NAME | TITLE |
| ADDRESS | |
| NAME | TITLE |
| ADDRESS | |

IF INCORPORATION STATE IN WHICH CHARTERED NAME OF VIRGINIA AGENT

NAME(S) AND ADDRESS(ES) OF OTHER PERSON(S) NOT SHOWN ABOVE WHO HAVE AN INTEREST IN THIS PLANT AS A PRODUCER:
 INDICATE PERCENTAGE OF OWNERSHIP AND/OR TYPE OF INTEREST.

| | |
|---------|------------------|
| NAME | PERCENTAGE |
| ADDRESS | TYPE OF INTEREST |

(Continued)

Page 1 of 4 Pages

58A 1-4 (7/84)

Give the following information on the Executive Officer(s) or other person(s) authorized to furnish information on the plant's activities involving the production of Denatured Anhydrous Ethyl Alcohol.

| | | |
|----------------|---------|---------------|
| NAME AND TITLE | ADDRESS | TELEPHONE NO. |
| | | |
| | | |

| | | | |
|-------------------|--------|-------|----------|
| LOCATION OF PLANT | STREET | STATE | ZIP CODE |
| | | | |
| | | | |

| | |
|---|---------------------|
| DATE PLANT INSTALLED OR SUBSTANTIALLY COMPLETED | VIRGINIA PERMIT NO. |
| | |
| | |

CLASS OF PLANT (Check One)

I A plant, located in Virginia, in which denatured anhydrous ethyl alcohol is produced and which was installed or substantially completed as of January 1, 1986.

II A plant, located in Virginia, in which denatured anhydrous ethyl alcohol is produced and which was not installed or substantially completed as of January 1, 1986.

III A plant, located in Virginia, in which denatured anhydrous ethyl alcohol is produced, and which was not installed or substantially completed as of January 1, 1986. To qualify as a Class III plant the producer must have had on March 1, 1986, a binding contractual agreement for the purchase of the terminal facility which, in the case where the plant will be built, the denatured anhydrous ethyl alcohol where the plant will be built. The denatured anhydrous ethyl alcohol need not have been fermented in Virginia in order to qualify for Class III.

| | |
|---------------------------------------|---|
| INSTALLLED ANNUAL PRODUCTION CAPACITY | BASE PROOFUSED FOR CALCULATING CAPACITY |
| | |
| | |

CLASS I AND III PLANTS USING FEEDSTOCK OF 194 PROOF OR LESS

CLASS II PLANTS USING FERMENTATION AND DISTILLATION PROCESSES

Do you use Ethyl Alcohol as a feedstock in the production of Denatured Anhydrous Ethyl Alcohol? YES NO

| | |
|------------------|---------|
| NAME OF SUPPLIER | ADDRESS |
| | |
| | |

IF CLASS II PLANT

Will the fermentation process be conducted at the plant? YES NO

If "NO", give location(s) of Process:

(Continued)

Page 2 of 4 Pages

12/15/88

Is this plant currently producing Denatured Anhydrous Ethyl Alcohol? Yes No
 If "NO", give Projected Date Plant Will Begin Production:

Is the Denatured Anhydrous Ethyl Alcohol stored on the plant premises? Yes No
 If "NO", give Location(s) of Storage:

KIND OF PRODUCT USED FOR DENATURING ALCOHOL (Specify)

| FUEL USED IN THE PLANT FOR PRODUCTION OF DENATURED ANHYDROUS ETHYL ALCOHOL | TYPE(S) | PERCENTAGE |
|--|---------|------------|
| | | |
| | | |

Grant payments are to be made payable and sent to the Primary Producer unless other payees are requested. Other payees (who must be listed as Producers on page 1) and the percentage of grant payments to each are as follows:

| NAME | PERCENTAGE |
|------|------------|
| | |
| | |

- REQUIRED ATTACHMENTS**
- Attach to this application an accurate plan of the plant premises, identifying roads, streams and other structures. The plan must be in sufficient detail to locate the operation. A description of the still must be given; specifically, the TYPE, MANUFACTURER and SERIAL NUMBER.
 - ALL applicants must attach a copy of the plant's valid Virginia Permit and BATF Permit.
 - Applicants for CLASS III PLANT registration must attach to this application all evidence of the existence of a binding contractual agreement for purchase of the site of the plant.

I hereby swear or affirm that all information in this application is true and correct to the best of my knowledge.

| | |
|----------------------|------------------|
| AUTHORIZED SIGNATURE | DATE |
| TITLE | TELEPHONE NUMBER |

- You MUST notify the Department of Motor Vehicles within 15 days if you:
- Change the ownership, corporate structure or officers of this organization
 - Change your organization's address
 - Cease operations
 - Change any information requested on this application.
- (Use next page to include additional information, if needed.)

| | |
|----------|---------------------|
| FOR | DATE RECEIVED |
| DMV | REGISTRATION NUMBER |
| USE ONLY | AUTHORIZATION |

05A-148 (7/88)

ADDITIONAL INFORMATION:

Page 4 of 4 Pages

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MOTOR VEHICLES
REGISTRATION CERTIFICATE

CSA 148 17/84

| | | |
|--|---|----------------|
| DAY PLANT REGISTRATION NUMBER | CLASS OF PLANT | DATE ISSUED |
| Use this number on ALL documents and correspondence. | <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III | MONTH DAY YEAR |

| | | | |
|---|--|--|----------|
| NAME OF PRIMARY PRODUCER | | SOCIAL SECURITY OR FEDERAL ID NUMBER | |
| STREET ADDRESS | CITY | STATE | ZIP CODE |
| FORM OF ORGANIZATION | <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership (Partners listed below) | <input type="checkbox"/> Corporation (Officers and Shareholders listed below) <input type="checkbox"/> Unincorporated Association (Authorized persons listed below) | |
| PRINCIPALS | NAME | TITLE | ADDRESS |
| NAMES AND ADDRESSES OF OTHER PERSONS HAVING AN INTEREST IN THIS PLANT AS A PRODUCER (IF NOT SHOWN ABOVE) AND TYPE OF INTEREST: | | | |
| METHOD OF PRODUCTION | | | |
| <input type="checkbox"/> Distilled Analytical Ethyl Alcohol is produced from feedstock of 194 proof or less ethyl alcohol fermentation and distribution process | | | |
| INSTALLED ANNUAL PRODUCTION CAPACITY | | BASE PROOF USED FOR CALCULATING CAPACITY | |
| PHYSICAL CHARACTERISTICS OF PLANT | | | |

(See Reverse Side)

- This Certificate must be maintained at the plant registered with the Department of Motor Vehicles.
- This Certificate is transferrable provided notice is given to the Department of Motor Vehicles within 15 days after any change in ownership or operation of the plant.
- If you cease to conduct this business, or change your business location to another place in this State, or change the ownership, corporate structure or officers of this business, you must, within 15 days, return this Certificate with written notice of such change to the Department of Motor Vehicles, P. O. Box 27422, Richmond, Virginia 23261-7422.
- Information on this Certificate, including the Classification of the plant, is based on information supplied by the owner/ producer identified on the front of this Certificate and has not been independently verified by DMV or its agents. DMV reserves the right to challenge any information on this Certificate and to correct any erroneous information at any time.
- The sole purpose of this Certificate is to identify this plant as a participating plant in the Alcohol Fuel Production Incentive Program.

ALCOHOL PRODUCER'S ANNUAL REPORT

| | | | | | | |
|---|---------|--------------------------------------|---|-------------------------|--|----------|
| DMV PLANT REGISTRATION NO. | | (Complete one report for each plant) | | CLASS OF PLANT (CIRCLE) | | |
| | | | | I | II | |
| PERIOD BEGINNING | ENDING | PERMIT NUMBER | VIRGINIA | BATF | | |
| JUNE 30, 19 | | | | | | |
| NAME OF PRIMARY PRODUCER REGISTERED WITH DMV | | | SOCIAL SECURITY OR FEDERAL ID NUMBER | | | |
| ADDRESS STREET | | | CITY | | | |
| STATE | | | ZIP CODE | | | |
| LOCATION OF PLANT (IF DIFFERENT FROM ABOVE ADDRESS) | | | DATE PLANT INSTALLED OR SUBSTANTIALLY COMPLETED | | | |
| CLASS I AND III PLANTS USING FEEDSTOCK OF 194 PROOF OR LESS | | | INSTALLED ANNUAL PRODUCTION CAPACITY | | BASE PROOF USED FOR CALCULATING CAPACITY | |
| CLASS II PLANTS USING FERMENTATION AND DISTILLATION PROCESSES | | | | | | |
| PROJECTED MONTHLY PRODUCTION SUBJECT TO GRANT (GALLONS) | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | DECEMBER |
| | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE |

| | ANNUAL GALLONS |
|---|----------------|
| 1. Denatured anhydrous ethyl alcohol on-hand at beginning of period | |
| 2. Denatured anhydrous ethyl alcohol to be produced by fermentation and distillation | |
| 3. Denatured anhydrous ethyl alcohol to be produced from feedstock of 194 proof or less | |
| 4. Inventory Gain | |
| 5. Other (explain) | |
| 6. Total (add lines 1 through 5) | |
| 7. Denatured anhydrous ethyl alcohol to be sold for blending with motor fuels | |
| 8. Denatured anhydrous ethyl alcohol to be sold for other purposes | |
| 9. Denatured anhydrous ethyl alcohol to be used by Producer (not sold) | |
| 10. Inventory Loss | |
| 11. Other (explain) | |
| 12. Total (add lines 7 through 11) | |
| 13. Denatured anhydrous ethyl alcohol to be on-hand at end of period (subtract line 12 from line 6) | |

I hereby swear or affirm that all information in this report is true and correct to the best of my knowledge utilizing available information for projecting denatured anhydrous ethyl alcohol production.

| | | |
|---|--|--------------------------------|
| NAME AND SIGNATURE OF AUTHORIZED PERSON | | DATE |
| TITLE | | TELEPHONE NUMBER AND AREA CODE |
| | | 1 1 |

(see reverse side for INSTRUCTIONS)

1. Fill in the period covered by this report. Producers who begin production after July 1 must file this report showing projected production of Denatured Anhydrous Ethyl Alcohol through June 30. NOTE: File a separate report for each plant.
2. Fill in DMV PLANT REGISTRATION NUMBER and circle the appropriate CLASS OF PLANT.
3. Fill in the primary producer's name, social security or federal identification number, address and valid alcohol permit numbers currently held with the Commonwealth of Virginia, Virginia Department of Agriculture and Consumer Services and the Federal Bureau of Alcohol, Tobacco and Firearms (BATF).
4. Fill in the location of the plant if different from the first address.
5. Fill in the date the plant was installed or substantially completed, the installed annual production capacity of the plant and base proof upon which capacity has been calculated.
6. On lines 1 through 13, project your annual production of Denatured Anhydrous Ethyl Alcohol and your projected sales and/or use of such alcohol. Projections must be based on pertinent records (i.e., actual production for prior year) and other reliable data that can be substantiated.
7. TIME LIMIT FOR FILING "Alcohol Producer's Annual Report".
 - (a) The report for fiscal year 1986-87 (July 1, 1986 to June 30, 1987) must be filed with DMV on or before July 15, 1986.
 - (b) After July 15, 1986, reports must be filed on or before May 31 of each year. (EXAMPLE: The report for fiscal year 1987-88 must be filed by May 31, 1987.)
 - (c) A new plant which begins operating during a FISCAL YEAR must file a report within 15 days from the date production begins.
 - (d) Mail reports to:

Department of Motor Vehicles
P. O. Box 27422
Richmond, Virginia 23261-7422

 If mailed to above address, this report will be deemed filed on the date postmarked. If mailed to any other address or if delivered other than by mail, it shall be considered filed when received at 2300 West Broad Street, Richmond, Virginia.
8. IMPORTANT - Producers who fail to file an "Alcohol Producer's Annual Report" by the dates as specified in number "7." above, will not be eligible to obtain a grant until all requirements are met.
9. RETAIN ALL RECORDS FOR AUDIT PURPOSES.

GSA 121 (7/86)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MOTOR VEHICLES
P. O. BOX 27422
RICHMOND, VIRGINIA 23261 - 7422

**MONTHLY REPORT
AND
GRANT APPLICATION**
(Complete one application for each plant.)

| | |
|-------------------------------|--|
| DMV PLANT REGISTRATION NUMBER | THIS DOCUMENT COVERS THE MONTH OF _____ 19__ |
|-------------------------------|--|

| | | | |
|--|--------------------|-------------------------------------|--|
| NAME OF PRIMARY PRODUCER REGISTERED WITH DMV | | SOCIAL SECURITY OR FEDERAL ID NO. | |
| ADDRESS | STREET | STATE | ZIP CODE |
| | CITY | | |
| MAILING ADDRESS (IF DIFFERENT FROM ABOVE) | | | |
| VIRGINIA PERMIT NUMBER | BATF PERMIT NUMBER | PLANT CLASS (CHECK APPROPRIATE BOX) | |
| | | <input type="checkbox"/> I | <input type="checkbox"/> II <input type="checkbox"/> III |
| TOTAL NUMBER OF GALLONS OF DENATURED ANHYDROUS ETHYL ALCOHOL PRODUCED FOR MONTH FROM FEEDSTOCK OF 194 PROOF OR LESS ETHYL ALCOHOL: | | | |
| TOTAL NUMBER OF GALLONS OF DENATURED ANHYDROUS ETHYL ALCOHOL PRODUCED FOR MONTH FROM FERMENTATION AND DISTILLATION PROCESSES: | | | |

| DENATURED ANHYDROUS ETHYL ALCOHOL PRODUCED FOR RESALE AND INTENDED FOR BLENDING WITH MOTOR FUEL | | | |
|---|---|---|--|
| (a) GALLONS PRODUCED <small>(If feedstock of 194 proof or less ethyl alcohol is used for production, complete and attach Schedule, Form GSA 121 - A.)</small> | (b) RATE OF GRANT <small>(cents per gallon)</small> | (c) GRANT AMOUNT REQUESTED <small>[(a) x (b) = (c)]</small> | |
| From Feedstock of 194 Proof or less | From Fermentation and Distillation in Virginia | | |
| REPORTING MONTH | | | |
| FISCAL YEAR-TO-DATE | | | |

I hereby swear or affirm that all information in this report/application is true and correct and that the denatured anhydrous ethyl alcohol was produced in the month covered by this report/application.

| | |
|-------------------------------|-----------------------------|
| AUTHORIZED NAME AND SIGNATURE | DATE |
| TITLE | TELEPHONE NO. AND AREA CODE |

(See reverse side for INSTRUCTIONS)

| | | |
|--------------------|----------|---------------|
| DMV USE ONLY | APPROVED | DATE |
| | FOR | AMOUNT |
| | PAYMENT | AUTHORIZATION |

GSA 121 (7/86)

INSTRUCTIONS

1. File a separate report/application for each plant. Fill in DMV PLANT REGISTRATION NUMBER and check the appropriate box which indicates PLANT CLASS.

NOTE: A monthly report/application for each plant is required even if there was no production or if such production exceeds the gallons subject to grant.

2. Fill in the primary producer's name, address, social security or federal identification number. Show the valid Commonwealth of Virginia, Virginia Department of Agriculture and Consumer Services and the Federal Bureau of Alcohol, Tobacco and Firearms (BATF) alcohol permit numbers which you currently hold for the plant covered in this report/application.
3. Fill in the number of wine gallons of Denatured Anhydrous Ethyl Alcohol produced, the rate of grant and the amount of grant requested.
4. Alcohol producers who use feedstock of 194 proof or less for the production of Denatured Anhydrous Ethyl Alcohol are required to complete and attach "Schedule of Ethyl Alcohol Receipts" (form GSA 121-A).
5. Any alcohol producer applying for a grant for a CLASS I plant is limited to the lesser of:
 - 3.5 million gallons per fiscal year (July 1 to June 30) per plant or
 - the installed annual production capacity of each plant, as of January 1, 1986, using feedstock of 194 proof or less ethyl alcohol.

Any alcohol producer applying for a grant for a CLASS III plant is limited to 3.5 million gallons per fiscal year (July 1 to June 30) per plant.

6. Accumulate Fiscal Year-to-Date GALLONS PRODUCED and GRANT AMOUNT REQUESTED. Note these amounts in the appropriate spaces on the front of this report/application.
7. **TIME LIMIT FOR FILING "Monthly Report and Grant Application"**

The report/application **MUST** be filed monthly with DMV on or before the 15th business day following the month covered by the "Monthly Report and Grant Application." (NOTE: A business day shall be every day except Sundays and those holidays observed by the Commonwealth of Virginia.)

Mail the "Monthly Report and Grant Application" to:

Department of Motor Vehicles
P. O. Box 27422
Richmond, Virginia 23261-7422

If mailed to above address, this report/application will be deemed filed on the date postmarked. If mailed to any other address or if delivered other than by mail, it shall be considered filed when received at 2300 West Broad Street, Richmond, Virginia.

NOTE: Any "Monthly Report and Grant Application" filed after the TIME LIMIT FOR FILING will not be authorized for payment.

8. **RATES FOR ALCOHOL PRODUCER'S GRANTS:**
 - July 1, 1986 to June 30, 1988 - 60¢ per gallon
 - July 1, 1988 to June 30, 1990 - 40¢ per gallon
 - July 1, 1990 to June 30, 1992 - 20¢ per gallon
9. **RETAIN ALL RECORDS FOR AUDIT PURPOSES.**

DEPARTMENT OF MOTOR VEHICLES
SCHEDULE OF ETHYL ALCOHOL RECEIPTS
 (Attach to Form GSA 121)

THIS DOCUMENT COVERS THE MONTH OF _____ 19__

NAME OF PLANT OWNER/PRODUCER REGISTERED WITH DMV _____

DMV PLANT REGISTRATION NUMBER _____

| DATE OF RECEIPT | FROM WHOM RECEIVED | ORIGIN | *METHOD OF DELIVERY | GALLONS | **PROOF |
|-----------------|--------------------|--------|---------------------|---------------|---------------|
| | | | | | |
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| | | | | | |
| | | | | Total Gallons | Average Proof |

| | | | | |
|-------------------------------------|------|------------------|------|-------------------|
| * METHOD OF DELIVERY CODES | B | : BARGE OR SHIP | R.R. | : RAILROAD |
| | C.C. | : COMMON CARRIER | T.T. | : TRUCK TRANSPORT |
| | C.T. | : CUSTOMER TRUCK | X | : OTHER |
| | P.L. | : PIPELINE | | |

** See Instructions on Reverse Side

INSTRUCTIONS

1. A tolerance of +.5 will be accepted for receipts for any single shipment in excess of 194.0 proof. However, the average proof for total receipts of ethyl alcohol in any month cannot exceed 194.0 proof.
2. Grants will not be paid when the receipt of any single shipment of ethyl alcohol exceeds 194.5 proof.
3. The average proof for total receipts of ethyl alcohol used for feedstock in any month cannot exceed 194.0 proof.
4. A MONTHLY GRANT WILL NOT BE PAID WHEN THE AVERAGE PROOF OF ALL ETHYL ALCOHOL RECEIPTS FOR THE MONTH EXCEEDS 194.0 PROOF.

Final Regulations

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-50-1. Standards and Regulations for Agency Approved Providers.

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

Effective Date: April 7, 1987

Summary:

This regulation modifies the Standards and Regulations for Agency Approved Providers by adding homemaker as a type of in-home service provider. It allows local social service agencies to purchase homemaker services from individuals with homemaking skills acquired through training and experience. Local social service agencies have an option of purchasing homemaker services from an individual in-home provider instead of hiring homemakers on staff or contracting with organized homemaker agencies. The regulation expands the ability of local social service agencies to meet needs of individuals and families needing homemaker services.

VR 615-50-1. Standards and Regulations for Agency Approved Providers.

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:

"Adoptive parent(s)" means a provider who gives parental care and establishes permanent family relationships for children in the provider's home for purposes of adoption. Standards apply to adoptive parents until the final order of adoption is issued.

"Adult" means any individual 18 years of age or over.

"Adult day care provider" means a provider who gives personal supervision for up to three adults for part of a day. The provider promotes social, physical and emotional well-being through companionship, self-education and satisfying leisure time activities. Day care for more than three adults requires licensure by the Virginia Department of Social Services.

"Adult foster/family care provider" means a provider who gives room and board, supervision and special services for up to three adults unable to remain in their own home because of a physical/mental condition or an emotional/behavioral problem. Care provided for more than three adults requires licensure by the Virginia Department of Social Services.

"Agency" means the local welfare/social service agency.

"Assistant" means any individual who is responsible to assist a provider in caring for clients.

"Child/children" means any individual under 18 years of age or any individual who is in the custody of a local welfare/social service agency and is 18 to 21 years of age.

"Child protective service central registry" means the centralized system in Virginia for collecting information on complaints and dispositions of child abuse and neglect.

"Chore provider" means a provider who performs [nonroutine, heavy] home maintenance [and heavy housecleaning] tasks for clients unable to perform such tasks for themselves.

"Client" means any adult or child who needs supervision and services and seeks assistance in meeting those needs from the local welfare/social service agency.

"Companion provider" means a provider who [gives personal aid services and supervision and performs housekeeping tasks for assists] clients unable to care for themselves without assistance [- in activities such as light housekeeping, companionship, shopping, meal preparation, and activities of daily living.]

"Corporal punishment" means any type of physical punishment inflicted in any manner upon the body of a child including but not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

"Family day care provider" means a provider who gives care, protection, and guidance for up to nine children who need to be away from their families for part of a day. Providers caring for six or more children unrelated to the provider must be licensed by the Virginia Department of Social Services unless they are used exclusively by local agencies.

"Foster parent" means a provider who gives 24-hour substitute family care, room and board, and services for up to eight children committed or entrusted to local boards of social services or for whom supervisory responsibility has been delegated.

"Homemaker" means a provider with homemaking skills acquired through training and experience who [performs or] gives instruction in [or, where appropriate, performs] activities such as personal care, home management, household maintenance, child rearing and nutrition, consumer or hygiene education.

"Infant" means any child from birth up to two years of age.

"In-home day care provider" means a provider who is responsible for the supervision and care of children in the child's own home part of the day when the parents are away.

Final Regulations

"In-home provider" means an individual who wishes to or does give care in the home of the client needing supervision and services.

"Out-of-home provider" means an individual who wishes to or does give care in the individual's own home to clients who enter the home for purposes of receiving needed supervision and services.

"Parent/guardian" means the biological or adoptive parent or the legal guardian(s) of a child.

"Residential care" means care provided for purposes of receiving room, board, and services on a 24-hour basis.

"Responsible person" means the parent/guardian of a child or an individual designated by or for an adult client.

§ 1.2. Agency approved providers.

These standards and regulations are applicable to the following agency approved providers:

A. Out-of-home providers:

1. Adoptive parents;
2. Adult day care providers;
3. Adult foster/family care providers;
4. Family day care providers;
5. Foster parents;

B. In-home providers:

1. Chore providers;
2. Companion providers;
3. In-home day care providers; and
4. *Homemaker providers.*

These standards and regulations are not applicable to providers who are either licensed by the Virginia Department of Social Services or approved through an organization licensed by the Virginia Department of Social Services to approve such providers.

PART II. STANDARDS.

§ 2.1. Standards for providers and other persons.

A. Age.

1. Chore and companion providers shall be at least 16 years of age;

2. Any other provider shall be at least 18 years of age; and

3. The assistant shall be at least 16 years of age.

B. Criminal records.

1. The provider and, for out-of-home care, the assistant, spouse of the provider, and adult household members who come in contact with clients shall identify any criminal convictions and be willing to consent to a criminal records search.

2. The provider and, for out-of-home care, the assistant, spouse of the provider, or adult household members who come in contact with clients shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of clients.

C. Child abuse or neglect record.

1. The provider and, for out-of-home care, assistant, spouse of the provider and adult household members who come in contact with clients shall consent to a search of the Child Protective Service Central Registry if care is provided for children.

2. The provider and, for out-of-home care, the assistant, spouse of the provider, or adult household members who come in contact with clients shall not have a founded or unfounded/reason-to-suspect child abuse or neglect record in the Child Protective Service Central Registry if care is provided for children.

D. Interview, references, and employment history.

1. The provider shall participate in interviews with the agency.

2. The provider shall provide two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider.

3. The provider shall provide information on the provider's employment history.

4. The agency will use the interviews, references, and employment history to assess that the provider:

- a. Is knowledgeable in and physically and mentally capable of providing the necessary care for clients;

- b. Is able to sustain positive and constructive relationships with clients in care, and to relate to clients with respect, courtesy and understanding;

- c. Is capable of handling emergencies with dependability and good judgement; and

d. Is able to communicate and follow instructions sufficiently to assure adequate care, safety and protection for clients.

5. For adoptive parents, the agency will further use the interview and references to assess that:

a. The adoptive parent(s) demonstrates a capacity to love and nurture a child born to someone else;

b. The adoptive parent(s) can accept the child for his own sake without expecting him to resolve family problems or to fulfill family ambitions;

c. The married adoptive parents show marital stability and mutual satisfaction with each other.

6. Adoptive parents shall disclose financial information.

7. For adult foster/family care providers and foster parents, the agency will further use the interview, references, and employment history to assess that the provider has sufficient financial income/resources to meet the basic [~~need~~ needs] of the provider's own family.

8. For homemaker providers, the agency will further use the interview, [~~reference~~ references,] and employment history to assess that the provider has knowledge, skills, and ability, as appropriate, in:

a. Home management and household maintenance;

b. Personal care of infants, young children [; ~~and~~ and/or] ill, disabled, or aged clients;

c. Child rearing;

d. Nutrition education and meal planning and preparation, including special diets; and

e. Personal hygiene and consumer education.

E. Training.

The provider shall attend any orientation and training required by the agency.

F. Medical requirements.

1. Tuberculosis

Unless the provider is an in-home provider who is:

a. A relative or friend of the client living in the client's home;

b. A relative or friend outside of the client's home but who has had regular ongoing contact with the client; or

c. A chore provider,

the provider and, for out-of-home care, the assistant, and all adult household members who come in contact with participants shall submit a statement from the local health department or licensed physician that he is free from tuberculosis in a communicable form.

2. Other medical examinations.

The provider and assistant shall submit the results of a physical and mental health examination when requested by the agency based on indications of a physical or mental health problem. For adoptive parents, the agency will require submission of the results of a physical examination performed by a licensed physician within the past twelve months.

§ 2.2. Standards for care.

A. Nondiscrimination.

The provider shall provide care which does not discriminate on the basis of race, color, sex, national origin, age, religion, or handicap.

B. Supervision.

The following standards do not apply to chore , and companion, and homemaker providers:

1. The provider shall have a plan for seeking assistance from police, firefighters, and medical professionals in an emergency.

2. A responsible adult shall always be available to substitute in case of an emergency.

3. If extended absence of the provider is required, the agency must approve any substitute arrangements the provider wishes to make.

4. For family or in-home day care, children shall be supervised by an adult at all times. An assistant under age 18 cannot be left in charge.

C. Food.

The following standards do not apply to chore and companion , and homemaker providers:

1. Clients shall receive meals and snacks appropriate to the number of hours in care and the daily nutritional needs of each client.

2. Clients shall receive special diets if prescribed by a licensed physician or in accordance with religious or ethnic requirements or other special needs.

3. Drinking water shall be available at all times.

Final Regulations

4. Clients in residential care shall receive three meals a day.

D. Transportation of clients.

1. If the provider transports clients, the provider shall have a valid driver's license and automobile liability insurance.

2. The vehicle used to transport clients shall have a valid license and inspection sticker.

3. Providers who transport children must use child restraint devices in accordance with weight and age requirements of the Virginia law.

E. Medical care.

The following standards do not apply to chore providers:

1. The provider shall have the name, address, and telephone number of each client's physician easily accessible.

2. The provider shall have first aid supplies easily accessible in case of accidents.

3. The out-of-home provider shall keep medicines and drugs separate from food except those items that must be refrigerated.

4. The family and in-home day care provider shall:

a. Give prescription drugs only in accordance with an order signed by a licensed physician or authentic prescription label and with a parent/guardian's written consent;

b. Give the child nonprescription drugs, including but not limited to vitamins and aspirin, only with the parent/guardian's written consent;

c. Report all major injuries and accidents and all head injuries to the child's parent/guardian immediately; and

d. Have authorization for emergency medical care for each child.

5. The family day care provider:

a. May refuse to accept a sick child into the home;

b. Shall isolate a child who becomes ill during the day and notify the parent/guardian immediately in order that the child may be removed;

c. Shall identify or label all prescription and nonprescription drugs with each child's name and return all drugs to the parent/guardian when no longer needed; and

d. Shall keep all prescription and nonprescription drugs out of the reach of children.

F. Discipline of children.

1. The provider shall establish rules that encourage desired behavior and discourage undesired behavior in cooperation with the parent/guardian of children in care.

2. The provider shall not use corporal punishment.

3. The provider shall not humiliate or frighten the child in disciplining the child.

4. The provider shall not withhold food, force naps, or punish toileting accidents in disciplining the child.

G. Activities.

1. The family or in-home day care provider shall:

a. Provide structured activities appropriate to the children's ages, interests and abilities, as well as unstructured experiences in family living;

b. Provide opportunities for vigorous outdoor play daily, depending on the weather and the age of the child, as well as for participation in quiet activities; and

c. Limit the types of television programs viewed by children and not use television as a substitute for planned activities.

2. The adult day care provider shall provide recreational and other planned activities appropriate to the needs, interests, and abilities of the adults in care.

H. Abuse, neglect, or exploitation reporting responsibilities of providers.

The provider shall immediately report any suspected abuse, neglect, or exploitation of any adult or child in care to the agency.

I. Clothing requirements for foster parents.

1. Foster parents shall provide clothing appropriate for the age and size of each child.

2. All clothing shall be properly laundered or dry cleaned, and altered or repaired as needed.

§ 2.3. Standards for the home of the out-of-home provider.

A. Physical accommodations.

1. The home shall have sufficient appropriate space and furnishings for each client receiving care in the

home to include:

- a. Space to keep clothing and other personal belongings;
 - b. Accessible basin and toilet facilities;
 - c. For residential care, at least one toilet, one basin, and one tub or shower for every eight persons in the home;
 - d. Comfortable sleeping/napping furnishings;
 - e. For clients unable to use stairs unassisted, other than a child who can easily be carried, sleeping space on the first floor;
 - f. Space for recreational activities; and
 - g. Sufficient space and equipment for food preparation, service, and proper storage.
2. All rooms used by clients shall be heated in winter, dry, and well ventilated.
 3. All doors and windows used for ventilation shall be screened.
 4. Rooms used by clients shall have adequate lighting for activities and the comfort of clients.
 5. The home shall have access to a working telephone.
 6. The home shall be in compliance with all local ordinances.
 7. Additional standards for adult foster/family care:
 - a. No more than two adults shall share a sleeping room.
 - b. Sleeping rooms shall not be shared by adults of the opposite sex except when a married couple or related individuals consent to share a room.
 - c. There shall be space in the household for privacy outside of the sleeping rooms for the adult to entertain visitors and talk privately.
 8. Additional standards for homes of foster parents:
 - a. No more than four children shall occupy one bedroom.
 - b. There shall be at least 70 square feet of space in a room occupied by one child and at least 50 square feet of space for each child in a room shared by two or more.
 - c. Children of the opposite sex shall not share a double bed.

B. Home safety.

1. The home and grounds shall be free from litter and debris and present no hazard to the safety of the clients receiving care.
2. The home shall be free of fire hazards. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the agency requests it.
3. The provider shall have a written evacuation plan in case of fire and rehearse the plan at least twice a year. The provider shall review the plan with each new client, other than an infant, placed in the home.
4. All sleeping areas shall have an operable smoke detector. Attics or basements used by clients shall have two fire exits. One of the fire exits shall lead directly outside, and may be a door or an escapable window.
5. The provider shall store any firearms and ammunition in a locked cabinet or an area not accessible to clients.
6. The provider shall protect clients from household pets which may be a health or safety hazard.
7. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of children.

C. Sanitation.

1. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the agency requests it.
2. The home and grounds shall be free of garbage that would present a hazard to the health of the client.

D. Capacity.

1. The provider shall not exceed the maximum allowable capacity for the type of care given and as approved by the agency.
2. Adult day care.

The provider shall not accept more than three adults in the home at any one time.
3. Adult foster/family care.

The provider shall not accept more than three adults for the purpose of receiving room, board, supervision, or special services, regardless of relationship of any

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adult to the provider.

4. Family day care.

a. The maximum number of children at any one time shall not exceed nine.

b. The provider's own children under 14 years of age count in determining the maximum number of children.

c. Any child with a handicap which requires extra attention of the provider counts as two children.

d. More than nine children may be enrolled part-time as long as no more than nine children are present at any given time.

e. A provider accepting private placements, excluding a relative's child, cannot care for more than five children at any one time without a license from the Virginia Department of Social Services.

f. The ratio of children to adults shall not be exceeded and shall be based on the following:

(1) There shall be one adult to four infants.

(2) There shall be one adult to six children two years old and older.

(3) Any child with a handicap which requires extra attention of the provider counts as two children.

(4) A school age child who is in care less than three hours per day is not counted in determining the ratio of children to adults. However, while the child is present, he is counted in determining the maximum of nine children at any one time.

5. Foster parents.

a. The maximum number of children in a home with two foster parents is eight.

b. The maximum number of children in a home with one foster parent is four.

c. The foster parents' own children under age 14 count in determining the maximum number of children.

d. An infant counts as two older children.

e. Any child with a handicap which requires extra attention of the provider counts as two children.

f. The agency may grant an exception to the foster home's maximum for a sibling group.

6. The actual capacity of a particular home may be

less than the above capacities if:

a. The physical accommodations of the home are not adequate for the maximum number of clients;

b. The capabilities and skills of the provider are not sufficient to manage the maximum number of clients; or

c. Other individuals in the home require special attention or services of the provider.

§ 2.4. Client record requirements for the out-of-home provider.

A. The provider shall maintain written information on each client in care.

B. Client information shall include:

1. Identifying information on the client;

2. Name, address, and home and work telephone numbers of responsible persons;

3. Name and telephone number of person to be called in an emergency when the responsible person cannot be reached;

4. Name of persons not authorized to call or visit the client;

5. Date of admission and withdrawal of the client;

6. Daily attendance record, where applicable;

7. Medical information pertinent to the health care of the client;

8. Correspondence related to the client as well as other written client information provided by the agency; and

9. Placement agreement between the provider and adult client/parent/guardian where applicable.

10. For family day care, information shall also include authorization for each child to participate in specific classes, clubs, or other activities. The provider shall obtain individual authorization for each field or out-of-town trip for each child.

C. Client records are confidential and cannot be shared without the approval of the adult client/parent/guardian. The agency and its representatives shall have access to all records.

PART III. APPROVAL REGULATIONS.

§ 3.1. Approval period.

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The approval period for a provider is 24 months when the provider and, for out-of-home care, the home meets the standards.

§ 3.2. Allowable variance.

The provider may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the client or violate federal, state, or local law.

§ 3.3. Emergency approval.

Emergency approval of a provider may be granted in the following situations when the placement is in the home of or service is to be provided by the client's relative or friend:

1. The court orders emergency placement;
2. The child is placed under the 72-hour emergency removal authority; or
3. The adult client/parent/guardian requests placement or service in an emergency.

§ 3.4. Provider monitoring.

A. For out-of-home providers who are used by the agency, the agency representative will visit the home of the provider as often as necessary but at least semi-annually to monitor the provider.

B. For in-home providers who are used by the agency, the agency representative will interview the provider face-to-face as often as necessary but at least semi-annually to monitor the provider.

§ 3.5. Renewal process.

The agency will reapprove the provider prior to the end of the approval period if the provider and, for out-of-home provider, the home continues to meet standards.

§ 3.6. Inability to continue to meet standards.

If the provider cannot continue to meet standards, the agency will grant provisional approval, suspend approval, or revoke approval, depending on the duration and nature of noncompliance.

§ 3.7. Relocation of out-of-home provider.

If the out-of-home provider moves, the agency will determine continued compliance with standards related to the home.

§ 3.8. Right to grieve.

The provider shall have the right to grieve the actions of the agency.

§ 3.9. Foster parent appeal right.

The foster parent shall have the right to appeal issues related to state policy.

§ 3.10. Medical requirements for clients.

The agency shall obtain medical statements from a licensed physician or local health department for adults or children placed with out-of-home providers through the agency.

* * * * *

Title of Regulation: VR 615-52-1. Policy Regarding Purchased Services.

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

Effective Date: April 1, 1987

Summary:

This regulation establishes the broad parameters by which a local social service agency may purchase services from providers for a client in need of services. The provider must meet applicable laws, standards, and established criteria, and comply with contracting procedures. The client must meet applicable criteria of need and financial eligibility. This regulation expands the use of emergency shelter to cover adults and families as well as children. It also permits the payment of emergency needs such as food, clothing, or rent to be paid in certain situations.

VR 615-52-1. Policy Regarding Purchased Services.

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:

"Adult protective services" means the identification, receipt and investigation of complaints and reports of adult abuse, neglect, and exploitation for incapacitated persons eighteen years of age and over and persons sixty years of age and over. It also includes the provision of social casework and other services in an attempt to stabilize the situation and protect the adult.

"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under eighteen years of age. It also includes documenting, arranging for, and providing social casework and other services for the child, his family, and the alleged abuser.

"Department" means the Virginia Department of Social Services.

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"Family services" means services provided to individuals and families to prevent family violence, child neglect, family breakdown, including removal of the child, and other crises, and to strengthen the capacity of the family to function independently.

"Foster care and adoption services" means a full range of casework and other treatment and community services for a child entrusted or committed to the local agency or for whom after-care supervision has been delegated by the court.

"Local agency" means the local social service/welfare agency.

"Purchased services" means services sold by a provider of service who receives payment through the local agency or the department.

"Purchase of service" means the process by which a local agency purchases services for a client.

"Social services block grant plan" means the social services plan developed jointly by the department and the local agencies with public input and comment which identifies the allocation of federal and state monies, services provided, and eligible persons to be served.

PART II. PROVIDER REQUIREMENTS.

§ 2.1. Standards or criteria.

A provider of purchased services shall:

1. Comply with applicable federal, state, and local laws and regulations, and
2. Meet standards and criteria established for the type of provider or services being sold.

§ 2.2. Contracting procedures.

A provider of purchased services shall follow purchase of service procedures regarding contracting.

PART III. SERVICES PROVIDED.

§ 3.1. Services available.

Any appropriate service identified in the social services block grant plan may be purchased for an eligible individual within the limits of available funding and the additional limits established by the local agency's board.

§ 3.2. Documentation of services.

The need for and delivery of purchased services shall be documented in the client's case record.

§ 3.3. Service limitations.

A. Services may be purchased for individuals who:

1. Meet requirements of need for the specific purchased service; and
2. Are financially eligible based on income levels identified in the social services block grant plan except that the following do not need to meet any financial eligibility criteria for purchased services when other resources are not available to cover the costs:
 - a. Individuals being served under adult protective services to stabilize the situation and prevent institutionalization;
 - b. Individuals and families being served under child protective services and family services to prevent disruption of the family; and
 - c. Children and families being served under foster care and adoption.

B. Room and board.

1. Emergency shelter may be purchased for a child, adult, or family unit as a protective [or preventive] service until more permanent arrangements can be made.
2. Other room and board may be provided for short term as an integral but subordinate part of a service.

C. Medical care.

1. Medical care for family planning may be purchased if it is not available through other resources.
2. Other medical care may be purchased only as an integral but subordinate part of a service if it is not available through other medical coverage such as Titles XVIII and XIX of the Social Security Act.

D. Emergency needs.

Critical [needs items] such as clothing, food, utility payments, or rent may be purchased when no other resources are available and lack of these [needs items] becomes life threatening or may result in either institutionalization or, for children, foster care placement.

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-322. Virginia Taxable Income. (Individual Income Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

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Effective Date: January 21, 1987

Summary:

This revised regulation sets forth the method for computing the Virginia taxable income of individuals, concentrating on the various additions, subtractions, deductions, and modifications provided by state law, including the subtraction for qualified agricultural contributions enacted by the 1985 session of the Virginia General Assembly and signed into law.

The final regulation does not differ substantively from the proposed regulation. Section 3.F was amended to further clarify the nontaxable status of Tier 1 and 2 Railroad Retirement Act benefits. Section 3.J was amended twice, first to incorporate an example of how the subtraction for qualified agricultural contributions should be computed, and second to further describe the U.S. Department of Agriculture publications in which pricing data for use in computing the subtraction for qualified agricultural contributions can be found. All changes are nonsubstantive and are made pursuant to comments received from the Department of Planning and Budget.

VR 630-2-322. Virginia Taxable Income. (Individual Income Tax).

A. § 1. Generally

An individual's Virginia taxable income for a taxable year is his FAGI for the taxable year with the additions, subtractions and deductions set forth in subsections (B), (C), and (D) §§ 2, 3 and 4 of this regulation.

B. § 2. Additions.

To the extent excluded from FAGI, the items enumerated below shall be added to FAGI in computing Virginia taxable income. (For the ARCS addition, see VR 630-2-323.)

1. Interest on obligations of other states and certain obligations of the United States.

a. Obligations of other states. Interest on obligations of any state other than Virginia or on the obligations of a political subdivision of such other state or interest or dividends on obligations or securities of any authority, commission or instrumentality thereof which are exempt from federal but not state income tax must be added to FAGI. The amount to be added shall be reduced by the expenses not deducted in computing federal adjusted gross income.

b. Certain obligations of the United States. Interest on obligations or securities of the United States or any commission, authority or instrumentality thereof,

which is exempt from federal income tax but which is not exempt (under federal law) from state income tax must be added to FAGI. The amount to be added shall be reduced by expenses not deducted in computing FAGI.

c. Expenses deductible in computing the addition are those which by virtue of I.R.C. § 265 (which prohibits the deduction of expenses allocable to or interest on indebtedness incurred or continued to purchase or carry on obligations exempt from federal income tax) are not deductible for federal purposes.

EXAMPLE: Taxpayer has \$2,500 in interest income from obligations of State X and \$500 in interest from obligations of Virginia. None of this \$3,000 in interest is subject to federal income tax. "A" incurs \$300 in expenses related to this interest income which, by virtue of IRC § 265 was not deductible in computing FAGI. The amount of interest income to be added to FAGI in computing Virginia taxable income is computed as follows:

\$2,500 (taxable State X interest)
- [300 (nondeductible expenses)
x 2,500 - taxable State X interest]
\$3,000 - total interest

= \$2,250

The total nondeductible interest expenses are proportioned between interest taxable in Virginia (State X) and that not subject to Virginia tax (Va.) to determine the portion of these expenses which may be deducted in computing the interest addition.

If the interest is on an obligation created by a compact or agreement to which this state is a party, such interest shall not be added to FAGI in computing Virginia taxable income.

d. Regulated investment companies. Interest on any obligations taxable under subsections (a) or (b) above which is received by a regulated investment company and passed through to the shareholders in qualifying distributions as defined in I.R.C. § 852 shall be taxable in the hands of the shareholders and must be added to FAGI (to the extent excluded therefrom) in computing the shareholder's Virginia taxable income.

2. Interest eligible for federal interest exclusion.

a. To the extent excluded from FAGI pursuant to the provisions of IRC § 128 and accompanying Treasury regulations, interest income must be added to FAGI in computing Virginia taxable income. Interest income which is not includable in Virginia taxable income, i.e., interest on obligations of the U.S. or Virginia as defined in VR 630-2-322 (C)(2)

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paragraph 1 of § 3 of this regulation, is not required to be added to FAGI even if it is excluded by virtue of the net interest exclusion under IRC § 128.

b. The amount of the net interest exclusion to be added to FAGI in computing Virginia taxable income shall be proportionally reduced by the expenses not deducted in computing FAGI. Expenses deductible in computing the addition are those which by virtue of IRC § 265, which prohibits the deduction of expenses allocable to or interest on indebtedness incurred or continued to purchase or carry on obligations exempt from federal income tax, are included in federal adjusted gross income.

3. Lump sum distributions.

Individuals who elect to use the 10-year averaging method for computation of the tax on a lump sum distribution from a qualified employee's trust shall add to FAGI: (i) 40% of the capital gain part and all of the ordinary income part of such distribution where the election is made to use the 10-year averaging method for the capital gain portion as well as the ordinary income portion; or (ii) all of the ordinary income portion where the 10-year averaging method is not used for the capital gain portion. The amount to be added is reduced by the minimum distribution allowance and any amount excludable for federal income tax purposes. The amount excludable for federal income tax purposes includes the death benefit exclusion and federal estate tax, if applicable. The minimum distribution allowance for state purposes is the allowance computed for federal purposes and may not exceed the taxable (40%) portion of the capital gain (if such gains are included in the 10-year averaging election) plus the ordinary income portion of the distribution. Where a distribution consists of both capital gain and ordinary income but the 10-year averaging method is not elected for the capital gain portion, the death benefits and federal estate tax exclusion must be allocated to the capital gain and ordinary income portion respectively based upon the percentage of the total taxable distribution represented by each.

EXAMPLE: A qualifying lump sum distribution consists of \$40,000 in ordinary income and \$10,000 in capital gain. The taxpayer elects to use the 10-year averaging method only for ordinary income. The death benefit exclusion is \$3,000, the minimum distribution allowance is \$5,000 and federal estate taxes are \$8,000. The amount of the distribution to be added to FAGI in computing Virginia taxable income is computed as follows:

ordinary

\$40,000 income

$$\begin{aligned} &(5,000 - \text{min. distr.} \times \underline{40,000} - \text{ord. income} \\ &\quad \text{allowance } 50,000 - \text{total distribution}) \quad + \\ &(3,000 - \text{death ben.} \times \underline{40,000} \\ &\quad + \\ &\quad \text{exclusion } 50,000) \\ &(8,000 - \text{estate} \times \underline{40,000} \\ &\quad = \$27,200 \\ &\quad \text{taxes } 50,000) \end{aligned}$$

Therefore, the amount of the lump sum distribution to be added is \$27,200, calculated by subtracting the proportional share of excludable amounts (death benefit exclusion, minimum distribution allowance and estate taxes) attributable to the ordinary income portion from the ordinary income.

The effect is to add to FAGI that portion of a lump sum distribution which is excludable from FAGI by virtue of the special 10-year averaging method of computing the tax, less the minimum distribution allowance and death benefits exclusion.

A qualified employee's trust is one from which lump sum distributions qualify for treatment under the 10-year averaging method plan pursuant to I.R.C. § 402. (For computation of the standard deduction as it relates to lump sum distributions, see ~~subsection (D)(3)(b)~~ below paragraph 3, subsection b of § 4 of these regulations.)

4. Two-earner married couple deduction.

The amount deducted from federal adjusted gross income pursuant to the provisions of I.R.C. § 221 shall be added to FAGI in computing Virginia taxable income. I.R.C. § 221 allows a deduction in the computation of FAGI for a percentage of the earned income of the lower earning spouse in the case of married persons filing joint federal income tax returns, both of whom have earned income. The amount of the addition shall be equal to the amount deducted in computing FAGI. Where a husband and wife elect to compute their Virginia tax liabilities separately, the federal deduction must be added to the income of the spouse whose earned income was used in computing the deduction for federal income tax purposes.

EXAMPLE 1: H and W, a husband and wife with no dependents, filed a joint federal income tax return in taxable year 1982 and qualified for a two-earner married couple deduction of \$500. The deduction was based upon the income of H, the lower earning spouse, pursuant to I.R.C. § 221. H and W file a joint Virginia return, have FAGI of \$28,000, and do not itemize their deductions. Their Virginia taxable income is computed as follows:

| | |
|----------------------------------|----------|
| FAGI | \$28,000 |
| Less: Va. Standard Deduction | (2,000) |
| Less: Personal Exemptions | (1,200) |
| Plus: Federal 2-Earner Deduction | 500 |
| Va. Taxable Income | \$25,300 |

Therefore, their Virginia taxable income is \$25,300 and their Virginia tax liability is \$1,234.75.

EXAMPLE 2: Assume the same facts as Example 1, except that H and W elect to file separately on a combined Virginia return. H's income is \$10,000; W's income is \$18,000. Their Virginia tax liabilities are computed as follows:

| | <u>H</u> | <u>W</u> |
|----------------------------------|----------|----------|
| FAGI | \$10,000 | \$18,000 |
| Less: Va. Standard Deduction | - | (2,000) |
| Less: Personal Exemptions | (600) | (600) |
| Plus: Federal 2-Earner Deduction | 500 | - |
| Va. Taxable Income | \$ 9,900 | \$15,400 |

Therefore H's Virginia taxable income is \$9,900 and his tax liability is \$364.38, W's Virginia taxable income is \$15,400 with a tax liability of \$665.36, and H and W's total Virginia tax liability is \$1,034.74. H must add the two-earner deduction since the federal deduction was based upon his earned income.

§ 3. Subtractions.

1. Generally. To the extent included in FAGI, the items enumerated below shall be subtracted from FAGI in determining Virginia taxable income. If an item was partially excluded or deducted in determining FAGI, it shall be subtracted from FAGI only to the extent included therein. If an item has already been excluded from Virginia taxable income, it shall not be subtracted again pursuant to this section.

2. 1. Interest or dividends on obligations of the United States or Virginia.

a. "Obligation" means a debt obligation or security issued by the United States or any authority, commission or instrumentality of the United States or by the Commonwealth of Virginia or any of its political subdivisions, which obligation or security is issued in the exercise of the borrowing power of the United States or Virginia and is backed by the full faith and credit of the United States or Virginia.

b. Guarantees by the United States or Virginia of obligations of private individuals or corporations are merely contingent obligations of the United States or Virginia even though the guarantees may be backed by the full faith and credit of the United States or Virginia. The obligation does not become an obligation of the United States or Virginia because of the guarantee and interest and dividends paid on

such guaranteed obligations do not qualify for the subtraction unless specifically exempted by statute.

c. Specific statutory exemptions exist for certain securities issued by particular federal or Virginia agencies or political subdivisions. If a federal or Virginia statute exempts from state taxation the interest or dividends on specific securities of a particular agency or political subdivision then such interest or dividends qualify for the subtraction.

d. Repurchase agreements are usually obligations issued by financial institutions which are secured by U.S. obligations exempt from Virginia income taxation under a or c above. In such cases the interest paid by the financial institutions to purchasers of repurchase agreements does not qualify for the subtraction. Repurchase agreements issued following current commercial practice will invariably be regarded as obligations of the issuing financial institution. However, if the purchaser is regarded as the true owner of the underlying exempt obligation, the interest will qualify for the subtraction even though collected by the seller and distributed to the purchaser. Any claim of such ownership must be substantiated by a taxpayer claiming a subtraction.

e. Interest received from regulated investment companies. Interest on exempt obligations received by a regulated investment company and passed through to the stockholders in qualifying distributions, as defined in I.R.C. § 852, will retain its exempt status in the hands of the shareholders. If a shareholder receives a distribution which includes interest from both exempt and nonexempt obligations, all distributions will be deemed taxable unless the shareholder can substantiate the exempt portion of the distributions. Any individual requiring advice as to the taxable status of distributions from any regulated investment company should contact such company. Due to the turnover in investments held by such companies and the commingling of interest from exempt and nonexempt obligations, the department cannot render such advice.

f. Expenses. The subtraction for interest on exempt obligations must be reduced by any expenses attributable to such interest and by interest or indebtedness incurred or continued to purchase or carry exempt obligations pursuant to I.R.C. § 265.

2. 2. Interest or dividends from pass-through entities.

a. Under federal law certain income received by a partnership, estate, trust or regulated investment company (pass-through entity) and distributed to a partner, beneficiary or shareholder (recipient) retains the same character in the hands of the recipient. If a pass-through entity receives interest or dividends on U.S. or Virginia obligations which is

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are distributed to the recipients in a manner that the distributions retain their character in the hands of the recipients under federal law, then such interest or dividends may be subtracted by the recipients in computing Virginia taxable income.

b. A pass-through entity may invest in several types of securities, some of which are U.S. or Virginia obligations. When taxable income is commingled with exempt income all income is presumed taxable unless the portion of income which is exempt from Virginia income tax can be determined with reasonable certainty and substantiated. The determination must be made for each distribution to each shareholder. For example, if distributions are made monthly then the determination must be made monthly. As a practical matter, only pass-through entities which invest exclusively in U.S. or Virginia obligations, or which have extremely stable investment portfolios, will be likely to make such determinations.

c. Examples:

(i) ABC Fund, a regulated investment company, invests exclusively in U.S. Treasury notes and bills which are exempt from state taxation under 31 U.S.C.A. § 3124. All distributions are considered to be interest on U.S. obligations and may be subtracted by the recipient.

(ii) Va. Fund, a regulated investment company, invests exclusively in obligations of Virginia and its political subdivisions. Distributions are considered to be interest on Virginia obligations and qualify for the subtraction to the extent that such distributions are included in the recipient's federal taxable income.

(iii) XYZ Fund, a regulated investment company, invests in a variety of securities including obligations of the U.S., Virginia, other states, corporations and financial institutions (repurchase agreements). Due to the commingling of taxable and exempt income, the turnover in XYZ Fund's investments and the fluctuation in a shareholder's investment in XYZ Fund, all distributions are considered taxable income and do not qualify for the subtraction unless XYZ Fund determines the portion of distributions which is interest and dividends from U.S. and Virginia obligations for each distribution to each shareholder. Note that any portion of XYZ Fund's distributions which are excluded from federal taxable income as interest on obligations of other states must be added to Virginia taxable income.

4. 3. Pension and retirement income.

Income received by officers or employees of the Commonwealth, its political subdivisions or agencies as

a pension or retirement income shall be subtracted from FAGI in determining Virginia taxable income to the extent that such income is specifically exempted from state taxation by law. Income specifically exempt from state taxation includes that received pursuant to provisions of the Virginia Supplemental Retirement System, the Judicial Retirement System (§ 51-160 et seq. of the Code of Virginia and prior law, § 51-3 et seq. of the Code of Virginia), State Police Officers Retirement System (§ 51-143 et seq. of the Code of Virginia) and the special retirement system for officers and employees of counties, cities and towns (§ 51-112 et seq. of the Code of Virginia.)

Qualified retirement income or pensions, as defined above, received by the retiree or his surviving spouse may be subtracted to the extent included in FAGI. No person claiming a deduction pursuant to this section may also claim the retirement income tax credit set forth in VR 630-2-330 nor may such person claim the disability income exclusion set forth in VR 630-2-322, paragraph 4, § 3 below.

5. 4. Disability income.

Federal law (IRC § 37) allows retired individuals who are under age 65 and who qualified for retirement on the basis of a permanent and total disability a credit against federal tax liability for a specified percentage amount of a disability income base. Persons who qualify for such federal credit may deduct from FAGI in computing Virginia taxable income the amount on which the federal credit is based. This credit base amount to be deducted is limited to the amount actually allowed in computing the federal credit. Example follows:

EXAMPLE: For the taxable year beginning January 1, 1984, Taxpayer A, a disabled retired single individual has FAGI of \$12,500. Under federal law A is entitled to a 15% disability credit based upon a base of \$5,000 less 1/2 of the amount by which FAGI exceeds \$7,500. Since A's FAGI exceeds \$7,500 by \$5,000, his credit base for computing the federal credit is \$5,000 (initial credit base) - 1/2 x 5,000 (amount by which FAGI exceeds \$7,500) or \$2,500. Thus A may deduct \$2,500 from FAGI in computing Virginia taxable income.

No person claiming a deduction pursuant to this section may also claim the retirement income tax credit set forth in VR 630-2-330 nor may such person claim a state or local retirement subtraction as set forth in VR 630-2-322, paragraph 3, § 3 above.

6. 5. Social Security and Railroad Retirement benefits.

The amount of any Social Security benefits received under Title II of the Social Security Act (Old Age and Survivors Disability Insurance) and any other benefits included in FAGI solely by virtue of IRC § 86 shall be subtracted from FAGI in computing Virginia taxable

income. "Other benefits" under IRC § 86 include Tier 1 Railroad Retirement benefits and workmen's compensation to the extent that it reduces OASDI benefits. Tier [1 and] 2 Railroad Retirement benefits also shall be subtracted from FAGI in computing Virginia taxable income by virtue of the Railroad Retirement Act.

7. 6. Income tax refunds.

The amount of any income tax refund or credit for overpayment of income tax to Virginia or any other taxing jurisdiction shall be deducted from FAGI to the extent included therein. For purposes of determining Virginia taxable income, the amount of federally allowable itemized deductions is reduced by the amount of income tax imposed by Virginia or other taxing jurisdictions. (See subsection ~~(D)~~(2) paragraph 1, § 4 below.) Therefore, any refunds or credits for overpayments of such taxes which are required, by federal law, to be included in FAGI, may be deducted in computing Virginia taxable income.

8. 7. WIN or targeted jobs tax credit.

Federal law permits employers to claim an income tax credit based upon certain wages paid under I.R.C. §§ 40 and 44B. If such credit is elected, I.R.C. § 280C bars the deduction of the wages on which such credit is based. To the extent such wages were not deducted from FAGI, they shall be subtracted therefrom in the computation of Virginia taxable income.

9. 8. Foreign source income.

a. Generally. Foreign source income as defined in VR 630-2-302(F)(2) shall be subtracted from FAGI, to the extent included therein, in determining Virginia taxable income.

b. Earned income. Federal law allows individual taxpayers to exclude in the computation of FAGI a portion of earned income from foreign sources. To the extent that this exclusion is elected, such earned income will similarly be excluded from Virginia taxable income. However, if a taxpayer does not elect, or is not eligible to elect, to exclude foreign source income from FAGI, he may not deduct such income from FAGI in computing Virginia taxable income.

c. Taxes paid to foreign country. Federal law generally allows an individual who has paid or accrued foreign income tax to elect to either treat such tax as a deduction from FAGI or to apply such taxes as a credit against federal tax liability. If a taxpayer elects to treat foreign taxes as a deduction from FAGI, his allowable itemized deductions will be reduced by such amount in computing Virginia taxable income. (See subsection ~~(D)~~(2) paragraph 1, § 4 below.)

9. Qualified agricultural contributions.

a. Generally. The amount of any qualified agricultural contribution shall be subtracted from FAGI in determining Virginia taxable income.

b. Qualified contributions. Contributions that qualify for subtraction from FAGI are contributions of agricultural products made between January 1, 1985, and December 31, 1987, by an individual who is engaged in the trade or business of growing or raising such products. Thus, contributions of agricultural products by an individual who is not engaged in the business of farming (for instance, contributions of goods raised in a family garden) do not qualify for subtraction.

To be subtractible, a contribution must be made to an organization exempt from federal income taxation under IRC § 501(c)(3) and must meet the following tests: (i) the product contributed must be fit for human consumption, i.e. edible; (ii) the use of the product by the donee must be related to the purpose or function for which the donee was granted exemption under IRC § 501(c)(3) (for instance, contributions of crops to a foundation organized for scientific or literary purposes would not qualify, but contributions of crops to a nonprofit food bank would qualify); (iii) the contribution is not made in exchange for money, property or service; and (iv) the donor must obtain from the donee a written statement representing that the donee's use and disposition of the product will be in accordance with its charitable mission. Such written statements also must list the type and quantity or volume of products contributed, state that the products donated are fit for human consumption, and state the use to which the donations will be put. Such written statements must be filed with the taxpayer's income tax return when the subtraction for qualified agricultural contributions is claimed.

To be subtractible from FAGI under the above tests, the donee must make use of the agricultural products donated to it consistent with the purpose for which it was granted exemption under IRC § 501(c)(3). Therefore, contributions of crops to a charitable organization which provides food to the needy would qualify. However, contributions of crops to an organization that does not itself provide food to the needy would not qualify, even if the donee in turn contributes the crops to an organization that provides food to the needy.

c. Agricultural products. Crops are the only agricultural products eligible for subtraction when donated. Thus, the subtraction is limited to contributions of products of the soil and does not include contributions of animal products.

d. Computation of subtraction. The subtraction for

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qualified agricultural contributions is equal to the lowest wholesale market price in the nearest regional market of the type of product(s) donated during the month(s) in which donations are made. For the purpose of determining the lowest wholesale market price for a particular product, a taxpayer must use the lowest wholesale market price, regardless of grade or quality, published [in the month of contribution] by the U.S. Department of Agriculture [Market News Service on Fruits, Vegetables, Ornamentals, and Speciality Crops] for the regional market nearest the taxpayer's place of business.

e. *Limitation of subtraction.* The subtraction for qualified agricultural contributions shall be reduced by the amount of any other charitable deductions relating to qualified agricultural contributions if the deductions are claimed on the donor's federal return for the taxable year in which the contribution is made, or if the deductions are eligible for carryover to subsequent taxable years under I.R.C. § 170. For example, a farmer who itemizes deductions for federal and state income tax purposes and who claims a charitable deduction of qualified agricultural products on his federal return must reduce his Virginia subtraction for qualified agricultural contributions by the amount of his federal charitable deduction for the same products. If the farmer's total charitable contributions of qualified agricultural products exceed the deduction ceiling set by federal law and the farmer is eligible to carryover deductions to subsequent years, the farmer must also subtract the deductions eligible for carryover from the value of his qualified agricultural contributions.

[**EXAMPLE:** Farmer contributes 50-pound sacks of round white potatoes to a local nonprofit food bank. The farmer's basis in the contributed property is \$10, of which he claims \$5 as a charitable contribution on his 1986 federal and state income tax returns and will carryover \$5 as a charitable deduction on his 1987 federal and state income tax returns. During the month in which the contribution was made, the lowest wholesale market price for a 50-pound sack of round white potatoes published by the U.S. Department of Agriculture Market News Service in the regional market nearest the farmer's place of business was \$2. The farmer's deduction for his qualified agricultural contribution would be computed as follows:

| | |
|---|--------|
| Units contributed | 50 |
| Lowest wholesale market price of unit x | \$ 2 |
| | \$100 |
| Charitable deduction claimed on contribution | (5) |
| Charitable deduction carried over | (5) |
| Deduction for qualified agricultural contribution | \$90] |

D- § 4. Deductions.

1. Generally. The following items shall be deducted in determining Virginia taxable income.

2. *Itemized deductions.*

a. Generally. Any taxpayer who itemizes his deductions for federal income tax purposes must also itemize deductions for Virginia income tax purposes. The federally allowable amount of itemized deductions (prior to the subtraction of the federal zero bracket amount) shall be subtracted from FAGI in determining Virginia taxable income, but must be reduced by any amount claimed as a deduction for income taxes paid to Virginia or any other state, locality, foreign country, or other taxing jurisdiction. (See subsection (C)(7) paragraph 6, § 3 above.)

b. *Additional deduction for charitable mileage.* The amount of itemized deductions allowed for federal income tax purposes shall be increased to allow a deduction for Virginia purposes of 18 cents per mile for charitable contribution transportation. The additional Virginia deduction is allowed only with respect to transportation expenses allowed under IRC § 170 and only to the extent that such expenses are actually deducted for federal purposes.

The amount of charitable mileage expenses claimed for federal purposes is increased to result in a deduction of 18 cents per mile for Virginia purposes. If a person elects to compute the federal deduction based upon actual expenses, the increased Virginia deduction is computed by converting expenses to a per mile amount and adding to that an amount sufficient to equal 18 cents per mile. The amount of the addition is the additional Virginia deduction.

EXAMPLE 1: Taxpayer A uses his automobile for charitable purposes and determines annual expenses (gasoline, oil, etc.) attributable to charitable usage to be \$500, which is deducted as a charitable contribution for federal tax purposes. A drove his automobile 4,350 miles in incurring the \$500 in expenses, which results in a per mile cost of 11.5 cents. Therefore A is entitled to an additional Virginia deduction of \$282.75 computed as follows:

$$(\$.18 - \$.115) = \$.065 \times 4,350 = \$ 282.75$$

If the standard federal mileage rate for charitable mileage is used, the amount of the Virginia addition is the difference between the standard rate and 18 cents per mile.

EXAMPLE 2: Taxpayer B is entitled to deduct expenses attributable to 5,555 miles of automobile use as a charitable contribution. B utilizes the standard mileage rate (9 cents per mile for taxable year 1983) and therefore is allowed a federal deduction of \$500. B is entitled to an additional Virginia deduction of

\$500 computed as follows:

$(\$18 - \$.09) = \$.09 \times 5,555 = \500

3. 2. Standard deduction.

a. Generally. Any taxpayer who does not itemize deductions for federal purposes must claim the standard deduction in the computation of Virginia taxable income. The amount of the standard deduction for a single individual or a married couple filing jointly shall be 15% of federal adjusted gross income not to exceed \$2,000; except as set forth in subparagraph c below, the standard deduction shall not be less than \$1,300. In the case of a married individual filing a separate return or separately on a combined return, the standard deduction shall not exceed \$1,000 or be less than \$650.

b. Lump sum distribution. When any taxpayer has received a lump sum distribution from a qualified retirement plan and, under the provisions of I.R.C. § 402, has elected to use the special 10-year averaging method for the computation of federal tax on the distribution, then for purposes of computing the standard deduction FAGI shall be increased by any amount of the distribution which has not been included in FAGI.

c. Dependents. Any individual who may be claimed as a dependent on another taxpayer's return may compute the standard deduction only with respect to earned income. As used in this section the term "earned income" shall mean wages, salaries or professional fees and other amounts received as compensation for professional services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. This rule applies to dependents under age 19 and full-time students who are eligible to be claimed on their parents' return even though the parents do not actually take the exemption.

4. 3. Exemptions. There shall be deducted from FAGI \$600 for each personal exemption allowed to the taxpayer for federal income tax purposes. For each exemption allowed to the taxpayer under the provisions of I.R.C. § 151(c), there shall be deducted an additional \$400. I.R.C. § 151(c) allows an additional deduction for an individual who is at least 65 years of age during the taxable year. In the case of a husband and wife filing a joint return, each may claim the additional exemption if both are at least 65 years of age during the taxable year. This additional exemption may not be claimed for dependents even though such dependents may meet the age requirement.

NOTE: For purposes of qualifying for the additional federal exemption under I.R.C. § 151(c), a person is deemed to be 65 years of age on the day before his birthday. For example, a person who is 65 on January 1, 1985 may claim the additional exemption for taxable year 1984.)

5. 4. Child and dependent care. Effective for taxable years beginning on and after January 1, 1982, the amount of employment-related expenses allowed for computing the federal child and dependent care credit (I.R.C. § 44A) may be subtracted from FAGI in computing Virginia taxable income. The amount of employment-related expenses which may be subtracted is limited to that amount actually used in computing the federal credit. Such amount will be limited by the restrictions of I.R.C. § 44A, including the maximum amount of expenses allowable in computing the federal credit and earned income limitations. This subtraction will further be limited to only expenses which qualify for federal credit. For example, if federal law places a ceiling on expenditures for purposes of computing the federal credit such ceiling will similarly limit the Virginia deduction.

The actual amount of the federal child and dependent care claimed has no bearing upon this deduction; only the base for computing the federal credit is relevant.

E. § 5. Modifications and adjustments.

The modifications set forth in § 58.1-315 of the Code of Virginia shall be added or subtracted, whichever is applicable, in determining Virginia taxable income. (See also VR 630-2-315.)

Section revised 7/86.

* * * * *

Title of Regulations: VR 630-2-325. Taxable Income of Nonresidents. (Individual Income Tax); VR 630-2-332. Credit for Income Taxes Paid to Another State. (Individual Income Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 21, 1987

Summary:

These final regulations do not differ substantively from the proposed regulations. Section 2(C) of VR 630-2-332 was amended to include partnerships in the list of distributing entities for which an individual may not claim a tax credit. This section was also amended to delete S corporations from the list of distributing entities for which an individual may not claim a tax credit. Its inclusion was the result of a drafting error. Example 3 under § 2(D) of VR 630-2-332 was amended to change the reference from North Carolina

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to State X. Finally, the "Note" under 3(A) of VR 630-2-332 was amended to change the effective date of when residents of certain states may claim a credit for income taxes paid to Virginia from "currently" to the date that this regulation was originally adopted, September 19, 1984.

All changes are nonsubstantive and made pursuant to either public comments or to errors in the draft of the proposed regulation submitted to the Registrar of Regulations.

VR 630-2-325. Taxable Income of Nonresidents. (Individual Income Tax).

§ 1. Generally.

The Virginia taxable income of a nonresident individual, partner, shareholder or beneficiary is Virginia taxable income computed as a resident multiplied by the ratio of net income, gain, loss and deductions from Virginia sources to net income, gain, loss and deductions from all sources.

§ 2. Net income, gain, loss and deductions.

As used in this regulation, "net income, gain, loss and deductions" includes income, gain, loss and deductions attributable to (i) the ownership of any interest in real or tangible personal property; (ii) the conduct of a business, trade, profession or occupation; (iii) wages, salary, and tips; and (iv) income from intangible personal property employed by an individual in a business, trade, profession or occupation. Net income, gain, loss and deductions includes interest income, dividends (less the exclusion allowed by IRC § 116), business income and loss, capital gains or losses (subject to the 60% long-term capital gains provisions of IRC § 1202), supplemental gains and losses, pensions and annuities (to the extent subject to federal taxation), rents, royalties, income from partnerships, estates, trusts, and subchapter S corporations, farm income and loss, unemployment compensation (to the extent subject to federal taxation), interest on obligations of states other than Virginia, lump sum distributions, and other income such as gambling winnings, prizes and lottery winnings. "Net income, gain, loss and deductions from Virginia sources" means that attributable to property within Virginia, or to the conduct of a trade, business, occupation or profession within Virginia. Net income, gain, loss and deductions from Virginia sources includes salary, tips or wages earned in Virginia, gain on the sale of property located in Virginia, income or loss from a partnership, estate, trust, or subchapter S corporation doing business in Virginia, and income from intangible personal property employed by an individual in a business, trade, profession, or occupation carried on in Virginia.

EXAMPLE 1: Taxpayers A and B, a married couple filing a joint return, are residents of State X. Their income and deductions for taxable year 1984 consist of the following:

| | |
|---|----------|
| Wages and Salary | \$30,000 |
| Interest on State X obligations | 5,000 |
| 40% of capital gain on sale of Va. property | 65,000 |
| Itemized Deductions (include 500 in Va. income tax) | 10,000 |
| Income from Va. Subchapter S corp. | 15,000 |
| Interest on savings account in Va. bank | 5,000 |
| Rent received from Va. property | 10,000 |

A and B are entitled to claim 4 personal exemptions and their FAGI is \$125,000. Their nonresident Virginia taxable income is computed as follows:

Step 1: Income computed as a resident

| | | | |
|-------|---|---------|-----------|
| | FAGI | | \$125,000 |
| Less: | Itemized deductions | (9,500) | |
| | (Reduced by \$500 Va. income tax deduction) | | |
| | Exemptions | (2,400) | (11,900) |
| Plus: | Interest on State X obligations | | 5,000 |
| | Va. income computed as Resident | | \$118,100 |

Step 2: Ratio of net income, gain, loss and deductions from all sources to Virginia sources.

| | All Sources | Virginia Sources |
|---|-------------|------------------|
| Wages and Salary | \$30,000 | -0- |
| Interest on State X obligations | 5,000 | -0- |
| Capital Gain | 65,000 | \$65,000 |
| Va. Subchapter S corporation distribution | 15,000 | 15,000 |
| Interest from savings | 5,000 | -0- |
| Rent | 10,000 | 10,000 |
| Totals | \$130,000 | \$90,000 |

$$\frac{\text{Va. Source income}}{\text{Income from All Sources}} = \frac{\$90,000}{130,000} \times 69.2\%$$

Step 3: Computation of Virginia taxable income.

$$\$118,100 \times 69.2\% = \$81,725$$

(Income computed as resident)

EXAMPLE 2: Taxpayer D, a single individual, is a resident of State Y. His income and deductions for taxable year 1984 consist of the following:

| | |
|---|----------|
| Wages and Salary | \$50,000 |
| Taxable Annuity | 15,000 |
| Loss from Va. partnership | (20,000) |
| Loss from sole proprietorship (in State Y) | (10,000) |
| Dividends received (exclusion taken) | 20,000 |
| 40% of capital gain on sale of State Y property | 60,000 |
| Itemized Deductions (include 2,000 in Va. income tax) | 22,000 |

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D is age 66 and is entitled to claim one exemption in addition to the additional \$400 exemption for taxpayers age 65 and over. D's FGI for 1984 is \$115,000 and Virginia taxable income as computed as follows:

Step 1: Income computed as resident

| | | | |
|-------|--|----------|-----------|
| | FAGI | | \$115,000 |
| Less: | Itemized deductions | (20,000) | |
| | (Reduced by \$2,000 Va. (income tax deductions)) | | |
| | Personal Exemptions | (1,600) | (21,000) |
| | Income Computed as Resident | | \$ 93,400 |

Step 2: Ratio of net income gain, loss, and deductions from all sources to Virginia sources.

| | All Sources | Virginia Sources |
|--------------------------|-------------|------------------|
| Wages and Salary | \$ 50,000 | -0- |
| Taxable Annuity | 15,000 | -0- |
| Partnership Loss | (20,000) | (\$20,000) |
| Sole Proprietorship Loss | (10,000) | -0- |
| Dividends Received | 20,000 | -0- |
| Capital Gain | 60,000 | -0- |
| Totals | \$115,000 | (\$20,000) |

Va. Source income = $\frac{(\$ 20,000)}{115,000}$ X -17.4%
Income from All Sources

Step 3: Computation of Virginia taxable income

\$93,400 X - 17.4% = \$0
(Income computed as resident)

Since the ratio of net income gain, loss and deductions from all sources to Virginia sources is less than 0 due to the Virginia source loss, D has no Virginia taxable income.

EXAMPLE 3: H and W, a married couple filing a joint return are residents of State W. Their income and deductions for taxable year 1984 consisting of the following:

| | |
|---|----------|
| Wages and Salary | \$12,000 |
| Loss from State W. Farm | (8,000) |
| Interest on State W obligations | 30,000 |
| 40% of capital gain on sale of Va. property | 4,000 |
| Taxable Annuity | 6,000 |
| Itemized Deductions | 6,000 |

H and W are entitled to claim 6 exemptions and the FAGI for 1984 is \$14,000. Their Virginia taxable income is computed as follows:

Step 1: Income computed as resident

| | | | |
|-------|---------------------|---------|----------|
| | FAGI | | \$14,000 |
| Less: | Itemized deductions | (6,000) | |
| | Personal Exemptions | (3,600) | (9,600) |

| | | | |
|-------|---------------------------------|--------|----------|
| Plus: | Interest on State W obligations | 30,000 | 20,400 |
| | Income Computed as Resident | | \$34,400 |

Step 2: Ratio of net income gain, loss, and deductions from all sources to Virginia sources.

| | All Sources | Virginia Sources |
|------------------------------|-------------|------------------|
| Wages and Salary | \$12,000 | -0- |
| Farm Loss | (8,000) | -0- |
| State W obligations interest | 30,000 | -0- |
| Capital Gain | 4,000 | 4,000 |
| Taxable Annuity | 6,000 | 6,000 |
| Totals | \$44,000 | \$10,000 |

Va. Source income = $\frac{\$10,000}{44,000}$ = 22.7%
Income from All Sources

Step 3: Computation of Virginia taxable income

\$34,400 x 22.7% = \$7,809
(Income computed as resident)

§ 3. Nonresident shareholders in Subchapter S corporations.

A nonresident individual who is a shareholder in an electing small business corporation (Subchapter S corporation) must include in Virginia taxable income his ~~her~~ share of the taxable income of such corporation. Such nonresident shareholder shall deduct from Virginia taxable income, his ~~her~~ share of the net operating loss of [a an] Subchapter S corporation. The amount to be included or deducted shall be that which is attributable to a business, trade, profession or occupation carried on in this state. A nonresident shareholder may not claim a credit for tax paid by the corporation to any other state.

* * * * *

Title of Regulation: VR 630-2-332. Credit for Income Taxes Paid to Another State. (Individual Income Tax).

§ 1. Generally.

A credit for income tax paid to another state may be allowed to residents and nonresidents who are liable for Virginia income tax, subject to certain limitations and restrictions set forth below. The credit provided by this section is applicable only to income tax paid to another state and does not apply to taxes paid to any foreign country. This credit is further inapplicable to taxes imposed by any city, county, regional or other local taxing jurisdiction regardless of the fact that such local tax may be collected by a state.

A. Taxable year.

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The credit for residents and nonresidents is allowable only with respect to income tax liability to another state incurred within the same taxable year as the liability is incurred to Virginia. For example, some states tax employee contributions to certain retirement plans at the time of contribution despite the fact that such amounts are not includible in federal adjusted gross income until withdrawn. Therefore an individual who is a nonresident of Virginia at the time he makes a contribution may be required to pay tax to his state of residence on such contribution. If the individual is a Virginia resident at the time the contributions are withdrawn and includible in FAGI, he will be liable to Virginia for tax on the amount withdrawn during the taxable year of withdrawal. In this instance, no credit may be claimed for tax paid to the former state of residence unless such tax liability was incurred within the same taxable year as the liability to Virginia.

B. Nonrefundable credit.

The credit allowed to residents and nonresidents may not exceed the individual's Virginia tax liability, i.e., the credit is nonrefundable, and no excess may be carried forward or back to other taxable years.

§ 2. Residents.

A. Generally.

Any resident of Virginia who has become liable for and paid income tax to another state may be eligible for a credit against his Virginia income tax liability for all or a portion of the liability to the other state, subject to the qualifications set forth in subsections (2) B. through (4) D. of this section.

B. Qualifying income.

1. Generally. Only an income tax paid to another state on earned or business income from sources outside of Virginia qualifies for the credit.

2. Earned income. For purposes of this credit, the term "earned income" shall mean wages, salaries, or professional fees and other amounts received as compensation for professional services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. Earned income does not include interest or dividend income, capital gains, income from investments, or similar types of passive income.

3. Business income. For purposes of this credit, the term "business income" shall mean income derived from an activity which constitutes a "business" for federal income tax purposes for which a federal

Schedule C, E or F must be filed. For example a sole proprietorship, provided that if the business incurred a loss such loss would be allowable under federal law. Thus income from hobbies and other activities not engaged in primarily for profit is not business income even though a Schedule C, E, or F may be filed for such activities.

C. Nature of tax imposed by other state.

The credit may be claimed with respect to an income tax liability incurred on non-Virginia source income to another state. A credit may not be claimed by an individual for tax imposed by another state on a distributing entity e.g., [a Subchapter S corporation] an estate, regulated investment company [, a partnership] or a trust in which the individual is a beneficiary or shareholder.

1. S corporation. Effective for taxable years beginning on and after January 1, 1985, the amount of state income tax paid by an electing small business corporation (S corporation), paid to a state that does not recognize the federal S election, shall be attributable to the individual shareholders. The amount of tax paid to such state shall be allocated to each shareholder in proportion to his share of ownership of the S corporation stock.

D. Limitations.

1. Amount. The amount of this tax credit is limited to the lesser of: (i) the tax actually paid to another state on non-Virginia source income; or (ii) the amount of tax actually paid to another state which is equivalent to the proportion of income taxable in such state to Virginia taxable income (computed prior to the credit). The following examples illustrate this concept.

EXAMPLE 1: Taxpayer A, a Virginia resident, has taxable income of \$25,000 derived from the operation of a sole proprietorship business in State W, upon which tax is paid to State W in the amount of \$1,750. A's Virginia taxable income is \$50,000, resulting in a tax liability, before computation of the credit, of \$2,655. A may claim a credit for tax paid to State W of \$1,327.50 computed as follows:

$$\frac{\text{Income on which tax computed in State W}}{\text{Virginia taxable income}} = \frac{25,000}{50,000} = 50\%$$

$$\text{Ratio (above) X Va. tax liability} = 2,655 \times 50\% = \$1,327.50$$

Since the amount computed proportionally is less than the tax actually paid to State W, the credit is limited to \$1,327.50.

EXAMPLE 2: Taxpayer B, a Virginia resident, has taxable income of \$18,000 from wages earned in State Z, upon which tax is paid to State Z of \$630. B's Virginia taxable income is \$20,000 resulting in a

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Virginia tax liability, before computing this credit, of \$930. B may claim a credit for tax paid to State Z of \$630, computed as follows:

$$\frac{\text{Income upon which tax computed in State Z} = 18,000}{\text{Virginia taxable income} = 20,000} = 90\%$$

$$\text{Ratio (above) X Va. tax liability} = \$930 \times 90\% = \$837$$

Since the tax actually paid to State Z is less than the amount computed proportionally, B is entitled to a credit for the full amount of tax paid to State Z.

EXAMPLE 3: XYZ Corporation is a corporation incorporated under the laws of Virginia. It has elected S corporation status under the provisions of I.R.C. § 1372. XYZ Corporation does business in Virginia and [North Carolina State X]; therefore, it has both Virginia source income and North Carolina source income. Since [North Carolina State X] does not recognize the federal S election, XYZ Corporation apportions its state income as required by [North Carolina State X] to determine the amount of income tax it owes to [North Carolina State X]. Because Virginia recognizes the federal S election, XYZ Corporation pays no corporate income tax to Virginia. Taxpayers A, B and C, all Virginia residents, own all of the shares of stock in XYZ Corporation. They own 45, 30 and 25 shares of stock in XYZ Corporation respectively. Their share of the income on which the [North Carolina State X] income tax is computed and their share of the credit for income tax paid to another state, is computed as follows:

Total ordinary income of S corporation \$10,000
 Income on which [North Carolina State X] tax is computed \$ 4,000
 Tax paid [North Carolina State X] by XYZ Corporation @ 6% \$ 240

| | Taxpayer A | Taxpayer B | Taxpayer C |
|---|----------------------|----------------------|----------------------|
| Share of ownership | 45/100 | 30/100 | 25/100 |
| Share of income on which [North Carolina State X] tax is computed | 45/100x\$4000=\$1800 | 30/100x\$4000=\$1200 | 25/100x\$4000=\$1000 |

| | Taxpayer A | Taxpayer B | Taxpayer C |
|---|--------------------|-------------------|-------------------|
| Share of [North Carolina State X] tax | 45/100x\$240=\$108 | 30/100x\$240=\$72 | 25/100x\$240=\$60 |

2. Nonresident credit granted by other state. No credit is allowable to a resident for any tax paid to another state if such state allows the taxpayer a credit against his liability for tax paid to Virginia and such credit is similar to that afforded to nonresidents by Virginia.

NOTE: As of the adoption date of the regulations September 19, 1984, Virginia residents may not claim a credit against Virginia income tax for tax paid to Arizona,

California, District of Columbia, Maryland, New Mexico or West Virginia since these states allow Virginia residents a nonresident credit for tax paid to Virginia.

§ 3. Nonresidents.

A. Generally.

Any nonresident of Virginia who has become liable to his state of residence for income tax upon his Virginia taxable income may be eligible for a credit against Virginia income tax liability for all or a portion of such liability, subject to the qualifications set forth in subsections (2) through (4) below.

(NOTE: [Currently As of September 19, 1984,] only residents of Arizona, California, District of Columbia, Maryland, New Mexico and West Virginia may claim this credit.)

B. Qualifying income.

Tax payable to another state on income from Virginia sources which is subject to Virginia income tax may be creditable in whole or in part, against an individual's Virginia income tax liability.

C. Credit amount.

The amount of credit allowed is computed by determining the ratio of Virginia taxable income to taxable income in the taxpayer's state of residence multiplied by the tax paid to such other state. The following examples illustrate the computation of this credit.

(NOTE: All of the following examples assume that State X is either Arizona, California, D.C., Maryland, New Mexico, or West Virginia.)

EXAMPLE 1: Taxpayer A, a resident of State X is a single individual who does not itemize deductions. A has income from all sources (in this case, equal to FAGI) of \$20,000, taxable in State X to which A is liable for \$800 in tax. \$15,000 of this income is derived from Virginia sources and is taxable in this state. The credit allowed is computed as follows:

| | |
|---|----------|
| FAGI = | \$20,000 |
| Less: Personal Exemption | (600) |
| Standard Deduction | (2,000) |
| Va. taxable income computed as a resident = | \$17,400 |

Nonresident taxable income =
 $17,400 \times \left(\frac{15,000}{20,000} \times \frac{\text{Va. source income}}{\text{Income from all sources}} \right) = \$13,050$

Virginia tax liability on \$13,050 = \$530.81

Available Credit = Va. taxable income Tax imposed by

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Income taxable to X residence state
residence state

$$= \frac{13,050}{20,000} \times 800 = \$522$$

Credit Allowed = \$522 and A would be liable to Virginia for \$8.81 in tax.

EXAMPLE 2: Assume the same facts as Example 1 except that \$10,000 in income is derived from Virginia sources and a tax liability of \$1,000 is incurred to State X. The credit allowed is computed as follows:

Va. taxable income computed as a resident = \$17,400

$$\text{Nonresident taxable income} = 17,400 \times \left(\frac{10,000 - \text{Va. source income}}{20,000 \text{ Income from all sources}} \right) = \$8,700$$

Virginia tax liability on \$8,700 = \$304.88

Available credit = $\frac{\text{Va. taxable income}}{\text{Income taxable to X residence state residence state}} \times \text{Tax imposed by residence state}$

$$= \frac{8,700}{20,000} \times 1,000 = \$435$$

Credit allowed = \$304.88 (Credit is limited to Virginia tax liability.)

EXAMPLE 3: Taxpayer J, a resident of State X has total income (in this case, equal to FAGI) of \$50,000, \$30,000 of which is 40% of a long-term capital gain from the sale of property located in Virginia. J is single and has \$5,000 in itemized deductions. State X disallows the federal 60% deduction for long-term capital gains, thus J's taxable income in State X is \$95,000 (50,000 + additional 45,000 on capital gain) and is liable to State X for tax of \$3,800. The Virginia credit allowed is computed as follows:

| | |
|---|----------|
| FAGI = | 50,000 |
| Less: Personal Exemption | (600) |
| Itemized Deduction | (5,000) |
| Va. taxable income computed as a resident = | \$44,400 |

$$\text{Nonresident taxable income} = 44,400 \times \left(\frac{30,000 = \text{Va. income}}{50,000 = \text{Income from all sources}} \right) = \$26,640$$

Virginia tax liability on \$26,640 = \$1,311.80

Available Credit = $\frac{\text{Va. taxable income}}{\text{Income taxable to X residence state residence state}} \times \text{Tax imposed by residence state}$

$$= \frac{26,640}{95,000} \times 3,800 = 1,065.60$$

Credit allowed = \$1,065.60 and A would be liable to Virginia for \$246.20 in tax.

D. Limitations.

No credit shall be allowed to nonresidents unless their state of residence:

1. Grants Virginia residents a credit for tax liability to such state which is substantially similar to that granted by Virginia to nonresidents. For purposes of this section a "substantially similar" credit is a credit to Virginia residents for Virginia tax liability on income from sources within such other taxing jurisdiction. If another state grants a credit which is limited to certain types of income, e.g., only earned income, the nonresident credit may be granted only upon review by the Tax Commissioner; or

2. Imposes a tax on the Virginia source income of its residents and exempts Virginia residents from taxation. The fact that the laws of another state do not impose an income tax on Virginia residents does not constitute an exemption under the meaning of this subsection. This subsection allows a credit only where a nonresident taxpayer's state of residence imposes a net income tax similar to that imposed by Virginia and exempts Virginia residents from such tax.

* * * * *

Title of Regulation: VR 630-3-402. Virginia Taxable Income (Corporation Income Tax Regulation).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 21, 1987

Summary:

This revised regulation sets forth the method for computing the Virginia taxable income of corporations, concentrating on the various additions, subtractions, deductions, and modifications provided by state law, including the subtraction for qualified agricultural contributions enacted by the 1985 session of the Virginia General Assembly and signed into law.

The final regulation does not differ substantively from the proposed regulation. Section 3 was amended to incorporate an example of how the subtraction for qualified agricultural contributions should be computed. Section 3 was also amended to further describe the U.S. Department of Agriculture publications in which pricing data for use in computing the subtraction for qualified agricultural contributions can be found. Both changes are nonsubstantive and are made pursuant to comments received from the Department of Planning and Budget.

VR 630-3-402. Virginia Taxable Income (Corporation Income Tax Regulation)

~~A.~~ § 1. Federal taxable income.

1. A. A Virginia income tax is imposed on all income from Virginia sources which is defined as federal taxable income with certain specified additions, subtractions and exemptions. For the purpose of determining Virginia taxable income, the term "federal taxable income" means all income from whatever source derived and however named on which a federal income tax is imposed.

2. B. For most corporations "federal taxable income" for Virginia income tax purposes will be the amount shown on the line of federal form 1120 designated "taxable income" (after net operating loss deduction and special deductions). However, there are some exceptions, including, but not limited to, the following:

a. 1. Regulated investment companies file federal form 1120 but do not follow normal corporate rules for computing the tax. Separate taxes are imposed on investment company taxable income and on capital gains. The federal taxable income of a regulated investment company for Virginia purposes is the sum of: (i) "investment company taxable income" defined in I.R.C. § 852(b) and (ii) the amount of capital gains defined in I.R.C. § 852(b).

b. 2. Real estate investment trusts file federal form 1120 but do not follow normal corporate rules for computing the tax. Separate taxes are imposed on "real estate investment trust taxable income," capital gains, "income from foreclosure property" and "income from prohibited transactions."

a. The federal taxable income of a real estate investment trust for Virginia income tax purposes is the sum of: (i) "real estate investment trust income" as defined in I.R.C. § 857(b)(2); (ii) "capital gains" as defined in I.R.C. § 857(b)(3); (iii) "income from foreclosure property" as defined in I.R.C. § 857(b)(4); and (iv) "income from prohibited transaction" as defined in I.R.C. § 857(b)(6).

e. 3. Organizations exempt from federal tax under subchapter F of the Internal Revenue Code which have unrelated business income are required to file Federal Form 990-T. For such organizations, federal taxable income means "unrelated business taxable income" as defined in I.R.C. § 512.

d. 4. Corporations organized under the laws of a foreign country and doing business within the U.S. pay the regular corporate tax on net income effectively connected with the conduct of a trade or business within the U.S. and, in the absence of a treaty between the U.S. and the foreign country, a separate tax of 30% on the gross income from dividends, interest and certain other income from U.S. Sources.

For Virginia purposes the federal taxable income of such foreign corporations is either the taxable income under the terms of any applicable treaty, or the sum of: (i) the gross income defined in I.R.C. § 881, and (ii) the net income defined in I.R.C. § 882.

e. 5. Net operating loss deductions.

(+) a. Corporations incurring a net operating loss are allowed under federal law to carry such loss back to specified years and over to specified subsequent years. Virginia law has no provision for a net operating loss deduction (NOLD). Therefore an NOLD is allowable for Virginia purposes only to the extent that the NOLD is allowed as a deduction in computing federal taxable income.

(#) b. When a net operating loss is carried back to a prior year, the NOLD is treated as a change in federal taxable income for the year to which the loss is carried. The corporation may file an amended Virginia return claiming a refund due to the NOLD. A copy of federal form 1139, 1120X or similar form must be attached to the amended Virginia return. See §§ 58.1-1823 (amended returns), 58.1-1823 (interest on overpayments attributable to an NOLD), 58.1-403 (special rules for railway companies) and 58.1-442 (special rules for consolidated and combined Virginia returns) of the Code of Virginia .

(###) c. The Virginia additions and subtractions of the loss year follow the loss to the year the NOLD is claimed. For example, if 50% of the 1983 federal net operating loss is carried back to 1980, then 50% of the 1983 Virginia additions and subtractions will also be carried back to 1980.

(+v) d. Under federal law an NOLD may be used only to reduce federal taxable income. An NOLD may not create or increase a federal net operating loss. Because an NOLD cannot reduce federal taxable income below zero, it is possible that a corporation with substantial Virginia additions will owe Virginia income tax even though its federal taxable income is reduced to zero by an NOLD.

(+v) e. Members of an affiliated group of corporations which file a consolidated federal return and separate or combined Virginia returns must compute federal taxable income and the NOLD as if each corporation had filed a separate federal return for all affected years. If the group files a Virginia consolidated return which does not include all of the corporations included in the federal consolidated return then the federal taxable income and NOLD must be computed as if all affected federal consolidated returns included only those corporations included in the Virginia consolidated return. The provisions of Treasury regulation § 1.1502-79 which allocated a consolidated loss to the members of the

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group shall not be applied in computing the separate federal taxable income in this situation. See regulation VR 630-3-442.

f. 6. Certain corporations may be required to redetermine Virginia taxable income to properly reflect the business done in Virginia. (§ 58.1-446 of the Code of Virginia.)

B. § 2. Additions.

The purpose of the additions specified in § 58.1-402 of the Code of Virginia is to add to Virginia taxable income certain items excluded or deducted from federal taxable income. If an item was fully included in federal taxable income, then it will not be added to Virginia taxable income by this section. If an item was only partially included in federal taxable income, then the item will be added to Virginia taxable income only to the extent it was excluded or deducted from federal taxable income. If an item excluded or deducted from federal taxable income has already been included in Virginia taxable income by operation of some other section of the Code of Virginia, then the item will not be added again under this section. The additions are:

1. Interest on obligations of other states.

a. Interest on the obligations of any state other than Virginia or on the obligations of a political subdivision of such other state must be added to federal taxable income.

b. I.R.C. § 265 prohibits the deduction of expenses allocable to or interest on indebtedness incurred or continued to purchase or carry obligations exempt from federal income tax. If a corporation has interest income on obligations of other states and also has expenses or interest which were not deducted by operation of I.R.C. § 265, then the addition shall be reduced by the portion of such expenses or interest which is attributable to the interest income on obligations of other states.

EXAMPLE: Taxpayer has \$3,000 of income exempt from federal income tax of which \$1,000 is on obligations of a political subdivision of Virginia and \$2,000 on obligations of political subdivisions of states other than Virginia. Application of I.R.C. § 265 barred deduction of \$300 from federal taxable income. The addition is \$1,800 calculated as follows

$$2,000 - [300 \times \frac{2,000}{3,000}] = 1,800$$

c. If the interest is on an obligation created by a compact or agreement to which Virginia is a party, such interest shall not be added to Virginia taxable income.

2. Interest or dividends from the United States.

a. Interest or dividends on obligations or securities of any authority, commission or instrumentality of the United States, exempt from federal income tax but not from state income tax, must be added to federal taxable income.

b. If any related expenses were not deducted from federal taxable income by reason of I.R.C. § 265, then the addition shall be reduced by the portion of such expenses attributable to federal interest or dividends exempt from federal income tax.

3. Excess cost recovery.

If any deduction was claimed on taxpayer's federal return under the accelerated cost recovery system (ACRS) for taxable years beginning after December 31, 1981, 30% of such deduction must be added to federal taxable income. See regulation VR 630-3-323.

4. State income taxes.

If any Virginia income tax imposed by this chapter was deducted in determining federal taxable income, such amount shall be added to federal taxable income. If any net income taxes and other taxes, including franchise and excise taxes which are based on, measured by, or computed with reference to net income, imposed by any other taxing jurisdiction were deducted in determining federal taxable income. To determine if a particular tax imposed by another taxing jurisdiction is a net income tax see regulation VR 630-3-405.

5. Unrelated business taxable income.

Organizations described in I.R.C. § 501(c) are exempt from federal income tax unless they have unrelated business income, in which case a tax is imposed on "unrelated business taxable income" defined in I.R.C. § 512. The unrelated business taxable income of such organization must be added to Virginia taxable income if it has not already been included in federal taxable income.

6. ESOP credit carryover.

Federal law allows employers to claim a credit for contributions to an Employee Stock Ownership Plan (ESOP) and further provides that the amount of such contributions may not be deducted in computing federal taxable income. I.R.C. § 44G. Virginia law allows a subtraction for such contributions. See ~~paragraph (C)(11) of Va. Reg. § 630-3-402~~ § 3, paragraph 11 of these regulations. Federal law allows the ESOP credit to be carried over to subsequent years and, if any ESOP credit remains unused at the end of the carryover period, the unused credit may be deducted. If any ESOP credit carryover is deducted in computing federal taxable income under I.R.C. § 404(i) such amount shall be added to federal taxable

income in computing Virginia taxable income.

§ 3. Subtractions.

The purpose of the subtractions specified in § 58.1-402 of the Code of Virginia is to subtract from Virginia taxable income certain items included in federal taxable income. If an item was partially excluded or deducted in determining federal taxable income, then it shall be subtracted from Virginia taxable income only to the extent that it was included in federal taxable income. If an item has already been excluded from Virginia taxable income under this chapter, then it shall not be subtracted again under this section. The subtractions are:

1. Interest or dividends on obligations of the United States or Virginia.

a. "Obligation" means a debt obligation or security issued by the United States or any authority, commission or instrumentality of the United States or by the Commonwealth of Virginia or any of its political subdivisions, which obligation or security is issued in the exercise of the borrowing power of the United States or Virginia and is backed by the full faith and credit of the United States or Virginia.

b. Guarantees by the United States or Virginia of obligations of private individuals or corporations are merely contingent obligations of the United States or Virginia even though the guarantees may be backed by the full faith and credit of the United States or Virginia. The obligation does not become an obligation of the United States or Virginia because of the guarantee and interest and dividends paid on such guaranteed obligations do not qualify for the subtraction unless specified exempted by statute.

c. Specific statutory exemptions exist for certain securities issued by particular federal or Virginia agencies or political subdivisions. If a federal or Virginia statute exempts from state taxation the interest or dividends on specific securities of a particular agency or political subdivision then such interest or dividends qualify for the subtraction.

For examples of specific statutory exemptions see § 15.1-1383 of the Code of Virginia and 12 U.S.C.A. § 2055.

d. Repurchase agreements are usually obligations issued by financial institutions which are secured by U.S. obligations exempt from Virginia income taxation under subparagraphs a or c above. In such cases the interest paid by the financial institutions to purchasers of repurchase agreements does not qualify for the subtraction. Repurchase agreements issued following current commercial practice will be regarded as obligations of the issuing financial institution. However, if the purchaser is regarded as the true owner of the underlying exempt obligation,

the interest will qualify for the subtraction even though collected by the seller and distributed to the purchaser. Any claim of such ownership must be substantiated by a taxpayer claiming a subtraction.

2. Interest or dividends from pass-through entities.

a. Under federal law certain income received by a partnership, estate, trust or regulated investment company (pass-through entity) and distributed to a partner, beneficiary or shareholder (recipient) retains the same character in the hands of the recipient. If a pass-through entity receives interest or dividends on U.S. or Virginia obligations which is distributed to the recipients in a manner that the distributions retain their character in the hands of the recipients under federal law, then such interest or dividends may be subtracted by the recipients in computing Virginia taxable income.

b. A pass-through entity may invest in several types of securities, some of which are U.S. or Virginia obligations. When taxable income is commingled with exempt income all income is presumed taxable unless the portion of income which is exempt from Virginia income tax can be determined with reasonable certainty and substantiated. The determination must be made for each distribution to each shareholder. For example, if distributions are made monthly then the determination must be made monthly. As a particular matter, only pass-through entities which invest exclusively in U.S. or Virginia obligations, or which have extremely stable investment portfolios, will be likely to make such determinations.

c. Examples:

(i) ABC Fund, a regulated investment company, invests exclusively in U.S. Treasury notes and bills which are exempt from state taxation under 31 U.S.C.A. § 3124. All distributions are considered to be interest on U.S. Obligations and may be subtracted by the recipient.

(ii) Virginia Fund, a regulated investment company, invests exclusively in obligations of Virginia and its political subdivisions. Distributions are considered to be interest on Virginia obligations and qualify for the subtraction to the extent that such distributions are included in the recipient's federal taxable income.

(iii) XYZ Fund, a regulated investment company, invests in a variety of securities including obligations of the U.S., Virginia, other states, corporations and financial institutions (repurchase agreements). Due to the commingling of taxable and exempt income, the turnover in XYZ Fund's investments and the fluctuation in a shareholder's investment in XYZ Fund, all distributions are

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considered taxable income and do not qualify for the subtraction unless XYZ Fund determines the portion of distributions which is interest and dividends from U.S. and Virginia obligations for each distribution to each shareholder. Note that any portion of XYZ Fund's distributions which are excluded from federal taxable income as interest on obligations of other states must be added to Virginia taxable income.

3. DISC dividends.

a. A domestic international sales corporation (DISC) is exempt from the federal income tax under I.R.C. § 991. Virginia law does not provide a similar exemption. Therefore a DISC is subject to Virginia tax if it is a domestic corporation or doing business in Virginia.

b. I.R.C. § 995 imputes certain earnings of a DISC to the DISC's shareholders as a distribution taxable as a dividend. Subsequent actual distributions are excluded from the shareholder's income as being first made out of previously taxed income. I.R.C. § 996(a)(1). The deemed distributions will be considered dividends for the purpose of Va. Code pursuant to § 58.1-407 of the Code of Virginia (relating to allocation of dividend income). However, the provisions of Va. Code § 58.1-446 may apply to a DISC.

c. If 50% or more of the income of a DISC was assessable in Virginia for the preceding year, or the last year in which the DISC had income, then to the extent that deemed distributions from such DISC were included in taxpayer's federal taxable income, such amounts shall be subtracted from federal taxable income. For the purpose of this subtraction, 50% or more of the income of a DISC shall be deemed assessable in Virginia if the DISC filed a Virginia income tax return for the preceding year, or the last year in which the DISC had gross income, and such return shows either that all income was taxable in Virginia or that 50% or more of the income was allocated or apportioned to Virginia.

4. State tax refunds.

If federal taxable income included a refund or credit for overpayment of income taxes to this state or any other state, the amount of such refund or credit shall be subtracted from Virginia taxable income.

5. Foreign dividend gross up.

I.R.C. § 78 requires corporations electing to claim a credit for taxes paid to a foreign government by a subsidiary to deem the amount of such taxes a dividend and includes such amount in federal taxable income. If I.R.C. § 78 requires the inclusion of an

amount of federal taxable income then such amount, net of any expenses attributable to such amount, shall be subtracted from Virginia taxable income. A copy of I.R.S. form 1118, or similar form, shall be attached to the return to substantiate the subtraction.

6. WIN or Targeted Jobs credit.

Federal law permits a taxpayer to claim a credit based upon certain wages paid. I.R.C. §§ 40 and 44B. If a WIN or Targeted Jobs credit is elected I.R.C. § 280C bars the deduction of the wages on which the credit is based. To the extent such wages were not deducted from federal taxable income, they shall be subtracted from Virginia taxable income.

7. Subpart F income.

If I.R.C. § 951 requires an amount to be included in federal taxable income, then such amount, net of any expenses attributable to such amount, shall be subtracted from Virginia taxable income.

8. Foreign source income.

If federal taxable income includes any amount that is "foreign source income," as that term is defined in § 58.1-302 of the Code of Virginia, and the regulations thereunder, such amount may be subtracted.

9. Excess cost recovery.

If the taxpayer included any excess cost recovery in its additions for taxable years beginning after December 31, 1981, then taxpayer may subtract a portion of such excess cost recovery in returns for taxable years beginning after December 31, 1983. See regulation VR 630-3-323.

10. Dividends received.

To the extent included in federal taxable income there shall be subtracted from Virginia taxable income the dividends received from a corporation when the taxpaying corporation owns 50% or more of the voting power of all classes of stock of the payer.

11. ESOP contributions.

Federal law allows employers to claim a credit for contributions made to an Employee Stock Ownership Plan (ESOP), and further provides that any ESOP contributions for which a credit is allowed may not be deducted in computing federal taxable income. I.R.C. § 44G. If any ESOP contributions are not deducted in computing federal taxable income because of the provisions of I.R.C. § 44G, such contributions may be subtracted in computing Virginia taxable income.

12. Qualified agricultural contributions.

a. Generally. The amount of any qualified agricultural contribution shall be subtracted from federal taxable income in determining Virginia taxable income.

b. Qualified contributions. Contributions that qualify for subtraction from federal taxable income are contributions of agricultural products made between January 1, 1985, and December 31, 1987, by a corporation engaged in the trade or business of growing or raising such products.

(1) To be subtractible, a contribution must be made to an organization exempt from federal income taxation under I.R.C. § 501(c)(3) and must meet the following tests: (i) the product contributed must be fit for human consumption, i.e., edible products; (ii) the use of the product by the donee must be related to the purpose or function for which the donee was granted exemption under I.R.C. § 501(c)(3) (for instance, contributions of crops to a foundation organized for scientific or literary purposes would not qualify, but contributions of crops to a nonprofit food bank would qualify); (iii) the contribution is not made in exchange for money, property, or service; and (iv) the donor must obtain from the donee a written statement representing that the donee's use and disposition of the product will be in accordance with its charitable mission. Such written statements also must list the type and quantity or volume of products contributed, state that the products donated are fit for human consumption, and state the use to which the donations will be put. Such written statements must be filed with the corporation's income tax return when the subtraction for qualified agricultural contributions is claimed.

(2) To be subtractible from federal taxable income under the above tests, the donee must make use of the agricultural products donated to it consistent with the purpose for which it was granted exemption under I.R.C. § 501(c)(3). Therefore, contributions of crops to a charitable organization that provides food to the needy would qualify. However, contributions of crops to an organization that does not itself provide food to the needy would not qualify, even if the donee in turn contributes the crops to an organization that provides food to the needy.

c. Agricultural products. Crops are the only agricultural products eligible for subtraction when donated. Thus, the subtraction is limited to contributions of products of the soil and does not include contributions of animal products.

d. Computation of subtraction. The subtraction for qualified agricultural contributions is equal to the lowest wholesale market price in the nearest regional market of the type of product(s) donated during the month(s) in which donations are made.

For the purposes of determining the lowest wholesale market price for a particular product, a corporation must use the lowest wholesale market price, regardless of grade or quality, published [in the month of subtraction] by the U.S. Department of Agriculture [Market News Service on Fruits, Vegetables, Ornamentals, and Specialty Crops] for the regional market nearest to the corporation's place of business.

e. Limitation on subtraction. The subtraction for qualified agricultural contributions shall be reduced by the amount of any other charitable deductions under I.R.C. § 170 relating to qualified agricultural contributions if the deductions are claimed on a corporation's federal return for the taxable year in which the contribution is made, or if the deductions are eligible for carryover to subsequent taxable years under I.R.C. § 170. For example, a corporation which deducts charitable contributions of qualified agricultural products for federal and state income tax purposes must reduce its Virginia subtraction for qualified agricultural contributions by the amount of its charitable deductions for the same products. If the corporation's total charitable contributions of qualified agricultural products exceed the deduction ceiling set by federal law and the corporation is eligible to carryover deductions to subsequent years, the corporation must also subtract the deductions available for carryover from the value of its qualified agricultural contributions.

[EXAMPLE:

Corporation contributes one thousand 50-pound sacks of round white potatoes to a local nonprofit food bank. The corporation's basis in the contributed property is \$200, of which it claims \$100 as a charitable contribution on its 1986 federal income tax return and will carryover \$100 as a charitable deduction in its taxable year 1987 federal income tax return. During the month in which the contribution was made, the lowest wholesale market price for a 50-pound sack of round white potatoes published by the U.S. Department of Agriculture Market News Service in the regional market nearest the corporation's place of business was \$2. The corporation's deduction for its qualified agricultural contribution would be computed as follows:

| | |
|---|------------|
| Units contributed | 1000 |
| Lowest wholesale market price of unit x | \$ 2 |
| | \$2,000 |
| Charitable deduction claimed on contribution (\$ 100) | |
| Charitable deduction carried over | (\$ 100) |
| Deduction for qualified agricultural contribution | (\$ 1,800) |

Section revised 1/87]

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Title of Regulations: VR 630-10-18.1. Catalogs and Other Printed Materials. (Retail Sales and Use Tax)

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 21, 1987

Summary:

This regulation sets forth the application of the sales and use tax to catalogs, brochures, letters, reports, and similar printed materials produced for use outside the state. The final regulation does not differ substantially from the proposed regulation.

VR 630-10-18.1. Catalogs and Other Printed Materials. (Retail Sales and Use Tax)

§ 1. Definitions.

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

"Administrative supplies" means, but is not limited to, letterhead, envelopes and other stationery, invoices, billing forms, payroll forms, price lists, time cards, computer cards, certificates, business cards, diplomas, and awards. The term also includes supplies for internal use by the purchaser, such as menus, calendars, datebooks, desk reminders, appointment books, and employee newsletters.

"Other printed materials" means items which are similar to catalogs and which are used in advertising tangible personal property for sale. Brochures, leaflets, and similar items are examples of other printed materials, but price lists, merchandising displays, floor racks, and similar items are not.

"Similar printed materials" means printed materials used for promotional purposes, except administrative supplies.

A. § 2. Generally.

The tax does not apply to catalogs and other printed materials or to paper furnished to a printer for fabrication into catalogs and other printed materials used in advertising tangible personal property for sale, and any envelopes, containers and labels used for packaging and mailing them, when stored for 12 months or less in the state and distributed for use outside this state.

The tax does not apply to catalogs and other printed materials, and envelopes, containers and labels for mailing unless the materials meet all three of the following conditions:

1. The materials will be stored in Virginia for less than 12 months;
2. The materials will be distributed for use outside

Virginia; and

3. The materials will be used for advertising the sale of tangible personal property.

As explained in detail in regulation VR 630-10-86.H [, § 9,] letters, brochures, reports, and similar printed materials, other than administrative supplies, are exempt from the tax from July 1, 1986, to June 30, 1990, provided such materials (i) will be stored in Virginia for less than 12 months and (ii) will be distributed for use outside Virginia. Examples of taxable and exempt printed materials are listed in VR 630-10-86.H [, § 9]. It should be noted that some items not qualifying for exemption as catalogs and other printed materials may qualify for the exemption explained here and in regulation VR 630-10-86.H [, § 9].

B. Other printed materials defined.

As used in this regulation, the term "other printed materials" means items which are similar to catalogs and which are used in advertising tangible personal property for sale. Brochures, leaflets, and similar items are examples of other printed materials. "Other printed materials" does not include price lists, merchandising displays, floor racks and similar items which are not similar to catalogs.

The tax does apply to any type of property or materials other than catalogs and printed materials, and envelopes, containers and labels used for packaging and mailing them. Section added 1/79; section revised 1/85 , 7/86 .

* * * * *

Title of Regulation: VR 630-10-24.4. Common Carriers of Property or Passengers by Railway (Retail Sales and Use Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 21, 1987

Summary:

This regulation sets forth the application of the sales and use tax to common carriers of property or passengers by railway.

The final regulation does not differ substantially from the proposed regulation.

VR 630-10-24.4. Common Carriers of Property or Passengers by Railway (Retail Sales and Use Tax).

§ 1. Definitions.

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

"Common carrier" means a railway which holds itself out to carry goods by rail for hire for anyone who would employ it and/or which holds itself out to carry all proper persons who apply to be passengers. A private carrier by rail is not a common carrier within the meaning of this regulation and is not entitled to an exemption from the tax.

"Use or consumption directly" means those activities that are an integral part of the rendition of common carrier service by a railway. Items of tangible personal property that are used or consumed directly in the rendition of common carrier service by a railway are those that are both indispensable to the actual provision of the transportation service and used or consumed immediately in the performance of such service. The fact that a particular item may be considered essential to the rendering of such transportation service because its use is required either by law or practical necessity does not, of itself, mean that the property is used directly in the rendition of the service. As described in § 4 of this regulation, items of tangible personal property which are to be incorporated into and will become a part of a railway's owned or leased transportation system are deemed to be used directly in the rendition of its public service; however, tangible personal property used in general and administrative activities and activities not related to a railway's transportation system are deemed not to be used directly in the rendition of its public service. The terms "use" or "consumption" directly includes tangible personal property used in the repair and maintenance of a railway's transportation system to keep it in operation.

§ 2. Generally.

Tangible personal property purchased or leased by a common carrier of property or passengers by railway for use or consumption directly in the rendition of its public service is exempt from the sales and use tax.

§ 3. Railway common carrier activities.

A. The activities of a railway as defined in the Uniform System of Accounts for Railroad Companies prescribed by the Interstate Commerce Commission are (i) way and structures, (ii) equipment, (iii) transportation, and (iv) general and administrative. The following is a description of each activity:

1. Way and structures.

This activity entails the repair, maintenance, and acquisition of right-of-way and track, structures, buildings, and facilities, including TOFC terminals, signals and interlockers, highway grade crossings, running tracks, passing tracks, crossovers, and switching tracks. Functions attributable to accounts 1-43 and 45 of the Uniform System of Accounts as of October 1, 1983, are included in this activity.

2. Equipment.

This activity entails the repair, maintenance, and acquisition of transportation and other operating equipment, including locomotives, freight train cars, passenger train cars, highway revenue equipment, floating equipment, and work equipment. Functions attributable to accounts 44 and 52-58 of the Uniform System of Accounts as of October 1, 1983, are included in this activity.

3. Transportation.

This activity entails the operation, servicing, inspecting, weighing, assembling, and switching of trains; operation of highway revenue services; operation of facilities in connection with transportation operations (coal and ore terminals, intermodal terminals, and terminal grain elevators for example); operation of floating equipment and related facilities; and the operation of communications systems which primarily support train operations.

4. General and administrative.

This activity entails the provision of overall administrative and other general support for carrier operations. For the purposes of VR 630-10-24.4, this activity includes general and administrative functions relating to operating and nonoperating activities, including executive, legal, financial, treasury, accounting, budgeting, taxation, corporate planning, costing, marketing, advertising, traffic, corporate secretary, public relations, real estate, insurance administration, personnel administration, pension plan administration, general purchasing, labor relations, internal auditing, industrial engineering, and regulatory reporting.

B. As noted in the Uniform System of Accounts, certain general and administrative functions may be included within the way and structures, equipment, and transportation activities. Such functions include the payment of salaries and wages, fringe benefits, and other directly supportive administrative functions. Tangible personal property used in such functions is taxable.

§ 4. Taxable and exempt usage.

The following are descriptions and examples of taxable and exempt uses of tangible personal property attributable to the four primary railway activities. The listings of items for each activity are intended to be representative, but not exhaustive.

1. Way and structures (Accounts 1-43 and 45 of the Uniform System of Accounts).

Tangible personal property used in this activity is generally subject to the tax to the extent it is not an integral part of a railway's roadbed. Taxable property

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includes materials used to construct or erect most structures (station and office buildings, roadway buildings, sidewalks, driveways, etc.); structures carrying public roads; railway tunnels (except rails and roadbed); and items used in administrative support of the activity. Exempt items used directly in the rendition of common carrier service include rails; ties; roadbed materials; materials used to construct or erect railway bridges and trestles (except foundations); materials used to construct or erect piers, wharves and docks (except foundations); and signals. Tangible personal property, i.e. machinery, tools, etc., used to produce exempt tangible personal property such as signals, track materials, etc., is considered to be used indirectly in the rendition of common carrier service and is taxable.

Taxable:

Expenses and supplies of the type listed in account 1, engineering, of the Uniform System of Accounts, including atlases and maps, books, furniture, stationery, etc.;

Surveying equipment, supplies, tripods, etc.;

Other supplies and equipment used in providing administrative support or for the personal comfort of employees;

All material used to repair general offices, shops, stations, roadway buildings, air conditioning, plumbing and heating, etc.;

Materials used in the construction, repair or maintenance of station and office building structures, roadway building structures, water station structures, fuel station structures, shop and enginehouse structures, storage warehouses, terminal building structures, dams and canals, power plant building structures, and employee and other parking lots;

Materials used in the construction, repair or maintenance of public improvements, including bridges and grade crossings used to carry public or private roads over, under, or across railway tracks;

Materials used in the construction, repair or maintenance of tunnels (except rails and roadbed);

Power plant machinery;

Telephones, switchboards, and other communications systems used for administrative purposes;

Tangible personal property used in work on roads, sidewalks, ditches, drains, right-of-way (other than track, roadbed, and signals), etc.; and

Security fences around track, railyards, etc.

Exempt

Ties, rails and spikes;

Ballast;

Switches and switch heaters;

Track panels, frogs, turnouts, cribbing, and similar track material;

Materials used to construct or erect railway bridges, trestles, piers, wharves, and docks, except that materials used in the foundations of such structures are taxable;

Signals and interlockers, including signals used for protection at grade crossings, crossing gates, and grade crossing warning bells;

Centralized traffic controls, visual and electronic train monitoring and control systems;

Tangible personal property used by a railway common carrier to clear and grade for roadway, and lay down roadway;

Equipment, tools, and supplies used by a railway common carrier to install, maintain, and repair track, ties, roadbed, signals; monitoring and control systems, and traffic control systems; however, tangible personal property used in the fabrication or production of exempt tangible personal property is deemed to be used indirectly in the rendition of common carrier service, for instance machinery used to produce exempt signal systems is taxable;

Repair and replacement parts, fuel, and supplies used to repair and maintain exempt revenue equipment and equipment used to service or repair exempt revenue equipment tract and communications systems; and

Coal pier and other bulk commodity loading, unloading, and thawing equipment.

2. Equipment (Accounts 44 and 52-58 of the Uniform System of Accounts).

Tangible personal property, other than administrative supplies, employee comfort supplies, and equipment and structures of all types, used in this activity is exempt from the tax.

Taxable:

Arm rests and cab cushions (other than for passenger use);

Clocks;

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Beds and bedding (other than for passenger use);
Furniture (other than for passenger use);
Kitchen equipment and supplies (other than for passenger use);
Instructional cars;
Ditching cars;
Officers cars;
Business cars;
Painters cars;
Pay cars;
Scale test cars; and
Supplies and equipment used to maintain or repair company automobiles and general purpose trucks;
Materials and supplies used for the upkeep of shop and repair facilities; and computer systems used for general administrative and financial accounting purposes.

Exempt:

Fire extinguishers used on revenue equipment;
Locomotives;
Freight cars;
Passenger cars;
Dynamometer cars;
Tool cars;
Ballast cars;
Rail test cars (rail test cars may be subject to the motor vehicle sales and use tax, however);
Wreck cranes;
Weed burners;
Snowplow equipment used to clear track to allow for passage of revenue equipment except snow removal equipment for general yard use;
Highway revenue equipment including chassis and containers;
Floating equipment used for the transportation of freight or passengers; and

Computer systems used for guidance, monitoring or control of train movements;

Tangible personal property used in the repair and maintenance of revenue equipment, including wheel truing machines, electric testing equipment, cranes, locomotive and car rebuilding machinery, etc.

Tangible personal property used in cleaning and painting (including lettering) revenue equipment; and

Tangible personal property used in clearing wrecks.

3. Transportation.

Tangible personal property used in this activity is generally exempt from the tax as this activity relates primarily to the direct operation of railways. Of course, administrative support activities and activities which are indirectly a part of rendition of common carrier service are taxable.

Taxable:

Crew meals and lodging;

Tangible personal property used in supporting activities such as sorting and handling waybills, reporting car movement data, etc., except equipment for communication between monitoring and control personnel and revenue equipment; and

Tangible personal property used for general administrative purposes or for the comfort of employees.

Exempt:

Equipment used in switching trains;

Equipment used in fueling, lubricating, maintaining, and repairing revenue and service equipment;

Equipment used on revenue equipment to maintain commodities (freight) at constant temperatures;

Equipment used in and for communication between monitoring and control personnel and revenue equipment;

Tangible personal property used in receiving, sorting, and loading freight, containers, or trailers or in adjusting or transporting loads, including scales, forklifts, conveyer systems, piggybackers, racks, hand trucks, packing material, straps, blocking and bracing materials, chains, and waybills, freight bills or bills of lading carried with the freight being transported; and

Decals and lettering used on revenue equipment.

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NOTE: In the case of the way and structures, equipment, and transportation activities, tangible personal property used in the servicing, maintenance or repair of tangible personal property is exempt from the tax only to the extent that the tangible personal property serviced, maintained or repaired is exempt from the tax.

4. General and administrative.

Tangible personal property used in the general and administrative activity is taxable. Such property includes office supplies, office equipment, furniture, tariff rate schedules, billing supplies and equipment, payroll supplies and equipment, etc.

§ 5. Metro and Amtrak.

Notwithstanding other provisions of VR 630-10-24.4, the commuter rail service operated by the Washington Metropolitan Area Transit Authority [(METRO)] enjoys a sales and use tax exemption under federal law on all tangible personal property and services purchased or leased by it. The same exemptions are enjoyed by the National Rail Passenger Corporation [(AMTRAK)].

The only requirement for exemption under this section is that a purchase must be paid for out of Metro or Amtrak funds. This requirement is not met when an employee pays for tangible personal property or lodgings out of his own funds, even though he may later be reimbursed by Metro or Amtrak, or when such charges are paid for out of a Metro or Amtrak cash advance. The requirement is met when purchases are pursuant to Metro or Amtrak purchase orders, billed directly to Metro or Amtrak or paid for by Metro or Amtrak credit card or check.

§ 6. Contractors.

Generally, purchases of tangible personal property by contractors in connection with real property construction contracts with railway common carriers are taxable sales to such contractors for their own use or consumption. Only in instances where the credit of a railway common carrier is bound directly in a purchase by a contractor and the contractor has been officially designated as a purchasing agent for the railway will such purchases be deemed to be those of the railway and taxable or exempt as set forth in §§ 1 through 5 of this regulation.

Contractors are not subject to the use tax when provided with tangible personal property by a railway common carrier in connection with a real property construction contract provided that the tangible personal property so furnished enjoyed a sales and use tax exemption when purchased by the railway common carrier.

§ 7. Proration.

It is possible that an item of tangible personal property

may be used in both a taxable and exempt manner. In such cases, the sales and use tax base should be computed by multiplying the sales price or cost price, whichever is applicable, of the item by the percentage of time that the item is used in a taxable manner.

§ 8. Lost, damaged or unclaimed property.

The tax does not apply to compensation paid by a railway common carrier to a customer for tangible personal property lost or damaged while in the carrier's possession. If a railway common carrier sells damaged or unclaimed property, it must register as a dealer and collect and pay the tax.

§ 9. Demurrage.

Charges to shippers or consignees for their failure to release a railway car within a specified period after placement, known as demurrage charges, are not subject to the sales and use tax. Such charges are not taxable as they are part of the total nontaxable charge for transporting property. This regulation addresses only those demurrage charges for the retention of railway cars and has no application to taxable demurrage charges for gas cylinders and other tangible personal property.

Section added 10/86.

Title of Regulation: VR 630-10-86. Printing. (Retail Sales and Use Tax)

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 21, 1987

Summary:

This regulation sets forth the application of the sales and use tax to brochures, letters, reports, and similar printed materials produced for use outside the state, as well as the application of the tax to the production and sale of printing in general.

The final regulation does not differ substantially from the proposed regulation.

VR 630-10-86. Printing. (Retail Sales and Use Tax).

§ 1. Definitions.

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

"Administrative supplies" means, but is not limited to, letterhead, envelopes and other stationery, invoices, billing forms, payroll forms, price lists, time cards, computer cards, certificates, business cards, diplomas, and awards.

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The term also includes supplies for internal use by the purchaser, such as menus, calendars, datebooks, desk reminders, appointment books, and employee newsletters.

"Consumer printing" means the production or fabrication of printed matter for one's own use or consumption and not for resale.

"Custom printing" means the production or fabrication of printed matter in accordance with a customer's order of copy for the customer's use or consumption.

"Publisher printing" means the printing of books, newspapers, magazines or other periodicals for sale or resale by the publisher-printer and includes the printing of a "publication" as defined in VR 630-10-73 which is distributed free of charge.

A. § 2. Generally.

The printing of tangible personal property for sale or resale is deemed to be industrial manufacturing. Therefore, to the extent relevant, the provisions of VR 630-10-63 apply to printing *except as otherwise noted*.

B. § 3. Custom printing.

1. **Custom printing defined.** Custom printing is the production or fabrication of printed matter in accordance with a customer's order of copy for the customer's use or consumption.

2. A. Sales.

Unless otherwise noted, the sale of custom printing is the *represents a taxable* sale of tangible personal property. The tax is computed on the total invoice charge made on the transaction. The total invoice charge includes the charge made for any engraved, lithoplated, or other type photoprocessed plate, die, or mat involved in the printing and includes the charge made for printing and imprinting when the customer ~~furnished~~ furnishes the printing stock. The printer must add the amount of the tax to the invoice charge.

3. B. Purchases.

Purchases by the printer of items which become part of the printed matter for sale or resale are not subject to the tax. Examples of such property include ink, printing stock, staples, stapling wire, binding twine, and glue. Purchases by the printer of items used directly in the production of tangible personal property for sale or resale are similarly not subject to the tax. Examples of such items ~~included~~ include engraved, photo-processed, lithoplated, or any other type of plate, die or mat, machinery and tools and their replacement parts, blotting papers, drying papers, and typesetting.

C. § 4. Consumer printing.

1. **Consumer printing defined.** Consumer printing is the production or fabrication of printed matter for one's own use or consumption and not for resale.

2. **Purchases.** Consumer printing is not the production of printed matter for sale or resale. Therefore, the tax applies to all purchases by persons engaged in consumer printing, *except as provided in § 7 Catalogs and other printed advertising materials, and § 8 Letters, brochures, reports and similar printed materials.*

D. § 5. Publisher printing.

1. **Publisher printing defined.** Publisher printing is the printing of books, newspapers, magazines or other periodicals for sale or resale by the publisher printer and includes the printing of a "publication" as defined in § 630-10-73 which is distributed free of charge.

2. A. Sales.

A publisher-printer making retail sales of books, etc., must add the tax to the charge. He must register as a dealer and collect and pay the tax. But the sale of any publication issued daily, or regularly at average intervals not exceeding three months is exempt from the tax, except as to the newsstand sales thereof (See VR 630-10-73).

3. B. Purchases.

The tax applies to purchases by publisher-printers in the same manner as that set forth in ~~Subsection (B)(3) above~~ § 3 relating to custom printing. The manufacturing exemption set forth in VR 630-10-63 applies to the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine defined as a publication under VR 630-10-73.

§ 6. Materials furnished to printers.

The tax does not apply to paper, ink, and other materials furnished to printer that will become component or ingredient parts of products fabricated by the printer. Materials, such as photographs and plates, that are furnished by customers, but do not become a part of the printer's finished product, are taxable.

§ 7. Catalogs and other printed advertising materials.

The tax does not apply to catalogs and other printed materials when distributed for use outside the state after storage in Virginia for one year or less. The tax also does not apply to the envelopes, containers, and labels used to package and mail the catalogs and printed materials exempted above. This exemption applies to materials printed for one's own use or consumption as well as materials printed for sale or resale, provided that such materials are used outside the state after storage here for less than one year.

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For a more detailed description of the statutory exemption for catalogs and other printed advertising materials, including a description of the materials qualifying for exemption, see regulation VR 630-10-18.1.

§ 8. Letters, brochures, reports and similar printed materials.

A. Generally.

From July 1, 1986 to June 30, 1990, letters, brochures, reports, and similar printed materials (except "administrative supplies" as defined in § 1. Definitions, are exempt from the tax when stored for 12 months or less in Virginia and mailed to or distributed outside of Virginia. Neither does the tax apply to the envelopes, containers, and labels used to package and mail the materials exempted as well as materials printed for sale or resale.

B. Administrative supplies.

Administrative supplies as defined in § 1. Definitions, are subject to the tax when sold at retail. The only administrative supplies that are not taxable are those that become an integral part of the exempt printed materials described above and in § 7 Catalogs and other printed advertising materials. For example, letterhead upon which fundraising or promotional letters are printed, return envelopes enclosed with fundraising letters, and price lists enclosed within catalogs advertising tangible personal property for sale or resale are not taxable.

C. Examples of exempt printed materials.

When stored in Virginia for 12 months or less and mailed to or distributed outside of Virginia, the following printed materials are exempt from the tax:

Fund raising and promotional letters, circulars, folders, brochures, and pamphlets, including those for charitable, political, and religious purposes;

Corporate stockholder meeting notices;

Proxy materials and enclosed proxy cards;

Meeting and convention promotional materials;

A business prospectus;

Corporate monthly, quarterly, and annual stockholder reports;

Announcements, invitations and informational pieces for external promotional purposes;

Greeting cards, brochures, menus, calendars, datebooks, desk reminders, appointment books, art prints, and posters for external promotional purposes; and

Printed point-of-purchase sales devices, including display racks, animated and action pieces, posters and banners.

The foregoing list is merely illustrative of exempt printed items and is not designed to be all inclusive.

§ 9. Sales of printing to customers outside of Virginia.

The sale and delivery of printing from a Virginia printer to a customer outside the Commonwealth is not taxable, provided the conditions set forth in VR 630-10-51 on interstate commerce are met. Except as provided in § 6 Materials furnished to printers, and § 7 Catalogs and other printed advertising materials above, however, the delivery to a customer of printing in Virginia by any means is taxable. For example, a taxable transaction occurs when an out-of-state customer sends a truck into Virginia to pick up materials sold to him by a Virginia printer. The tax would not be due in a similar situation, however, if the printer shipped the materials to the out-of-state customer by common carrier of the U.S. mail. When a customer purchases printing and directs the printer to ship materials to the customer's business location both within and without Virginia, the tax is applicable only to the materials delivered to the Virginia locations. On the other hand, the tax is applicable in full when printing is delivered to a central storage facility in Virginia for subsequent distribution to facilities outside the Commonwealth, except as otherwise noted in § 6 Materials furnished to printers, and § 7 Catalogs and other printed advertising materials above.

I. Sales for resale.

Sales of printing to customers for resale by them are not taxable, provided that the printer is furnished a resale exemption certificate by the purchaser. An example of an exempt sale for resale is the sale of labels that will be affixed to canned goods, clothing, or other items of tangible personal property that will be sold to consumers. Also exempt are bags, boxes, and other printed materials used to package products for sale of resale.

E. J. Photocopying.

As used in this regulation, the term "printing" does not include photocopying or photostating of copies. For the tax application to these activities, see § 630-10-82. The sale of photocopies and photostats represents the taxable sale of tangible personal property. "Quick printers" and persons operating photocopy or photostating machines primarily for the reproduction of copy furnished by customers are not industrial manufacturers and are not entitled to exemption from the tax on machinery and tools used in their businesses. Such persons may purchase exempt from the tax only those items, such as paper, that will become ingredient or component parts of the finished products they sell. The application of the tax to photocopying is also described in VR 630-10-82.

For publications, see VR 630-10-73; for manufacturers, see VR 630-10-73; for typesetting, see VR 630-10-108.1. Section revised 1/85 , 7/86 .

EMERGENCY REGULATION

VIRGINIA AVIATION BOARD

Title of Regulation: Rules and Regulations Governing the Licensing of Airmen, Aircraft and Airports, and the Operations of Aircraft and Airports in the State of Virginia; Rule 1. Definitions; Rule 19. Minimum Requirements for Licensing.

Statutory Authority: § 5.1-2.2 of the Code of Virginia.

Effective Date: November 25, 1986, through November 24, 1987.

Basis of Emergency:

The Virginia Aviation Board has determined that in order to promote safe aviation practices and operations, certain rules and regulations should be amended.

Because all of the amendments will impact favorably on air safety, the board believes that the public's interests require the amendments' immediate adoption through an emergency regulation. The Department of Aviation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of the emergency regulation.

Summary:

Rule 1, which contains definitions of words and terms used in the rules and regulations, is amended to provide additional definitions.

Rule 19, which sets forth the minimum requirements for licensing of commercial, public use airports, is amended to provide clarity and to specifically provide that the minimum requirements shall be of a continuing nature, not merely requirements at the time of initial licensure.

Rules and Regulations Governing the Licensing of Airmen, Aircraft and Airports, and the Operation of Aircraft and Airports in the State of Virginia; Rule 1. Definitions; Rule 19. Minimum Requirements for Licensing.

Add to Section I, Rule 1 these definitions in alphabetical order:

"Approach surface" means a surface longitudinally centered on the extended runway centerline and extending outward and upward at a slope of 15:1 from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

a) 1,200 feet for that end of a runway with only visual approaches.

b) 2,000 feet for that end of a runway having or proposing to have a nonprecision instrument approach procedure.

"Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 15:1 for a horizontal distance of 4,000 feet.

"Effective runway length" means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway to the far end thereof.

"Helipad" means a rectangular or square specially prepared surface that may be turf or paved which is designated specifically for the purpose of landing and takeoff of helicopter aircraft.

"Heliport" means any area of land or building structure which is used or intended for use for the landing and takeoff of helicopter aircraft, and any appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon.

"Heliport approach surface" means a surface beginning at each end of the heliport primary surface with the same width as the primary surface, and extending outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8:1 for civil heliports and 10:1 for military heliports.

"Heliport primary surface" means the area of the primary surface coinciding in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

"Heliport transitional surface" means a surface extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2:1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

"Horizontal surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of the arc is 5,000 feet.

"Obstacle" means any fixed or mobile object that is located on an area intended for the surface movement of aircraft, or that extends above a defined surface intended to protect aircraft in flight, that interferes with the siting or operation of navigational aids, or that may control the establishment of instrument procedures.

Emergency Regulation

"Obstruction clearance plane" means a plane sloping upward from the runway at a slope of 15:1 to the horizontal and tangent to or clearing all obstructions within a specified area surrounding the runway as shown in a profile view of that area.

"Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 100 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The minimum width of a primary surface is 200 feet.

"Runway" means a rectangular specially prepared surface that may be turf or paved which is designated specifically for the purpose of landing and taking off of aircraft.

"Runway safety area" means a rectangular area, symmetrical about the runway centerline, which includes the runway, runway shoulders, and stopways, if present. The portion abutting the edge of the runway shoulders, runway ends and stopways is cleared, drained, graded, and usually turfed. Under normal conditions, the runway safety area is capable of supporting snow removal, firefighting, and rescue equipment and of accommodating the occasional passage of aircraft without causing major damage to the aircraft.

"Stopway or overrun" means any area beyond the takeoff runway, no less wide than the runway and centered upon the extended centerline of the runway, able to support the airplane during an aborted takeoff without causing structural damage to the airplane, and designated by the airport authorities for use in decelerating the airplane during an aborted takeoff.

"Transitional surface" means a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 5 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface.

Delete Rule 19 In Its Entirety And Substitute In Lieu Thereof The Following:

Rule 19. Minimum Requirements for Licensing.

The minimum standards which are required for initial and continued licensing or permitting under §§ 5.1-7 and 5.1-8 of the Code of Virginia will provide for an effective runway length of 2,000 feet with 100 feet of overrun and unobstructed approach surfaces of 15:1 slope at each end of the runway. The airport will have an unobstructed primary surface(s) which is 2,200 feet in length and 200 feet in width. There will be unobstructed transition

surfaces of 5:1 slope on either side of the primary and approach surfaces. The minimum runway width shall be 60 feet and the minimum runway safety area width shall be 130 feet.

An airport runway licensed or permitted specifically and solely for the purpose of accommodating short-takeoff-and-landing aircraft may, at the discretion of the department, be less than 2,000 feet in length; however, all other dimensional standards will apply.

The minimum dimensional standards which are required for licensing or permitting a commercial, public-use landing area for use as a heliport will provide for minimum heliport dimensions of 75 feet square. The heliport will have unobstructed primary, approach and transition surfaces in accordance with § 1 of these rules and regulations.

In addition to the investigation required for safety provisions as outlined in § 5.1-8 of the Code of Virginia, a detailed consideration of the economic, social and environmental effects of the airport location shall be conducted. These considerations may include hearings as required to assure consistency with the goals and objectives of such planning as has been carried out by the community. Secs. 5.1-7, 5.1-8.

/s/ Lennie Ellis, Chairman
Virginia Aviation Board
Date: October 24, 1986

/s/ Kenneth A. Rowe, Director
Virginia Department of Aviation
Date: October 24, 1986

/s/ Vivian E. Watts
Secretary of Transportation
Date: October 31, 1986

/s/ Gerald L. Baliles
Governor of Virginia
Date: November 24, 1986

/s/ Joan W. Smith, Registrar of Regulations
Virginia Code Commission
Date: November 25, 1986 - 3:32 p.m.

VIRGINIA BOARD OF DENTISTRY

Title of Regulation: Emergency Regulations of the Board of Dentistry.

Effective Date: November 25, 1986, through November 24, 1987.

Summary:

The Virginia Board of Dentistry finds it is necessary

Emergency Regulation

to increase renewal fees by emergency regulation. If higher fees are not adopted prior to the upcoming renewal of licenses, in March of 1987, the board's revenue will not meet anticipated expenses for the biennium. By increasing renewal fees, the board can generate adequate funds to implement its program mandated by law.

Basis of Emergency:

The Virginia Board of Dentistry last raised its fees in 1982. Expenses have risen significantly as a result of increased complaint investigations. The board anticipates a biennial deficit of approximately \$80,500 if this renewal fee increase is not effected by March, 1987.

As a result of a thorough regulatory review, the board is proposing a revised body of rules. The proposed new regulations include a fee structure which matches its financial needs. A Notice of Intent to promulgate these regulations has been filed and the board expects to begin a sixty day public comment period in November, 1986. However, normal rulemaking procedures will not be completed by the time renewals are mailed in January, 1987. Therefore, the board finds it necessary to adopt its new fee structure by emergency regulation.

Nature of Regulations:

The emergency regulations will:

1. Change the renewal deadline from March 1 to March 31, to make renewals consistent among all the boards in the Department of Health Regulatory Boards.

2. Increase biennial renewal fees for licensure of 4,600 dentists from \$60 to \$80 and increase biennial renewal fees for licensure of 2,200 dental hygienists from \$30 to \$50.

1986-1987 Biennium

Budget Expenditures\$581,546

Projected Revenue at Current

Fee Levels \$451,100

Projected Biennial Deficit Without Emergency Regulations (130,446)

Projected Additional Revenues at Fee Levels Proposed in Emergency Regulations\$136,000

The emergency regulations will be effective for a period of one year, or until they are modified or superceded by regulations promulgated according to normal rulemaking procedures under the Administrative Process Act.

The Virginia Board of Dentistry will receive, consider and respond to petitions by any interested persons at any time for the reconsideration or revision of these regulations, in accordance with its' Public Participation Guidelines. You may submit written comments to Nancy Feldman, Executive Director, Virginia Board of Dentistry, 1601 Rolling Hills Drive, Richmond, Va. 23229.

Emergency Regulations of the Board of Dentistry.

D. License Renewals Dentists and Dental Hygienists.

1. Every person authorized by this board to practice dentistry shall on or before March 31 of every odd numbered year pay to the board a biennial registration fee of ~~sixty (\$60)~~ eighty (\$80) and every dental hygienist shall in a like manner pay a biennial registration fee of ~~thirty (\$30)~~ fifty (\$50) dollars. The board shall issue a receipt therefore in such form as may be prescribed by the board.

Accuracy of Addresses. It shall be the duty and responsibility of each licensee to furnish the board at all times with his or her current address. All notices required by law or by these rules and regulations to be mailed to any such licensee shall be validly given when mailed to the address given. All changes shall be furnished to the board within five (5) days of such change.

E. Licensure Reinstatement.

1. Any person who does not return the completed form and fee by March 31 of each odd-numbered year shall be required to pay an additional twenty-five (\$25) dollar delinquent fee. The board shall renew a license when the renewal form is received by the following April 30, along with the completed form, the biennial registration fee, and the delinquent fee.

2. The license of any person who does not return the completed renewal form and fees by April 30 of every odd-numbered year shall automatically expire and become invalid. Upon such expiration, the board shall immediately notify the affected person of expiration and reinstatement procedures. Any person whose license has expired for failure to comply with § 54-181.1 or § 54-200.16.1 and who wishes to renew such license shall submit to the board a reinstatement form, application fee, the delinquent fee and renewal fee. The board may require an applicant for reinstatement to pass a reexamination satisfactory to the board and shall require of all persons whose licenses have not been renewed for five (5) years or more to satisfactorily complete the Southern Regional Testing Agency examinations.

The attached Statement of Need and Factual Basis is a true statement and forms the basis of this request for approval of emergency regulations by the Governor of Virginia.

Emergency Regulation

I concur with the statement and recommend approval:

/s/ Bernard L. Henderson, Jr., Director
Virginia Department of Health Regulatory Boards
Date: November 10, 1986

/s/ Gerald L. Baliles, Governor
Commonwealth of Virginia
Date: November 24, 1986

/s/ Joan Smith, Registrar of Regulations
Virginia Code Commission
Date: November 25, 1986 - 3:32 p.m.

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-10-17. Brackets for Collection of the Tax. (Retail Sales and Use Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 1, 1987 through December 31, 1987

ORDER ADOPTING AN EMERGENCY REGULATION OF THE DEPARTMENT

Pursuant to the authority vested in the Department of Taxation by § 58.1-203 of the Code of Virginia, and in accordance with § 9-7.14:9 of the Code of Virginia,

IT IS ORDERED that the following regulation be, and the same is hereby adopted

VR 630-10-17: Brackets for Collection of the Tax. (Retail Sales and Use Tax).

IT IS FURTHER ORDERED that this regulation shall be adopted upon the signature of the Governor and shall become effective on January 1, 1987 and remain in effect until December 31, 1987.

IT IS FINALLY ORDERED that this regulation be published and filed as required by the provisions of §§ 58.1-204, 9-6.14:9, and 9-6.14:22 of the Code of Virginia.

Enter: Virginia Department of Taxation

/s/ W. H. Forst
Tax Commissioner
Date: November 25, 1986

/s/ Gerald L. Baliles
Governor
Date: November 30, 1986

Joan W. Smith
Registrar of Regulations
Date: December 1, 1986 - 11:47 a.m.

Preamble:

Pursuant to legislation enacted by the 1986 Special Session of the General Assembly, the rate of the state and local sales and use tax was increased to 4 1/2 % and § 58.1-628 of the Code of Virginia was amended to change the bracket system for collection of the tax on transactions up to \$5. The rate increase and the new bracket system will take effect on January 1, 1987.

The Department of Taxation finds that an emergency situation exists necessitating the immediate promulgation of this regulation, that such emergency precludes the usual procedures set forth for the promulgation of regulations in the Virginia Administrative Process Act ("APA", § 9-6.14:1 of the Code of Virginia, et seq#UE.), and that emergency promulgation of this regulation is permitted in accordance with the APA.

The precise reason and factual basis for the emergency situation is that dealers impacted by this change will require guidance prior to the January 1, 1987, effective date of the sales and use tax rate increase and that a permanent regulation could not be adopted prior to such time under the provisions of the APA. It is therefore necessary to provide immediate guidance to such dealers for the period from January 1, 1987, until such time as a regulation can be formally adopted under the APA.

This emergency regulation shall be adopted upon the signature of the Governor and shall take effect on January 1, 1987. It will expire on December 31, 1987, at which time a regulation will have been adopted under the procedures set forth in the APA.

The Department of Taxation will receive, consider and respond to any comments or suggestions to reconsider or revise this emergency regulation which might be submitted by interested persons or groups prior to its expiration.

VR 630-10-17. Brackets for Collection of the Tax. (Retail Sales and Use Tax).

A. § 1. Generally.

The rate of the sales and use tax is 4 1/2 % which is composed of a 3 1/2 % state tax and a 1% local tax applicable throughout Virginia. (See VR 630-10-110 for special tax rate and provisions applicable to sales through vending machines.) The bracket system is used to eliminate fractions of one cent and must be used to compute the tax on transactions of \$5 or less. On transactions over \$5, the tax is computed at a straight 4 1/2 %, with one half cent or more is treated as one cent. Any dealer who collects the tax in accordance with the bracket system set forth herein shall not be deemed to have overcollected the tax. (For overcollection of the tax

Emergency Regulation

generally, see VR 630-10-24(D)).

B. § 2. Exception.

The bracket system does not relieve the dealer from the liability to pay an amount equal to 4 1/2 % of his gross taxable sales. However, there is one exception. If the dealer can prove to the department that more than 85% of the gross taxable sales for the period were from individual sales of 10 cents or less (and that he was unable to adjust prices to avoid the situation), the department will determine the proper tax liability of the dealer based on the portion of gross taxable sales that came from sales of 11 cents or more. Any dealer who may claim this exception must file with each return a separate statement explaining his claim in detail for consideration by the department.

C. § 3. Bracket chart for combined state and local tax. Below is the bracket system for the combined state and local tax of 4 1/2% on transactions of \$5 or less:

| | | | | |
|---------|---------|---------|------|---------|
| \$ 0.01 | 0.00 to | \$ 0.14 | 0.11 | no tax |
| 0.15 | 0.12 to | 0.34 | 0.33 | 1¢ tax |
| 0.35 | 0.34 to | 0.50 | 0.55 | 2¢ tax |
| 0.60 | 0.56 to | 0.84 | 0.77 | 3¢ tax |
| 0.85 | 0.78 to | 1.14 | 0.99 | 4¢ tax |
| 1.15 | 1.00 to | 1.34 | 1.22 | 5¢ tax |
| 1.35 | 1.23 to | 1.50 | 1.44 | 6¢ tax |
| 1.60 | 1.45 to | 1.84 | 1.66 | 7¢ tax |
| 1.85 | 1.67 to | 2.14 | 1.88 | 8¢ tax |
| 2.15 | 1.89 to | 2.34 | 2.11 | 9¢ tax |
| 2.35 | 2.12 to | 2.50 | 2.33 | 10¢ tax |
| 2.60 | 2.34 to | 2.84 | 2.55 | 11¢ tax |
| 2.85 | 2.56 to | 3.14 | 2.77 | 12¢ tax |
| 3.15 | 2.78 to | 3.34 | 2.99 | 13¢ tax |
| 3.35 | 3.00 to | 3.50 | 3.22 | 14¢ tax |
| 3.60 | 3.23 to | 3.84 | 3.44 | 15¢ tax |
| 3.85 | 3.45 to | 4.14 | 3.66 | 16¢ tax |
| 4.15 | 3.67 to | 4.34 | 3.88 | 17¢ tax |
| 4.35 | 3.89 to | 4.50 | 4.11 | 18¢ tax |
| 4.60 | 4.12 to | 4.84 | 4.33 | 19¢ tax |

| | | | | |
|---------|---------|------|------|---------|
| 4.85 | 4.34 to | 5.00 | 4.55 | 20¢ tax |
| 4.56 to | 4.77 | | | 21¢ tax |
| 4.78 to | 5.00 | | | 22¢ tax |

For differential rate on fuels for domestic consumption, see VR 630-10-40.2.

Section revised 7/69; 1/79; 1/85; 1/87 .

* * * * *

Title of Regulation: VR 630-10-31. Dealer's Returns and Payment of the Tax. (Retail Sales and Use Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 1, 1987 through December 31, 1987

ORDER ADOPTING AN EMERGENCY REGULATION OF THE DEPARTMENT

Pursuant to the authority vested in the Department of Taxation by § 58.1-203 of the Code of Virginia, and in accordance with § 9-6.14:9 of the Code of Virginia,

IT IS ORDERED that the following regulation be, and the same is hereby adopted

VR 630-10-31: Dealer's Returns and Payment of the Tax. (Retail Sales and Use Tax).

IT IS FURTHER ORDERED that this regulation shall be adopted upon the signature of the Governor and shall become effective on January 1, 1987 and remain in effect until December 31, 1987.

IT IS FINALLY ORDERED that this regulation be published and filed as required by the provisions of §§ 58.1-204, 9-6.14:9, and 9-6.14:22 of the Code of Virginia.

Enter: VIRGINIA DEPARTMENT OF TAXATION

/s/ W. H. Forst
Tax Commissioner
Date: November 25, 1986

/s/ Gerald L. Baliles
Governor
Date: November 30, 1986

/s/ Joan W. Smith
Registrar of Regulations
Date: December 1, 1986 - 11:48 a.m.

Preamble:

Section 58.1-622 of the Code of Virginia provides for dealers who collect and timely pay the sales and use

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tax to the Department of Taxation to receive a dealer's discount equivalent to 3% of the state sales and use tax shown on their returns. Pursuant to legislation enacted by the 1986 Special Session of the General Assembly, the rate of the state sales and use tax was increased to 3 1/2% effective January 1, 1987, and § 58.1-622 of the Code of Virginia was amended to provide a dealer's discount equivalent to 3% of the first 3% of the state sales and use tax collected and timely paid. Based upon the 3 1/2% state sales and use tax rate that will become effective on January 1, 1987, the effective rate of the dealer's discount as the result of the law change will be 2.57%.

The Department of Taxation finds that an emergency situation exists necessitating the immediate promulgation of this regulation, that such emergency precludes the usual procedures set forth for the promulgation of regulations in the Virginia Administrative Process Act ("APA", § 9-6.14:1 of the Code of Virginia, *et seq.*), and that emergency promulgation of this regulation is permitted in accordance with the APA.

The precise reason and factual basis for the emergency situation is that dealers impacted by this change will require guidance prior to the January 1, 1987, effective date of the sales and use tax rate increase and that a permanent regulation could not be adopted prior to such time under the provisions of the APA. It is therefore necessary to provide immediate guidance to such dealers for the period from January 1, 1987 until such time as a regulation can be formally adopted under the APA.

This emergency regulation shall be adopted upon the signature of the Governor and shall take effect on January 1, 1987. It will expire on December 31, 1987, at which time a regulation will have been adopted under the procedures set forth in the APA.

The Department of Taxation will receive, consider and respond to any comments or suggestions to reconsider or revise this emergency regulation which might be submitted by interested persons or groups prior to its expiration.

VR 630-10-31. Dealer's Returns and Payment of the Tax. (Retail Sales and Use Tax).

A. § 1. Generally.

Except as otherwise provided in this section, every dealer is required to file a return on or before the 20th day of the month following each reporting period even if no tax is due. Returns are prescribed and furnished by the Department of Taxation.

In the case of dealers regularly keeping books and accounts on the basis of an annual period that varies 52 to

53 weeks, reporting consistent with such accounting period is acceptable, provided a satisfactory explanatory statement is attached to the dealer's first return filed under such annual accounting period. Each return filed by these dealers must include all accounting periods which end during the period covered by the return.

B. § 2. Quarterly filing.

A dealer may be notified by the Department of Taxation to file sales or use tax returns on a basis other than monthly. A new dealer will not be placed on a basis other than monthly until the dealer has been in business sufficient time to determine that he should fall into another reporting category. If a dealer is required to file other than monthly, returns will be due on or before the 20th day of the month following the close of the reporting period. The change of a dealer's filing status from monthly to quarterly will be made automatically by the department; dealers should not request a conversion of filing status.

C. § 3. Temporary filing.

Any person who has been granted a temporary certificate of registration must file a return in accordance with the requirements set out in VR 630-10-21.

D. § 4. Seasonal filing.

Any person whose business operates only during certain months during the year, may request that his registration be set up on a seasonal basis (see VR 630-10-21). Taxpayers who hold a seasonal registration must file returns in the manner set forth in § 1 of this regulation only for the months in which the business operates. However, the fact that a business is registered on a seasonal basis does not relieve such dealer from the filing of a return and the remittance of tax for any other period in which a retail sale may be made.

E. § 5. Consolidated returns.

Any dealer who has been granted permission to file a consolidated sales and use tax return (see VR 630-10-21) must file such return in accordance with the provisions set forth when permission is granted. Both the return and the accompanying schedule of local taxes must be filed. Failure to comply with these requirements may result in a revocation of consolidated filing status.

F. § 6. Payment to accompany dealer's return.

At the time of filing the return, the dealer must pay the amount of tax due after making appropriate adjustments for purchases returned, repossessions, and accounts uncollectible and charged off. Failure to pay the tax will cause it to become delinquent.

G. § 7. Dealer's compensation or discount.

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As compensation for accounting for and paying the state tax, a dealer is allowed 3% of the amount first 3% of the state tax due in the form of a deduction, provided the amount due was not delinquent at the time of payment. No compensation is allowed on the additional 1/2% state tax levied effective January 1, 1987 or on the local tax. Thus, to compute the dealer's discount, a dealer (other than a vending machine dealer) would multiply the 3 1/2% state tax listed on his return by 2.57% (or .0257).

For example, a dealer making taxable sales of \$10,000 during the month would report state and local tax of \$450 (\$350 state tax and \$100 local tax), from which he would retain a dealer's discount of \$9, provided that his return is timely filed and the state and local tax is timely paid. The \$9 discount is computed by multiplying the 3 1/2% state tax (\$350) by 2.57%.

In the case of a vending machine dealer who pays combined state and local tax at the rate of 5 1/2% on his wholesale purchases for resale, the dealer's discount would be computed by multiplying the 4 1/2% state tax listed on his return by 2.66% (or .0266). For example, a vending machine dealer with \$15,000 in wholesale purchases for resale during the month would report state and local tax of \$825 (\$675 state tax and \$150 local tax), from which he would retain a dealer's discount of \$17.96, provided that his return is timely filed and the state and local tax is timely paid. The \$17.96 discount is computed by multiplying the 4 1/2% state tax (\$675) by 2.66%.

Any amount of tax refunded by the department to a dealer will be reduced by any dealer's discount claimed on the transaction to which the refund relates. For example, if a dealer sells an item for \$1,000.00, timely files a return reporting the \$ 40 45 tax on the transaction and claims the discount, the amount refunded would be \$ ~~30.10~~ 44.10 (\$ 40 45 less 3 2.57 % of the \$ ~~30 35~~ state tax 40 45 - .90 = \$ ~~30.10~~ 44.10).

For extensions, see VR 630-10-36; for penalties and interest, see VR 630-10-80. Section revised 7/69; 1/79; 1/85; 1/87 .

Title of Regulation: VR 630-10-106. Transitional Provisions. (Retail Sales and Use Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 1, 1987 through December 31, 1987.

ORDER ADOPTING AN EMERGENCY REGULATION OF THE DEPARTMENT

Pursuant to the authority vested in the Department of Taxation by § 58.1-203 of the Code of Virginia, and in accordance with § 9-6.14:9 of the Code of Virginia,

IT IS ORDERED that the following regulation be, and the same is hereby adopted

VR 630-10-106: Transitional Provisions. (Retail Sales and Use Tax).

IT IS FURTHER ORDERED that this regulation shall be adopted upon the signature of the Governor and shall become effective on January 1, 1987 and remain in effect until December 31, 1987.

IT IS FINALLY ORDERED that this regulation to be published and filed as required by the provisions of §§ 58.1-204, 9-6.14:9, and 9-6.14:22 of the Code of Virginia.

Enter: VIRGINIA DEPARTMENT OF TAXATION

/s/ W. H. Forst
Tax Commissioner
Date: November 25, 1986

/s/ Gerald L. Baliles
Governor
Date: November 30, 1986

/s/ Joan W. Smith
Registrar of Regulations
Date: December 1, 1986 - 11:48 a.m.

Preamble:

Pursuant to legislation enacted by the 1986 Special Session of the General Assembly, the rate of the state sales and use tax will be increased from 3% to 3 1/2% effective January 1, 1987. The legislation provides transitional provisions, however, for tangible personal property purchased or leased under certain contracts or leases entered into before the date the legislation was enacted, October 27, 1986. Under these provisions, refunds of the additional 1/2% tax paid on and after January 1, 1987, will be available for tangible personal property purchased or leased under qualifying contracts and leases.

The Department of Taxation finds that an emergency situation exists necessitating the immediate promulgation of this regulation, that such emergency precludes the usual procedures set forth for the promulgation of regulations in the Virginia Administrative Process Act ("APA", § 9-6.14:1 of the Code of Virginia, *et seq.*), and that emergency promulgation of this regulation is permitted in accordance with the APA.

The precise reason and factual basis for the emergency situation is that dealers impacted by this change will require guidance prior to the January 1, 1987, effective date of the sales and use tax rate increase and that a permanent regulation could not be adopted prior to such time under the provisions of the APA. It is therefore necessary to provide immediate

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guidance to such dealers for the period from January 1, 1987, until such time as a regulation can be formally adopted under the APA.

This emergency regulation shall be adopted upon the signature of the Governor and shall take effect on January 1, 1987. It will expire on December 31, 1987, at which time a regulation will have been adopted under the procedures set forth in the APA.

The Department of Taxation will receive, consider and respond to any comments or suggestions to reconsider or revise this emergency regulation which might be submitted by interested persons or groups prior to its expiration.

VR 630-10-106. Transitional Provisions. (Retail Sales and Use Tax).

§ 1. Generally.

Effective January 1, 1987, the state sales and use tax rate increases from 3% to 3 1/2%, while the local sales and use tax rate of 1% will remain the same. However, § 58.1-639 of the Code of Virginia provides for the refund of the additional 1/2% tax paid on tangible personal property purchased or leased under certain contracts and leases entered into before October 27, 1986, (the date the sales and use tax rate increase was enacted).

The contracts and leases subject to the transitional provisions are (1) bona fide real estate construction contracts (including highway construction contracts), (2) contracts for the sale of tangible personal property, and (3) leases of tangible personal property.

§ 2. Bona fide real estate construction contracts.

A. Generally.

Refunds of the additional 1/2% sales and use tax paid on and after January 1, 1987, are available when tangible personal property is purchased or leased under a bona fide real estate construction contract or bona fide highway construction contract entered into before October 27, 1986. A "bona fide" contract is one that contained plans and specifications before October 27, 1986.

As noted below, rules for obtaining refunds of the additional 1/2% tax paid on and after January 1, 1987, on purchases or leases under bona fide real estate construction contracts vary depending on whether or not the contract contains a specific and stated date of completion.

B. Contracts that do not contain a specific and stated date of completion.

In the case of bona fide real estate construction contracts that do not contain a specific and stated date of completion, refunds of the additional 1/2% tax may be

claimed only with respect to purchased or leased tangible personal property that is delivered to the contractor on or before March 30, 1987.

Example:

Contractor A enters into a bona fide contract before October 27, 1986, for the erection of a home, but the contract does not contain a specific and stated date of completion. After January 1, 1987, Contractor A makes two orders of materials for use in the project and pays the full 4 1/2% sales tax on the materials. Because the contract did not contain a specific and stated date of completion, Contractor A must take delivery of goods purchased for use in the project on or before March 30, 1987, in order to receive a refund of the 1/2% tax. The first order is delivered to Contractor A on March 30, 1987, but the second order is delivered to Contractor A on April, 1987. Thus, Contractor A may receive a refund of the additional 1/2% tax paid on the first order, but will not be able to receive a similar refund on the second order because it was delivered after March 30, 1987.

C. Contracts that contain a specific and stated date of completion.

In the case of bona fide real estate construction contracts that contain a specific and stated date of completion, refunds of the additional 1/2% tax paid on and after January 1, 1987, will be available for all property delivered to the contractor on or before the completion date specified in the contract.

Example:

Contractor B enters into a bona fide contract before October 27, 1986, for the erection of a bridge. The contract contains a specific and stated completion date of June 30, 1989. On and after January 1, 1987, Contractor B pays the full 4 1/2% sales and use tax on his purchases of materials for use in the contract and all such materials, except one shipment, are delivered to the contractor by the June 30, 1989 date of completion. The last shipment of materials is delivered to Contractor B on July 1, 1989. Refunds of the additional 1/2% tax paid by Contractor B will be available for all materials delivered to him by the specified completion date stated in his contract, June 30, 1989. However, a refund will not be available for the additional tax paid on the last delivery because that delivery occurred after the specified and stated completion date for the project.

D. Nonbona fide real estate construction contracts.

Refunds of the additional 1/2% tax paid by contractors on and after January 1, 1987, will not be available when purchases or leases are made pursuant to nonbona fide real estate construction contracts. A nonbona fide contract is one that did not contain plans or specifications before October 27, 1986. Contracts that are entered into on or before October 27, 1986, without plans or specifications but

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which are amended after October 27, 1986, to include plans or specifications are also not bona fide contracts.

§ 3. Contracts for the sale of tangible personal property.

A. Generally.

Refunds of the additional 1/2% tax paid on and after January 1, 1987, may be claimed for tangible personal property purchased under sale contracts entered into before October 27, 1986, provided the property is delivered to the purchaser on or before March 30, 1987. Refunds will not be available if a sale contract was entered into on or after October 27, 1986, or if the property purchased is delivered to the purchaser after March 30, 1987.

B. Layaway sales.

The provisions for the refund of the additional 1/2% tax apply to all layaways made before October 27, 1986, and delivered to the purchaser on or before March 30, 1987.

Examples:

(1) Customer A makes a layaway of an item of merchandise on October 26, 1986, and takes delivery of the merchandise on March 1987. Customer A will be required to pay the full 4 1/2% tax when he completes the layaway purchase, but he will be able to request a refund of the additional 1/2% tax he pays.

(2) Customer B makes a layaway of an item of merchandise on October 26, 1986, but does not take delivery of the merchandise until April 1, 1987. Customer A will be required to pay the full 4 1/2% sales tax on the purchase, but will not be able to request a refund of the additional 1/2% tax because he did not take delivery of the merchandise until after March 30, 1987.

C. Gift certificates.

Pursuant to VR 630-10-44, the sales tax is not to be collected on the sale of gift certificates, but is to be collected when gift certificates are redeemed for merchandise. Because gift certificates are not taxable until redeemed, refunds of the additional 1/2% tax paid on purchases made with gift certificates on and after January 1, 1987, will not be available.

D. Installment sales.

Pursuant to VR 630-10-28, the sales and use tax is due in full when an agreement for an installment sale is made. VR 630-10-28 does not permit the tax on an installment sale to be paid in installments. Therefore, all installment sales prior to January 1, 1987, will be subject to state and local sales and use tax at a rate of 4%, while sales on and after January 1, 1987, will be subject to tax at a 4 1/2% rate. Because the tax on installment sales is due as of the date the contract of sale is entered into, refunds of the additional 1/2% tax paid on an installment sale on

and after January 1, 1987, will not be available.

F. Maintenance contracts.

The sale of maintenance contracts which provide in whole or in part for the furnishing or replacement of parts is a taxable sale of tangible personal property pursuant to VR 630-10-62.1. As with other sales of tangible personal property, the sales and use tax becomes due in full when the contract is entered into. Therefore, all taxable maintenance contracts entered into before January 1, 1987, will be subject to the tax at a rate of 4%, while those taxable maintenance contracts entered into on or after January 1, 1987, will be subject to the tax at a rate of 4 1/2%. Because the tax on such contracts becomes due as of the date the contract is entered into, refunds of the additional 1/2% tax paid on and after January 1, 1987, will not be available.

§ 4. Leases of tangible personal property.

Refunds of the additional 1/2% sales tax paid on leases on and after January 1, 1987, will be available, provided that (1) the lease is entered into before October 27, 1986, and (2) the leased property is delivered to the lessee by March 30, 1987. However, refunds will not be available for the additional tax paid on leases entered into on or after October 27, 1986, or where leased property is delivered to the lessee after March 30, 1987.

So long as the above two conditions are met, refunds may be requested for the additional 1/2% tax paid over the course of a lease. For instance, a person who enters into a 5-year equipment lease on October 26, 1986, and who takes delivery of the equipment by March 30, 1987, would be able to seek refunds of the extra 1/2% tax paid for periods through the end of the 5-year lease period.

However, if the lessee assigns the lease, or if the property is turned over to anyone else, refunds of the additional 1/2% tax will not be available for tax paid after the change. In addition, refunds of the additional 1/2% tax will not be available if there are replacements of the property leased (except for replacements due to defective goods), if additional property is added to the lease, or if the lease is renegotiated or renewed.

§ 5. Refunds.

A. Limited to purchaser or lessee only.

Refunds of the additional 1/2% tax paid on purchases or leases of tangible personal property under bona fide real estate construction contracts, contracts for the sale of tangible personal property, or leases of tangible personal property will be limited only to the purchaser or lessee of the property.

B. Refunds to be requested from Department of Taxation only.

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The purchaser or lessee of tangible personal property under qualifying contracts or leases must request refunds of the additional 1/2% tax directly from the Department of Taxation and not from the seller or lessor of the property. In seeking refunds, the purchaser or lessee must furnish the Department of Taxation with copies of the contract or lease under which property is purchased or leased. In addition, the purchaser or lessee must indicate the delivery date of all items for which refunds are claimed and must be able to demonstrate that the 4 1/2% Virginia tax was actually paid to his suppliers or lessors. Copies of invoices will be required to verify that the 4 1/2% tax was paid on purchases or leases of tangible personal property for which refunds are requested.

C. Time limitation on seeking refunds.

Pursuant to § 58.1-1823 of the Code of Virginia and VR 630-10-89, requests for refunds of the additional 1/2% tax paid pursuant to qualified contracts or leases must be made within 3 years of the date tax became due. For instance, tax paid by a lessee in January 1987 does not become due to the department from the lessor until February 20, 1987; thus, the lessee would have until February 20, 1990, to seek a refund.

D. Interest on refunds.

Interest on refunds will be computed in the manner set forth in § 58.1-1833 of the Code of Virginia. Under this statute, interest is computed from a date beginning 60 days after the due date of the tax and ending on a date not more than 30 days preceding the date of the refund check (also see VR 630-1-1833). For example, the tax paid by a purchaser in February 1987 does not become due to the department until March 20, 1987; thus, interest on the refund of the additional 1/2% tax would be computed starting on May 19, 1987, which is 60 days from the March 20 due date.

Section added 1/87.

* * * * *

Title of Regulation: VR 630-10-110. Vending Machine Sales. (Retail Sales and Use Tax).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 1, 1987 through December 31, 1987

ORDER ADOPTING AN EMERGENCY REGULATION OF THE DEPARTMENT

Pursuant to the authority vested in the Department of Taxation by § 58.1-203 of the Code of Virginia, and in accordance with § 9-6.14:9 of the Code of Virginia,

IT IS ORDERED that the following regulation be, and the same is hereby adopted

VR 630-10-110: Vending Machine Sales. (Retail Sales and Use Tax).★BL,02,60, ★ IT IS FURTHER ORDERED that this regulation shall be adopted upon the signature of the Governor and shall become effective on January 1, 1987 and remain in effect until December 31, 1987.

IT IS FINALLY ORDERED that this regulation be published and filed as required by the provisions of §§ 58.1-204, 9-6.14:9, and 9-6.14:22 of the Code of Virginia.

Enter: VIRGINIA DEPARTMENT OF TAXATION

/s/ W. H. Forst
Tax Commissioner
Date: November 25, 1986

/s/ Gerald L. Baliles
Governor
Date: November 30, 1986

/s/ Joan W. Smith
Registrar of Regulations
Date: December 1, 1986 - 11:48 a.m.

Preamble:

Pursuant to legislation enacted by the 1986 Special Session of the General Assembly, the rate of the state sales and use tax was increased to 3 1/2% and § 58.1-614 of the Code of Virginia was amended to increase the rate of the sales and use tax applicable to certain vending machine dealers to 4 1/2% of their wholesale purchases for resale. Both rate increases will become effective on January 1, 1987.

The Department of Taxation finds that an emergency situation exists necessitating the immediate promulgation of this regulation, that such emergency precludes the usual procedures set forth for the promulgation of regulations in the Virginia Administrative Process Act ("APA", § 9-6.14:1 of the Code of Virginia, *et seq.*), and that emergency promulgation of this regulation is permitted in accordance with the APA.

The precise reason and factual basis for the emergency situation is that dealers impacted by this change will require guidance prior to the January 1, 1987, effective date of the sales and use tax rate increase and that a permanent regulation could not be adopted prior to such time under the provisions of the APA. It is therefore necessary to provide immediate guidance to such dealers for the period from January 1, 1987, until such time as a regulation can be formally adopted under the APA.

This emergency regulation shall be adopted upon the signature of the Governor and shall take effect on January 1, 1987. It will expire on December 31, 1987, at which time a regulation will have been adopted

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under the procedures set forth in the APA.

The Department of Taxation will receive, consider and respond to any comments or suggestions to reconsider or revise this emergency regulation which might be submitted by interested persons or groups prior to its expiration.

VR 630-10-110. Vending Machine Sales. (Retail Sales and Use Tax).

A. § 1. Generally.

Dealers engaged in the business of placing vending machines and selling tangible personal property through such machines are subject to the provisions in § 2 of this regulation; however, those dealers, all of whose machines are under contract to nonprofit organizations, are subject to the provisions in § 3 of this regulation. Dealers who are not engaged in placing vending machines, but sell tangible personal property through vending machines, e.g. service station operators, are required to report and pay sales tax in the manner set out in § 4 of this regulation.

~~B.~~ § 2. Dealers engaged in the business of placing vending machines.

~~1.~~ A. Registration requirements.

Except as otherwise authorized by the Tax Commissioner, every person engaged in the business of placing vending machines and selling tangible personal property through such machines must apply for a Certificate of Registration for each county and city in which machines are placed. A separate registration is required for each place of business from which nonvending machine sales are made. Dealers holding or applying for multiple vending or nonvending registrations may request permission at the time of application to file consolidated vending or nonvending returns.

~~2.~~ B. Computation of tax.

All items of tangible personal property sold through vending machines by those vending machines dealers engaged in placing vending machines and selling tangible personal property through such machines are taxable at the rate of $5\ 5\ 1/2\ \%$ ($4\ 4\ 1/2\ \%$ state and $1\ \%$ local).

Any dealers, all of whose machines are under contract to nonprofit organizations, should refer to § 3 of this regulation. Dealers acquiring items from other suppliers and selling them in the same condition which they were acquired must compute the $5\ 5\ 1/2\ \%$ tax on the cost price of the purchased tangible personal property. Dealers who manufacture the tangible personal property to be sold through vending machines must compute the $5\ 5\ 1/2\ \%$ tax on the cost of the manufactured tangible personal property (cost of goods manufactured). The cost of manufactured personal property includes raw material cost plus labor and overhead attributable to the manufacture of

the item being sold.

The method of accounting used for federal income tax purposes shall be the accounting method used in determining the cost price of purchased tangible personal property and the cost of manufactured tangible personal property. For example, if the first-in, first-out method of accounting is used for federal income tax purposes, this accounting method shall be used each month for computing the cost price of purchased tangible personal property and/or the cost of manufactured tangible personal property.

As an alternative method of computing the tax, any dealer unable to maintain satisfactory records to determine the cost price of purchased tangible personal property and the cost of manufactured tangible personal property may request in writing to the Tax Commissioner authority to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the $4\ 4\ 1/2\ \%$ sales tax. Upon receiving such authorization from the Tax Commissioner, a return Form ST-9 must be filed to report the $4\ 4\ 1/2\ \%$ sales tax beginning with the period set out in the authorization letter. All subsequent returns must be filed using this method unless the dealer applies in writing to the Tax Commissioner and is given authorization in writing to change his filing status. Authorization to compute the tax using this alternative method will not eliminate the requirement to maintain records which show the location of each vending machine, purchases and inventories of merchandise bought for sale through vending machines, and total gross receipts for each vending machine.

~~3.~~ C. Filing of returns.

Except as otherwise authorized by the Tax Commissioner, dealers engaging in the business of placing vending machines and selling tangible personal property through such machines must file a Form VM-2 to report the tax on the items sold through vending machines. Returns are due by the twentieth day of the month following the period in which tangible personal property is sold through vending machines and, with the tax shall to be computed in the manner set out in subsection B above. A return is required to be filed for each locality where vending machines are located unless a dealer has requested and been granted authority to file a consolidated return.

Nonvending machine sales must not be reported on Form VM-2 but must be reported on Form ST-9, Dealer's Retail Sales and Use Tax Return.

~~4.~~ D. Purchases.

Tangible personal property purchased for resale through vending machines may be purchased under Certificate of Exemption. Form ST-10. ~~Vending machines, including repair parts for such machines.~~ All other tangible property purchased for use or consumption by the dealer and not

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for resale, including vending machines and repair parts for such machines, and withdrawals of tangible personal property from a tax exempt manufacturing or resale inventory for use or consumption by the dealer are subject to the tax at the rate of 4 4 1/2 % of the cost price of the property. If the supplier does not charge the tax on purchases for use or consumption, the vending machine dealer must pay the tax directly to the ~~department~~ Department of Taxation on Form ST-9, Dealer's Retail Sales and Use Tax Return (if he is registered for nonvending sales) or Form ST-7, Consumer's Use Tax Return. Tax on purchases for the vending machine dealer's own use or consumption must not be reported on Form VM-2. Dealers who manufacture or process tangible personal property for sale may be entitled to the industrial exemption for tangible personal property used directly in manufacturing or processing as set forth in § 58.1-608.1 (a) and VR 630-10-63.

5. E. Records.

Records must be kept for a period of three years and must show the location of each machine; purchases and inventories of merchandise bought for sales through vending machines; and the cost price of purchased tangible personal property and/or the cost of manufactured tangible personal property for each machine.

C. § 3. Dealers under contract with nonprofit organizations.

1. A. Registration requirements.

A separate Certificate of Registration (application Form R-1) is required for each county and city in which vending machines are placed. Dealers holding multiple registrations may request permission to file a consolidated return at the time of application.

2. B. Computation of tax.

Effective July 1, 1982, Dealers engaged in the business of placing vending machines all of which are under contract to nonprofit organizations may deduct sales of 10 cents or less from gross receipts and divide the remaining balance by 1.041045 to determine the amount of taxable sales upon which the 4 4 1/2 % tax is due and payable. To qualify for this method of computing the tax, all machines of the vending machine dealer must be under contract to nonprofit organizations.

3. C. Filing of returns.

Form ST-9, Dealer's Retail Sales and Use Tax Return, is required to be filed for each locality in which vending machines are placed by the twentieth day of the month to report the 4 4 1/2 % tax on (1) sales made in the previous period and (2) untaxed purchases for use or consumption by the dealer or withdrawals from tax exempt inventory for use or consumption by the dealer.

4. D. Records.

A contract must be kept for each vending machine under contract to nonprofit organizations. Additionally, records must be kept for a period of four years to show the location of each vending machine, purchases and inventories of merchandise bought for sale, and total gross receipt for each vending machine separating items sold for 10 cents or less from items sold for more than 10 cents.

D. § 4. Other dealers selling tangible personal property through vending machines.

Dealers not engaged in the business of placing vending machines but using who use vending machines at their places of business to sell merchandise, e.g. service station operators, must report the tax at the rate of 4 4 1/2 % of gross taxable sales on the same return on which nonvending machine sales are reported (Form ST-9, Dealer's Retail Sales and Use Tax Return).

Section revised 7/69; 1/79; 1/85; 12/86 .

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 10, 1986

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. MCS860053

Ex Parte: In the matter of amending rules and regulations governing special or charter party carriers

ORDER DIRECTING NOTICE OF INTENTION TO AMEND RULES AND REGULATIONS

WHEREAS, §§ 56-338.60 and 56-274 of the Code of Virginia (1950) authorizes the State Corporation Commission to prescribe reasonable rules and regulations applicable to special or charter party carriers relating to the performance by such carriers of their public duties and charges therefor; and

WHEREAS, the Commission, by order dated February 14, 1974 in Case No. L-519, adopted Rules and Regulations Governing the Supervision, Control and Operation of Special - - - or Charter Party Carriers by Motor Vehicle, effective July 1, 1974; and

WHEREAS, the Commission, by order dated November 4, 1983, in Case No. MCS830048, amended Rule 1 liberalizing the notice requirement by allowing notice to be made by either first class mail or receipted registered mail; and

WHEREAS, staff has requested the Commission amend the aforesaid rules and regulations by amending Rule 1's notice requirement to provide that notice and newspaper publication shall be made within such time as the Commission may prescribe by Order; and

WHEREAS, the amended rules under staff's proposal, would read as follows:

Rule 1 - second paragraph

The applicant for an "A" and "B" certificate shall cause a notice of such application, on the form prescribed by the Commission, to be served by receipted registered mail or by first class mail, as the Commission may prescribe, within such time as the Commission may prescribe by Order, on the mayor or principal officer of any city or county in which the main office of the applicant is located; on every special or charter party carrier authorized to provide and offering service from points within the territory of origin proposed to be served by the Applicant. Publication of a summary of the application shall be made in a newspaper having a general circulation in the area to be served prior to the hearing date within such time as the Commission may prescribe by Order.

AND THE COMMISSION, upon consideration of staff's request to amend Rule 1 is of the opinion and finds that all special or charter party carriers by motor vehicle should be notified of the proposal and given an opportunity to file written comments and request a hearing thereon in accordance with § 12.1-28 of the Code of Virginia (1950); accordingly,

IT IS ORDERED:

(1) That the Motor Carrier Division shall forthwith send a copy of this order by first class mail to every special or charter party carrier by motor vehicle certificated by this Commission;

(2) That any person who desires to file written comments concerning the proposed amendment, or request a formal hearing thereon, shall file, on or before December 30, 1986, an original and ten (10) copies of such comments, or request for hearing, with the Clerk, State Corporation Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23216; and

(3) That an attested copy of this order be sent by the Clerk of the Commission to William S. Fulcher, Director, Motor Carrier Division; and to Stuart E. Nunnally, Deputy Director, Motor Carrier Division (Rates and Tariffs).

* * * * *

AT RICHMOND, NOVEMBER 10, 1986

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. MCS860054

Ex Parte: In the matter of amending rules and regulations governing common carriers of property by motor vehicle

ORDER DIRECTING NOTICE OF INTENTION TO AMEND RULES AND REGULATIONS

WHEREAS, § 56-276 of the Code of Virginia (1950) authorizes the State corporation Commission to prescribe reasonable rules and regulations applicable to motor common carriers of property relating to the performance by such carriers of their public duties and charges therefor; and

WHEREAS, the Commission, by order dated July 19, 1973 in Case No. L-475, adopted Rules and Regulations Governing the Supervision, Control and Operation of Common Carriers of Property by Motor Vehicle, effective September 1, 1973; and

WHEREAS, the Commission, by order dated November 4, 1983, in Case No. MCS830049, amended Rule 1 liberalizing the notice requirement by allowing notice to be made by either first class mail or receipted registered mail; and

State Corporation Commission

WHEREAS, staff has requested the Commission amend the aforesaid rules and regulations by amending Rule 1's notice requirement to provide that notice and newspaper publication shall be made within such time as the Commission may prescribe by Order; and

WHEREAS, the amended rules under staff's proposal, would read as follows:

Rule 1 - second paragraph

The Applicant shall cause a notice of such application, on the form prescribed by the Commission, to be served by receipted registered mail or by first class mail, as the Commission may prescribe, within such time as the Commission may prescribe by Order, on the mayor or principal officer of any city or town and on the chairman of the board of supervisors of every county into or through which the Applicant may desire to provide service; on an officer or owner of every common carrier of property by motor vehicle presently rendering service within the area proposed to be served by the Applicant. Publication of a summary of the application shall be made in a newspaper having a general circulation in the area to be served prior to the hearing date within such time as the Commission may prescribe by Order.

AND THE COMMISSION, upon consideration of staff's request to amend Rule 1 is of the opinion and finds that all certified common carriers of property should be notified of the proposal and given an opportunity to file written comments and request a hearing thereon in accordance with § 12.1-28 of the Code of Virginia (1950); accordingly,

IT IS ORDERED:

(1) That the Motor Carrier Division shall forthwith send a copy of this order by first class mail to every common carrier of property by motor vehicle certificated by this Commission;

(2) That any person who desires to file written comments concerning the proposed amendment, or request a formal hearing thereon, shall file, on or before December 30, 1986, an original and ten (10) copies of such comments, or request for hearing, with the Clerk, State Corporation Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23216; and

(3) That an attested copy of this order be sent by the Clerk of the Commission to William S. Fulcher, Director, Motor Carrier Division; and to Stuart E. Nunnally, Deputy Director, Motor Carrier Division (Rates and Tariffs).

* * * * *

AT RICHMOND, NOVEMBER 10, 1986

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. MCS860055

Ex Parte: In the matter of amending rules and regulations governing common carriers of passengers by motor vehicle

ORDER DIRECTING NOTICE OF INTENTION TO AMEND RULES AND REGULATIONS

WHEREAS, § 56-276 of the Code of Virginia (1950) authorizes the State Corporation Commission to prescribe reasonable rules and regulations applicable to motor common carriers of passengers relating to the performance by such carriers of their public duties and charges therefor; and

WHEREAS, the Commission, by order dated February 14, 1974 in Case No. L-521, adopted Rules and Regulations Governing the Supervision, Control and Operation of Common Carriers of Passengers by Motor Vehicle, effective July 1, 1974; and

WHEREAS, the Commission, by order dated November 4, 1983, in Case No. MCS830050 amended Rule 1 liberalizing the notice requirement by allowing notice to be made by either first class mail or receipted registered mail; and

WHEREAS, staff has requested the Commission amend the aforesaid rules and regulations by amending Rule 1's notice requirement to provide that notice and newspaper publication shall be made within such time as the Commission may prescribe by Order; and

WHEREAS, the amended rules under staff's proposal, would read as follows:

Rule 1 - second paragraph

The Applicant shall cause a notice of such application, on the form prescribed by the Commission, to be served by receipted registered mail or by first class mail, as the Commission may prescribe, within such time as the Commission may prescribe by Order, on the mayor or principal officer of any city or town and on the chairman of the board of supervisors of every county into or through which the Applicant may desire to provide service; on an officer or owner of every common carrier of passengers by motor vehicle presently rendering service within the area proposed to be served by the Applicant. Publication of a summary of the application shall be made in a newspaper having a general circulation in the area to be served prior to the hearing date within such time as the Commission may prescribe by Order.

AND THE COMMISSION, upon consideration of staff's request to amend Rule 1 is of the opinion and finds that all certified common carriers of passengers should be notified of the proposal and given an opportunity to file written comments and request a hearing thereon in

State Corporation Commission

accordance with § 12.1-28 of the Code of Virginia (1950); accordingly,

IT IS ORDERED:

(1) That the Motor Carrier Division shall forthwith send a copy of this order by first class mail to every common carrier of passengers by motor vehicle certificated by this Commission;

(2) That any person who desires to file written comments concerning the proposed amendment, or request a formal hearing thereon, shall file, on or before December 30, 1986, an original and ten (10) copies of such comments, or request for hearing, with the Clerk, State Corporation Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23216; and

(3) That an attested copy of this order be sent by the Clerk of the Commission to William S. Fulcher, Director, Motor Carrier Division; and to Stuart E. Nunnally, Deputy Director, Motor Carrier Division (Rates and Tariffs).

* * * * *

AT RICHMOND, NOVEMBER 10, 1986

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. MCS860056

Ex Parte: In the matter of amending rules and regulations governing sight-seeing carriers by motor vehicle

ORDER DIRECTING NOTICE OF INTENTION TO AMEND RULES AND REGULATIONS

WHEREAS, §§ 56-276 and 338.40(c) of the Code of Virginia (1950) authorizes the State Corporation Commission to prescribe reasonable rules and regulations applicable to sight-seeing carriers by motor vehicle relating to the performance by such carriers of their public duties and charges therefor; and

WHEREAS, the Commission, by order dated February 14, 1974 in Case No. L-520, adopted Rules and Regulations Governing the Supervision, Control and Operation of Sight-Seeing Carriers by Motor Vehicle, effective July 1, 1974; and

WHEREAS, the Commission, by order dated November 4, 1983, in Case No. MCS830051 amended Rule 1 liberalizing the notice requirement by allowing notice to be made by either first class mail or receipted registered mail; and

WHEREAS, staff has requested the Commission amend the aforesaid rules and regulations by amending Rule 1's notice requirement to provide that notice and newspaper publication shall be made within such time as the

Commission may prescribe by Order; and

WHEREAS, the amended rules under staff's proposal, would read as follows:

Rule 1 - second paragraph

The Applicant shall cause a notice of such application, on the form prescribed by the Commission, to be served by receipted registered mail or by first class mail, as the Commission may prescribe, within such time as the Commission may prescribe by Order, on the mayor or principal officer of any city or town and on the chairman of the board of supervisors of every county into or through which the Applicant may desire to provide service; on an officer or owner of every common carrier of passengers and sight-seeing carrier by motor vehicle presently rendering service within the area proposed to be served by the Applicant. Publication of a summary of the application shall be made in a newspaper having a general circulation in the area to be served prior to the hearing date within such time as the Commission may prescribe by Order.

AND THE COMMISSION, upon consideration of staff's request to amend Rule 1 is of the opinion and finds that all certified sight-seeing carriers by motor vehicle should be notified of the proposal and given an opportunity to file written comments and request a hearing thereon in accordance with § 12.1-28 of the Code of Virginia (1950); accordingly,

IT IS ORDERED:

(1) That the Motor Carrier Division shall forthwith send a copy of this Order by first class mail to every sight-seeing carrier by motor vehicle certificated by this Commission;

(2) That any person who desires to file written comments concerning the proposed amendment, or request a formal hearing thereon, shall file, on or before December 30, 1986, an original and ten (10) copies of such comments, or request for hearing, with the Clerk, State Corporation Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23216; and

(3) That an attested copy of this order be sent by the Clerk of the Commission to William S. Fulcher, Director, Motor Carrier Division; and to Stuart E. Nunnally, Deputy Director, Motor Carrier Division (Rates and Tariffs).

* * * * *

AT RICHMOND, NOVEMBER 12, 1986

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

State Corporation Commission

CASE NO. PUC860045

Ex Parte: Rulemaking concerning treatment of telephone company and simple inside wiring

ORDER INITIATING RULEMAKING AND INVITING COMMENT

On October 21, 1986, the Virginia Telephone Association ("VTA"), on behalf of all of the Virginia local exchange companies (LECs), filed an application asking the State Corporation Commission to initiate a generic investigation concerning the deregulation of simple inside wiring, the maintenance of all inside wiring, and the future ownership of inside wiring once it has been expensed or fully amortized.

Historically, the Commission has regulated the prices Virginia LECs charged for the installation, use and maintenance of inside wiring and station connections. Prior to 1981, costs associated with this investment were capitalized and depreciated over several years. The Federal Communications Commission's (FCC's) First Report and Order in CC Docket No. 79-105 required that new inside wiring installations be expensed beginning October 1, 1981 and that the embedded investment in existing inside wiring be amortized over a 10 year period. On February 24, 1986, the FCC entered its Second Report and Order in CC Docket No. 79-105 requiring deregulation of the installation of simple inside wiring and the deregulation of the maintenance of all inside wiring effective January 1, 1987. The order also required that upon full amortization or expensing of inside wiring the LECs should relinquish ownership to the subscriber or to the owner of the premises. Petitions for reconsideration were filed on behalf of several parties to the docket. As yet, the FCC has issued no order disposing of the petitions for reconsideration. In addition, subsequent to the February 24 Order, the United State Supreme Court rendered a decision in Louisiana Public Service Commission v. FCC,S.Ct...., 90 LEd. 2d. 369, (1986) which limits the FCC's exercise of preemptive authority over state regulatory commissions. We believe this Commission should determine the proper regulatory treatment for Virginia inside wire. In this regard, LECs need to know if they must proceed with deregulation by January 1, 1987, whether a delay will be granted, or whether modifications to the FCC's February 24 order will be announced.

In order to determine what action Virginia LECs should take before the end of 1986, the Commission has determined to grant the application and initiate the investigation sought by the VTA.

Accordingly,

IT IS ORDERED:

(1) That this proceeding be docketed and given Case No. PUC860045;

(2) That the Virginia LECs give newspaper notice, once a week for two consecutive weeks, the last publication to be no later than December 10, 1986, in newspapers in each company's service territory by publishing as display advertising the following notice:

NOTICE OF INVESTIGATION OF THE TREATMENT OF TELEPHONE COMPANIES' INSIDE WIRING

The State Corporation Commission is considering deregulation of the maintenance of telephone companies' inside wiring, the deregulation of installation of simple inside wiring, and the ownership of such wire once it is finally paid for.

Persons wishing to file written comments on the proper treatment of such wiring may do so prior to December 15, 1986, by writing George W. Bryant, Jr., Clerk, Virginia State Corporation Commission, P. O. Box 2118, Richmond, Virginia 23216, and making reference to Case No. PUC860045.

VIRGINIA TELEPHONE ASSOCIATION (OR APPROPRIATE LOCAL EXCHANGE COMPANY)

(3) That all Virginia LECs desiring to submit comments do so on or before December 15, 1986, addressing all of the issues listed on Attachment A appended hereto; and

(4) That the Commission shall enter further orders advising LECs and any other interested parties of developments from the Federal Communications Commission and further proceedings necessary for this investigation.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange company subject to the jurisdiction of the Commission; to the Office of the Attorney General, Division of Consumer Counsel, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; and to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

ATTACHMENT A

INSIDE WIRE ISSUES

1. Assume the Virginia Commission will not be preempted by the FCC and is free to determine the appropriate intrastate treatment of inside wire. Does your company favor:

(a) No change in present procedures, that is, keep inside wire installation and maintenance rates regulated, and revenues and expenses above-the-line for ratemaking purposes?

(b) Detariff inside wire installation and maintenance but keep revenues and expenses above the line

State Corporation Commission

(similar to yellow pages)?

(c) Deregulate inside wire installation and maintenance such that rates would not be regulated and revenues and expenses would be below-the-line?

(d) Any option other than (a), (b), or (c)?

2. If you favor option 1(b) and are unbundled (have a separate charge for inside wire maintenance), the only additional action necessary would be to file tariffs removing installation and maintenance as regulated service offerings. If still bundled, however, you must unbundle. How do you propose to do this, which rates would be affected, and by how much?

3. If you favor option 1(c), what revenues and expenses do you propose to take below-the-line? What rates will change and by how much?

4. Is inside wire maintenance in your company unbundled?

5. If so, what is the monthly charge?

6. If so, what were your company's intrastate inside wire maintenance revenues in 1985? Please break this down into the most detailed level of account/subaccount maintained by your company.

7. What were your company's intrastate revenues for installing simple and complex inside wire in 1985? Please break this down into the most detailed level of account/subaccount maintained by your company.

8. If your company favors option 1(c) above, what were your costs of maintaining inside wire in Virginia during 1985, expressed in the following ways?

(a) Total company (unseparated) embedded fully-distributed costs using Separations Manual techniques, broken down into the most detailed level of account/subaccount maintained by your company.

(b) The interstate assignment of each account/subaccount amount in (a), above.

(c) The intrastate residual for each component derived by subtracting each component in (b), above, from each component in (a), above.

(d) Total company (unseparated) avoidable costs; i.e., costs which your company could have avoided in 1985 if no maintenance of inside wire had been done, broken down as in (a), above.

9. If your company favors option 1(c) above, what were your cost of installing inside wire in Virginia during 1985, expressed in the following ways?

(a) Total company embedded fully-distributed costs using Separations Manual techniques, broken down in

the most detailed level of account/subaccount maintained by your company.

(b) The interstate assignment of each account/subaccount amount in (a), above.

(c) The intrastate residual for each component derived by subtracting each component in (b), above, from each component in (a), above.

(d) Total company (unseparated) avoidable costs; i.e., costs which your company could have avoided if no inside wire installation had been done, broken down as in (a), above.

10. If your company favors option 1(c) above and cannot answer questions 8 and 9 in the detail requested, answer them with the greatest detail possible.

11. What is your company's present total Virginia and intrastate gross and net investment in Account 232 - Inside Wire?

12. What is the current total Virginia and intrastate annual amortization expense for Inside Wire, and when will it be fully amortized?

13. If inside wire is detariffed or deregulated, what evidence is there that a competitive market exists for both installing simple inside wire and maintaining both simple and complex wire?

14. The FCC's order only applies to installing simple inside wire. Should complex inside wire installation also be detariffed or deregulated?

15. The FCC has ordered companies to relinquish ownership January 1, 1987 of inside wiring already expensed to Account 605. In addition, companies must give up ownership of all capitalized inside wire once it is fully amortized. Should the same treatment apply for intrastate?

16. If question 15 is answered yes, how will you determine which wire has been expensed, and which has been capitalized?

17. If questions 15 is answered no, how should be it be treated for intrastate?

18. Once the telephone company abandons ownership, who owns the inside wire? How should ownership transfer notification be given?

19. Even though some companies have accelerated inside wire amortizations, the Commission's Taxation Division will still assess and tax inside wire investment until the originally scheduled ten year amortization period is up. Should this process be reviewed and changed?

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF HIGHWAYS AND TRANSPORTATION (BOARD OF)

Title of Regulation: **VR 385-01-4. Rules and Regulations
for Administration of Waysides and Rest Areas.**

Governor's Comment:

No objection to the proposed regulation as presented. I would, however, urge the department to ensure that the activities authorized by the regulation are not allowed to pose unfair competition with local small businesses.

/s/ Gerald L. Baliles
November 24, 1986

VIRGINIA DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: **VR 485-30-8601. Regulations Governing
Grants to be Made Pursuant to the Virginia Alcohol Fuel
Production Incentive Program Fund.**

Governor's Comment:

No substantive objection to the proposed regulations as presented. I would, however, urge the department to consider carefully the suggestions made by affected entities regarding the interpretation of the program's production eligibility ceilings and to reduce to the maximum extent possible the paperwork involved in administering this program.

/s/ Gerald L. Baliles
November 30, 1986

DEPARTMENT OF TAXATION

Title of Regulation: **VR 630-10-49.2. Innovative High
Technology Industries and Research. (Retail Sales and
Use Tax).**

Governor's Comment:

No objection to the proposed regulation as presented. I encourage the department to consider carefully the comments received from interested individuals and entities.

/s/ Gerald L. Baliles
November 24, 1986

GENERAL NOTICES/ERRATA

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| Symbol Key † |
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| † Indicates entries since last publication of the Virginia Register |
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BOARD OF CORRECTIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider amending regulations entitled: **VR 230-30-002. Community Diversion Program Standards.** The regulations establish standards for the operation of Community Diversion Programs. The current effort is to clarify the standards and make them more measurable.

Statutory Authority: § 53.1-182 of the Code of Virginia.

Written comments may be submitted until January 5, 1987.

Contact: Robert S. Cooper, Community Corrections Specialist, Department of Corrections, 5306-A Peters Creek Road, Roanoke, Va. 24019, telephone (703) 982-7430 (SCATS 676-7430)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider amending regulations entitled: **VR 230-30-003. Adult Residential Services Standards.** The regulations establish standards for the operation of Adult Residential Service Programs. The current effort is to clarify the standards and make them more measurable.

Statutory Authority: § 53.1-178 of the Code of Virginia.

Written comments may be submitted until January 5, 1987.

Contact: Robert S. Cooper, Community Corrections Specialist, Department of Corrections, 5306-A Peters Creek Road, Roanoke, Va. 24019, telephone (703) 982-7430 (SCATS 676-7430)

DEPARTMENT OF REHABILITATIVE SERVICES

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 promulgate regulations entitled: **Provision of Vocational 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: §§ 51.01-8 through 51.01-30 of the Code of Virginia.

Written comments may be submitted until January 30, 1987, to Charles H. Merritt, Assistant Commissioner, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Va. 23230

Contact: Jim Hunter, Board Administrator, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Va. 23230, telephone (804) 257-6446 (toll-free 1-800-552-5019)

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Minimum Standards for Licensed Child Care Centers.** The purpose of the regulation is to identify standards applicable to centers providing child care on an occasional basis only.

Statutory Authority: § 63.1-196.4 of the Code of Virginia.

Written comments may be submitted until January 21, 1987.

Contact: Meredyth P. Partridge, Program Development Supervisor, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025

VIRGINIA DEPARTMENT FOR VISUALLY HANDICAPPED

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department

General Notices/Errata

for the Visually Handicapped intends to consider promulgating regulations entitled: (1) Regulations Governing Education Service, (2) Regulations Governing Vocational Rehabilitation, and (3) Regulations Governing Low Vision. The purpose of the proposed regulations is to establish policies, procedures, and requirements governing the provision of services to blind and visually impaired persons in the areas of Education, Vocational Rehabilitation and Low Vision.

Statutory Authority: § 63.1-68, 63.1-71, and 63.1-78 of the Code of Virginia.

Contact: David H. Kennedy, Assistant Program and Policy Specialist, Virginia Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Va. 23227, telephone (804) 264-3140.

DEPARTMENT OF WASTE MANAGEMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Waste Management intends to consider promulgating and amending regulations entitled: VR 672-20-01. Financial Assurance Regulations for Solid Waste Facilities. The purpose of the proposed regulations is to replace emergency regulations promulgated on August 8, 1986, which will expire on June 1, 1987. Those regulations established the financial assurance requirements for privately owned or operated nonhazardous solid waste disposal facilities. The proposed amendments will provide for specific exemptions from liability insurance requirements and alternatives for fulfilling the liability insurance requirements. The new regulations will be titled Financial Assurance Regulations for Solid Waste Facilities, VR 421-20-01.

Statutory Authority: §§ 10-266 and 10-273 of the Code of Virginia.

Written comments may be submitted until January 9, 1987.

Contact: Cheryl Cashman, Public Information Officer, Department of Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control

Board intends to promulgate regulations entitled: Toxics Management. The purpose of this regulation is to control and manage the discharge of toxic pollutants into the waters of the Commonwealth to insure that no adverse impacts occur.

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

Written comments may be submitted until January 19, 1987, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Other pertinent information: Public meetings will be held at the times and places listed below:

January 5, 1987, at 2 p.m. in the Community Room, Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

January 7, 1987, at 2 p.m. in the Council Chamber, Williamsburg/James City County Courthouse, Court and South Henry Street, Williamsburg, Virginia

January 8, 1987, at 2 p.m. in the McCourt Building Board Room, County of Prince William, 1 County Complex, 4850 Davis Ford Road, Prince William, Virginia

Contact: Alan J. Anthony, Richard Ayers, or Durwood Willis, Office of Environmental Standards and Research, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0791

GENERAL NOTICES

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES Division of Animal Health

DIVISION ADMINISTRATION DIRECTIVE NUMBER: 79-1

METHODS PRESCRIBED OR APPROVED FOR ANIMAL EUTHANASIA

I. PURPOSE:

This Directive sets forth methods that are currently prescribed and approved by the State Veterinarian for use in the euthanasia of animals by animal wardens, employees of humane societies and/or public animal shelters, and other officers as defined in § 29-213.66 of the Comprehensive Animal Laws.

II. AUTHORITY:

General Notices/Errata

Chapter 9.4, Articles 4, § 29-213.66 of the Code of Virginia, cited as the Authority of Local Governing Bodies and Licensing of Dogs, states, in part, "Any animal destroyed following the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian."

III. APPROVED METHODS:

- A. Sodium pentobarbital administered parenterally.
- B. Sodium pentobarbital with lidocaine administered parenterally.
- C. Carbon monoxide gas dispensed into a chamber.
- D. Firearms under specified conditions.

IV. APPROVED PROCEDURES:

Methods currently prescribed or approved by the State Veterinarian for the euthanasia of animals pursuant to the provisions contained in § 29-213.66 of Chapter 9.4 are as follows:

1. Sodium pentobarbital.

Sodium pentobarbital is to be administered by hypodermic syringe and needle in a concentration of not less than 4 grains of sodium pentobarbital per cubic centimeter (cc) of water. Current regulations of the Board of Pharmacy specify that the drug must be ordered in the injectable form only.

Route of Administration

Intravenously

The preferred route of administration is intravenously if (1) a trained and skilled operator capable of performing intravenous injection is present; (2) the animal is able to be handled and can be properly restrained without undue stress; and (3) a vein is readily accessible. The amount of drug needed will be dependent upon the body weight of the animal. In general, one (1) cc per 10 pounds of body weight is needed, but dosage directions on the product should be followed. In all cases, an overdose rather than an underdose is preferred. The minimum use, regardless of size is one (1) cc. The use of a 20 or 22 gauge needle, one inch in length, is suggested for injection in dogs.

Intravenous euthanasia of cats required increased expertise and a smaller one inch needle, 24 or 25 gauge. Cats are often euthanized using the alternate method below of intraperitoneal injection.

Intraperitoneally

An alternate method of sodium pentobarbital injection

is intraperitoneally. This is the easiest method to learn and is especially effective for young animals, cats and small dogs, wildlife or animals that are difficult to handle.

It is suggested that that solution be injected into the peritoneal cavity about one inch behind the umbilicus. Again, a trained and skilled person is necessary to administer the injections and proper restraint must be used. A one inch, 20 gauge needle is suggested for dogs over 10 pounds; for cats and dogs under 10 pounds, a 24 gauge needle works well. The volume of the drug used should be double or triple the intravenous dose; a rule of thumb is 2 or 3 cc's per 10 pounds of body weight. The minimum dosage regardless of size is 3 cc. The higher dose required for intraperitoneal injection is due to the increased time it takes for the drug to be absorbed and take effect when given in the abdomen. Due to this prolonged time, death does not occur instantaneously, often taking up to 30 minutes. After intraperitoneal injection, the animal should be placed in a cage or run, preferably in a quiet area, and observed so that it does not injure itself by stumbling or falling as unconsciousness occurs. The time from unconsciousness to death will vary.

Intracardiac

According to the 1986 American Veterinary Medical Association Report on Euthanasia, "Because crying and struggling may follow improper intracardiac injection, this route of administration is objectional. Skill is required to penetrate the heart of an animal with one thrust of a hypodermic needle, especially if the animal is not easily restrained. Intracardiac injection of drugs is not recommended for euthanasia, except in depressed, anesthetized, or comatose animals." Therefore, intracardiac injection is not approved at this time.

Considerations

All animal, regardless of route of injection, should be carefully checked to be sure death has occurred before disposal. Lack of a heartbeat, no pupillary reflexes, and failure to breathe are indications that death has occurred.

It is preferable that euthanasia by injection be done when two people are present, one to administer drug and one to restrain the animal. This reduces stress on the animal, ensures proper administration of the drug, and protects the administrator.

The procedure to obtain and use sodium pentobarbital involves state and federal licensing. Information on this may be obtained from the Animal Welfare Veterinarian, Division of Animal Health, Washington Building, Suite 600, 1100 Bank Street, Richmond, Virginia 23219, telephone (804) 786-2483.

2. Sodium Pentobarbital with Lidocaine.

Several new products are available which are composed of sodium pentobarbital with lidocaine. The effect of lidocaine is most notable in intraperitoneal injections, because it increases absorption of the drug into the blood stream and also acts directly on the heart and brain to decrease the time it takes for unconsciousness to occur. It appears that this drug will be a valuable asset in humane euthanasia. At this time, however, the State Board of Pharmacy only allows the procurement of Schedule II sodium pentobarbital for euthanasia of impounded animals; the new products containing lidocaine are Schedule III drugs. This office will cooperate with the Board of Pharmacy in hopes that these new products may be accessible to shelters in the future.

Carbon Monoxide Gas

Carbon monoxide gas may be a preferred method for euthanasia of wildlife and animals that are difficult to manage. It is also acceptable for euthanasia of most dogs and cats. Puppies and kittens under eight weeks of age cannot be effectively euthanized with carbon monoxide gas due to their small lung capacity. If euthanasia of such young animals cannot be achieved by sodium pentobarbital injection, the concentration of gas should be increased and the young animals put in a small carrier inside the chamber. Time until unconsciousness and death is prolonged for young animals. Sodium pentobarbital intraperitoneal injection by shelter personnel or a veterinarian is preferred.

Commercial grade carbon monoxide gas shall be dispensed from a cylinder into the chamber at a pressure and rate that it achieves a 5% concentration within the chamber. Too much or too little gas will result in animal struggling and suffering. Unconsciousness should result in 45-60 seconds; death should occur within 2-4 minutes. Some reflex movements and sounds may occur from the unconscious animals; this must be differentiated from conscious struggling.

The chamber should be well sealed and should include a light to be used during the operation of the chamber and a window so that the animals may be observed to ensure that euthanasia is occurring properly. Animals should never be crowded together; only compatible animals of the same size and species should be placed in the chamber together. Cats should be placed individually in carriers.

Carbon monoxide euthanasia should occur only in well ventilated areas because of the danger to the operator. The animals should be left in the chamber at least ten minutes after death has occurred before the chamber is opened. The operator should open the chamber in a well ventilated areas and again leave the animals another 5-10 minutes. Animals euthanized

by carbon monoxide must be carefully examined to ensure death has occurred, using the absence of heartbeat, breathing and eye reflexes to indicate death prior to disposal.

4. Firearms.

The shooting of animals with firearms for the purpose of effecting euthanasia is not approved for routine use. According to the authority granted to the State Veterinarian by Chapter 9.2, the shooting of animals for the purpose of effecting euthanasia is approved for use only when conditions do not permit the employment of the aforementioned prescribed or approved methods of euthanasia or when all humanely accepted methods of capture have failed.

NOTE: Please observe local rules and regulations governing the use of firearms.

V. APPROVAL OF ADDITIONAL METHODS AND PROCEDURES

Advances in animal euthanasia research will be continually monitored by the Office of the State Veterinarian and those methods which are proved to be acceptable will be added to the approved list.

Local authority or individuals seeking approval of specific methods of animal euthanasia may submit requests for the consideration of such proposals to:

State Veterinarian
Division of Animal Health
Washington Building, Suite 600
1100 Bank Street
Richmond, Virginia 23219
TELEPHONE: (804) 786-2481

IV. PUBLIC HEARING

This Directive, relating to the approval of the State Veterinarian of methods of animal euthanasia, is drawn pursuant to § 29-213.66 of the Code of Virginia.

No public hearing or comment has been solicited concerning the publishing of this Directive. The State Veterinarian will receive, consider, and respond to, any petition for a hearing or for reconsideration of the methods prescribed or approved for animal euthanasia.

Such petitions should be submitted to State Veterinarian, Division of Animal Health, Washington Building, Suite 600, 1100 Bank Street, Richmond, Virginia 23219, telephone (804) 786-2481.

Done in Richmond, Virginia, on this 1st day of November, 1986

/s/ William D. Miller, D.V.M.
State Veterinarian

General Notices/Errata

DIVISION ADMINISTRATION DIRECTIVE NUMBER 83-1

APPROVED DRUGS AND DRUG ADMINISTERING EQUIPMENT

I. PURPOSE:

This Directive sets forth drugs and drug administering equipment approved by the State Veterinarian for use in the capture of dogs by animal wardens and other officers as defined in § 29-213.88 of the Comprehensive Animal Laws.

II. AUTHORITY:

Chapter 9.4, Article 5, § 29-213.88 of the Code of Virginia of 1984, states, in part, "All drugs and drug administering equipment used by animal wardens or other officers to capture dogs pursuant to this chapter shall have been approved by the State Veterinarian".

III. APPROVED DRUGS AND DRUG ADMINISTERING EQUIPMENT

A. Drugs

The following drugs are currently approved by the State Veterinarian for the chemical restraint of dogs pursuant to provisions contained in § 29-213.88 of the Code of Virginia, Comprehensive Animal Laws:

| <u>GENERIC NAME</u> | <u>TRADE NAME</u> | <u>CLASS OF DRUG</u> |
|---------------------|-------------------|----------------------|
|---------------------|-------------------|----------------------|

| | | |
|----------|--------|-------------------------|
| Xylazine | Rompun | 1-3 Thiazine derivative |
|----------|--------|-------------------------|

| | | |
|---|------------------|---------------------------|
| Xylazine & Ketamine hydrochloride combination cyclohexamine- | Rompun & Ketaset | 1-3 Thiazine derivative & |
|---|------------------|---------------------------|

According to Leon Nielsen, author of the book Chemical Immobilization in Urban Animal Control Work, "The dosage suggested is 5.0 mg/kg ketamine and 1.0 mg/kg xylazine for intramuscular injection in dogs only. This regimen has produced immobilization (recumbency) in dogs in 2.6 - 3.6 minutes, with a recovery time of 131 and 110 minutes respectively. The most practical way of preparing the mixture is to add 2 ml (200 mg) of xylazine to a 10 ml (1000 mg) vial of ketamine. Testing has shown that this premixed solution will remain stable with undiminished potency for 6 months. The dosage to use of the 5:1 combination is 6.0 mg/kg..."

The above recommended dosage of the combination is calculated to be 0.027 cc per pound of body weight or 0.82 cc per 30 pounds of body weight.

The suggested dose for rompun alone must be determined by the supervising veterinarian. As a rule, animals under 25 pounds should not be captured chemically by means of remote injection.

Veterinary supervision is required for the purchase and administration of the above drugs. It is important that animal wardens and other officers receive instructions and training in the handling of hazardous drugs such as those administered for the chemical restraint of dogs.

B. Drug Administering Equipment

Drug administering equipment manufactured by the following named companies is currently approved by the State Veterinarian for administering chemical restraint drugs to capture dogs:

COMPANY NAME AND ADDRESS

CAP-CHUR Equipment
Palmer Chemical & Equipment Company, Inc.
P. O. Box 867, Palmer Village
Douglasville, GA 30133

DIST-INJECT Equipment
Glasgow Veterinary Supply
Fort Peck Route
Glasgow, MT 59230

PAXARMS Equipment
Neilsen Associates
P.O. Box 17375
Milwaukee, WI 53217

SIMMONS Equipment
Zoolu Arms of Omaha
10315 Wright Street
Omaha, NE 68124

TELINJECT Equipment
Telinject, U.S.A., Inc.
16133 Ventura Boulevard
Suite 635
Encino, CA 91436

Research conducted by the State Veterinarian verifies that equipment manufactured by the above named firms will do an acceptable job of administering chemical restraint drugs used in the capture of dogs, provided that users of the equipment are well trained in its use, and that they follow operating instructions prescribed by the manufacturer. It is important that the equipment be well maintained and in a high state of repair at all times. The State Veterinarian does not recommend the equipment produced by one manufacturer over that of another.

IV. APPROVAL OF ADDITIONAL DRUGS AND DRUG ADMINISTERING EQUIPMENT

Advances in research relative to drugs and drug

General Notices/Errata

administering equipment for use in capturing dogs will be monitored on a continuing basis by the Office of the State Veterinarian. Chemical restraint drugs and drug administering equipment which are proved to be acceptable will be added to the approved list.

Firms or individuals seeking the approval of specific drugs or drug administering equipment for use in capturing dogs may submit a request for the consideration of such proposals to:

State Veterinarian
Division of Animal Health
Washington Building, Suite 600
1100 Bank Street
Richmond, Virginia 23219
TELEPHONE: (804) 786-2481

V. PUBLIC HEARING

This Directive, relating to the approval of the State Veterinarian of approved drugs and drug administering equipment, is drawn pursuant to § 29.213.88 of the Code of Virginia.

No public hearing or comment has been solicited concerning the publishing of this Directive. The State Veterinarian will receive, consider, and respond to, any petition for a hearing or for reconsideration of the approval of drugs and drug administering equipment.

Such petitions should be submitted to:

State Veterinarian
Division of Animal Health
Washington Building, Suite 600
1100 Bank Street
Richmond, Virginia 23219
TELEPHONE: (804) 786-2481

Done in Richmond, Virginia, on this 1st day of November, 1986.

/s/ William D. Miller, D.V.M.
State Veterinarian

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, Assistant 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

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

VIRGINIA STATE BOARD OF ACCOUNTANCY

- † January 19, 1987 - 10 a.m. - Open Meeting
† January 20, 1987 - 8 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review and approve applications for licensure and certification; (ii) review disciplinary cases; (iii) review correspondence items; and (iv) consider new business.

Contact: Roberta L. Banning, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505

GOVERNOR'S ADVISORY BOARD ON AGING

- January 20, 1987 - 1 p.m. - Open Meeting
January 21, 1987 - 9 a.m. - Open Meeting
Jefferson Sheraton Hotel, 101 West Franklin Street, Richmond, Virginia. ☒

The board will discuss issues of interest to older Virginians including legislation before the 1987 Session

of the Virginia General Assembly and the impending reauthorization of the federal Older American Act.

Contact: William Peterson, Virginia Department for the Aging, 18th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2271/225-3140

STATE AIR POLLUTION CONTROL BOARD

January 14, 1987 - 10 a.m. - Public Hearing
Council Chambers, Town of Abingdon Municipal Building, 133 West Main Street, Abingdon, Virginia.

January 14, 1987 - 7 p.m. - Public Hearing
Old Roanoke County Courthouse, 2nd Floor Courtroom, Salem, Virginia

January 14, 1987 - 10 a.m. - Public Hearing
Lynchburg Public Library, 2315 Memorial Avenue, Lynchburg, Virginia

January 14, 1987 - 10 a.m. - Public Hearing
State Air Pollution Control Board, State Capitol Regional Office, 8205 Hermitage Road, Richmond, Virginia

January 14, 1987 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Hampton Roads Regional Office, Pembroke Four - Suite 409, Pembroke Office Park, Virginia Beach, Virginia

January 14, 1987 - 10 a.m. - Public Hearing
State Air Pollution Control Board, National Capital Regional Office, 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 that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulations establish limits for sources of air pollution to the extent necessary to attain and maintain level of air quality as will protect human health and welfare.

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

Written comments may be submitted until January 14, 1987 to Director of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Virginia 23240

Contact: M. E. Lester, Division of Program Development,

Calendar of Events

State Air Pollution Control Board, P.O. Box 10089,
Richmond, Va. 23240, telephone (804) 786-7564

VIRGINIA APPRENTICESHIP COUNCIL

† January 15, 1987 - 9 a.m. - Open Meeting
Division of Motor Vehicles, Agecroft Room - 131, 2300
West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting. The council will hear public comments from 9 a.m. to 10 a.m. and then conduct the remainder of the meeting. If anyone wishes to address the council, please send a written request to: Richard H. Webb, Chairman, Virginia Apprenticeship Council, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241

Contact: R. S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

December 30, 1986 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to review and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, Va. 23220, telephone (804) 257-0617

VIRGINIA AUCTIONEERS BOARD

† February 3, 1987 - 10 a.m. - Open Meeting
Roanoke City Circuit Court, 315 West Church Avenue,
Roanoke, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Auctioneers Board v. Earl Frith

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

VIRGINIA BOARD OF BARBER EXAMINERS

January 26, 1987 - 9 a.m. - Public Hearing
Department of Commerce, Travelers Building, 3600 West
Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **Virginia Board of Barber Examiners**. The proposed change of regulation § 1.7 will decrease the license renewal fee from \$35.00 to \$30.00 (§ 1.7H) and late renewal fee, barber from \$70.00 to \$60.00 (§ 1.7L).

Statutory Authority: § 54.1-28 of the Code of Virginia.

Written comments may be submitted until January 23, 1987.

Contact: Evelyn W. Brennan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509 (toll-free 1-800-552-3016)

STATE BOARD FOR COMMUNITY COLLEGES

† January 14, 1987 - 1 p.m. - Open Meeting
James Monroe Building, Board Room, 15th Floor, 101
North 14th Street, Richmond, Virginia. ☒

The State Board will have a joint meeting with the State Council of Higher Education for Virginia.

† January 14, 1987 - 3 p.m. - Open Meeting
James Monroe Building, Board Room, 15th Floor, 101
North 14th Street, Richmond, Virginia. ☒

A meeting of the State Board Committees (Audit, Facilities, Personnel, Curriculum and Program, Budget and Finance). No agenda available now.

† January 15, 1987 - 9 a.m. - Open Meeting
James Monroe Building, Board Room, 15th Floor, 101 N.
14th Street, Richmond, Virginia. ☒

A regular board meeting (agenda unavailable).

Contact: Mrs. Joy Graham, James Monroe Bldg., 15th Floor, 101 N. 14th Street, Richmond, Va. 23219, telephone (804) 225-2126

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Falls of the James Advisory Board

† January 16, 1987 - 12 Noon - Open Meeting
Richmond City Hall, 3rd Floor, 9th and Broad Streets,
Richmond, Virginia. ☒

A regular meeting to discuss issues related to the Falls of the James River.

Calendar of Events

Contact: Richard G. Gibbons, Division of Parks and Recreation, 1201 Washington Bldg., Capitol Square, Richmond, Va. 23219, telephone (804) 786-4132

Virginia Cave Board

† January 10, 1987 - 1 p.m. - Open Meeting
Virginia Western Community College, Fishburne Hall, President's Conference Room, Roanoke, Virginia

A regular business meeting open to the public.

Contact: Evelyn W. Bradshaw, 1732 Byron Street, Alexandria, Va. 22303, telephone (703) 765-0669 (202) 483-3751

BOARD OF CORRECTIONS

January 14, 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: Mrs. 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

† January 7, 1987 - 10:30 - Open Meeting
Department of Motor Vehicles, Agecroft Room, 2300 West Broad Street, 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 Training

† January 7, 1987 - 9 a.m. - Open Meeting
Department of Motor Vehicles, Agecroft Room, 2300 West Broad Street. ☐

A meeting to discuss matters related to training for criminal personnel.

Contact: Dr. Jay W. Malcan, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

STATE BOARD OF EDUCATION

January 16, 1987 - 1 p.m. - Open Meeting
James Monroe Building, Rooms C and D, 101 North 14th Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **Certification Regulations for Teachers**. These regulations are the requirements for all personnel whose employment must be certified based on the standards in the regulations.

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Written comments may be submitted until December 31, 1986, to Dr. S. John Davis, Superintendent of Public Instruction, Department of Education, P.O. Box 6Q, Richmond, Virginia. 23216

Contact: Dr. William L. Helton, Administrative Director of Teacher Education, Certification, and Professional Development, Department of Education, P.O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2027

VIRGINIA COUNCIL ON THE ENVIRONMENT

† January 8, 1987 - 10 a.m. - Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☐

This is a quarterly meeting of the council. Topics of discussion will include an update of ongoing staff activities, a state rivers policy, 1987 environmental legislation, land use, and state assumption of the federal underground injection control program. A final agenda will be available in mid-December.

This meeting is open to the public and citizens are encouraged to address council on environmental topics of concern during the Citizen's Forum portion of the agenda.

Contact: Hannah Crew, Council on the Environment, 903 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-4500

DEPARTMENT OF GENERAL SERVICES

January 9, 1986 - 10 a.m. - Open Meeting
Virginia Museum of Fine Arts, Main Conference Room, Boulevard and Grove Avenue, Richmond, Virginia. ☐

The board will advise the director of the Department of General Services and the Governor on architecture

Calendar of Events

of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, Jr., AIA, AICP, Rancorn, Wildman & Krause, Architects and City Planning Consultants, P.O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

Art and Architectural Review Board

† February 6, 1987 - 10 a.m. - Open Meeting
Virginia Museum of Fine Arts, Main Conference Room, Boulevard and Grove Avenue, 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, Rancorn, Wildman & Krause, Architects and City Planning Consultants, P.O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

Division of Consolidated Laboratory Services Advisory Board

January 9, 1987 - 9:30 a.m. - Open Meeting
James Monroe Building, Conference Room D, 1 North Fourteenth Street, Richmond, Virginia. ☒

A meeting to discuss issues, concerns, and programs that impact the Division of Consolidated Laboratory Services and its user agencies.

Contact: Dr. A. W. Tiedemann, Jr., Director, Division of Consolidated Laboratory Services, 1 North 14th St., Richmond, Va. 23219, telephone (804) 786-7905

INTERAGENCY COORDINATING COUNCIL ON DELIVERY OF RELATED SERVICES TO HANDICAPPED CHILDREN

December 23, 1986 - 1:30 p.m. - Open Meeting
Commission for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting. The council is designed to facilitate the timely delivery of appropriate services to handicapped children and youth in Virginia.

Contact: Dr. Michael M. Fehl, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

DEPARTMENT OF HEALTH (BOARD OF)

February 9, 1987 - 7 p.m. - Public Hearing
Washington County Public Library, Auditorium, Valley & Oak Street, Abington, Virginia

February 10, 1987 - 7 p.m. - Public Hearing
Walnut Hill Elementary School, Auditorium, 300 South Boulevard, Petersburg, Virginia

February 12, 1987 - 7 p.m. - Public Hearing
Henrico Government Center, Henrico County Board Room, Parham and Hungary Spring Roads, Richmond, Virginia

February 17, 1987 - 7 p.m. - Public Hearing
Harrisonburg Election Commission, 89 West Bruce Street, Harrisonburg, Virginia

February 18, 1987 - 7 p.m. - Public Hearing
Warren/Green Building, Meeting Room, 10 Hotel Street, Warrenton, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-34-02. Sewage Handling and Disposal Regulations.** The Sewage Handling and Disposal Regulations specific criteria by which sewage is handled and disposed of in a safe and sanitary manner.

Written comments may be submitted until February 8, 1986.

Contact: Robert W. Hicks, Director, Division of Sanitation Services, James Madison Bldg., Room 522, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3559

† February 24, 1987 - 10 a.m. - Public Hearing
James Madison Building, Main Floor Auditorium, 109 Governor Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **Virginia Voluntary Formulary (1987 Revision).** A list of drugs of accepted therapeutic value, commonly prescribed and available from more than one source of supply.

STATEMENT

Subject, Substance, Issues, Basis and Purpose: The purpose of the Virginia Voluntary Formulary is to provide a list of drugs of accepted therapeutic value, commonly prescribed within the state which are available from more than one source of supply, and a list of chemically and therapeutically equivalent drug products which have been determined to be interchangeable. Utilization of the Formulary by practitioners and pharmacists enables citizens

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of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards.

The proposed revised Virginia Voluntary Formulary adds and deletes drugs and drug products to the Formulary that becomes effective January 15, 1987. These additions and deletions are based upon recommendations of the Virginia Voluntary Formulary Board following its review of scientific data submitted by pharmaceutical manufacturers. The Formulary Board makes its recommendations to the State Board of Health.

The Virginia Voluntary Formulary is needed to enable citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards. Without the Formulary, physicians, dentists and pharmacists in Virginia would not have the assurance that those generic drug products that may be substituted for brand name products have been evaluated and judged to be interchangeable with the brand name products.

Statutory Authority: §§ 32.1-12 and 32.1-79 et seq. of the Code of Virginia.

Written comments may be submitted until February 24, 1987.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, James Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

† February 23, 1987 - 1 p.m. - Public Hearing
James Madison Building, Main Floor Conference Room,
109 Governor Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Statewide Health Coordinating Council intends to adopt regulations entitled: **VR 360-01-03. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Nursing Home Services.** (Amends portions of the Virginia State Health Plan; supersedes the nursing home bed need projection methodology currently published in the State Medical Facilities Plan.) These regulations specify the method by which nursing home bed need shall be computed and specifies other standards for evaluating Certificate of Public Need Applications.

STATEMENT

Subject, substance, issues, basis and purpose. The purpose of these regulations is to contain the cost of health care in Virginia by promoting an efficient distribution of nursing home services consistent with the population's need for

reasonable access to such services. In their present form, however, these regulations make use of outdated information about demand for nursing home care, appear inadequately responsive to local demand for such care, and may inadvertently frustrate the entry of new providers in areas where the number of additional beds that could be approved each year is relatively small as well as the entry of life care communities whose HMO-like characteristics appear to offer opportunities for cost containment.

The proposed new standards would make use of a 1985 study of demand for care by the residents of each planning district. They would incorporate a reduced adjustment factor for demand that should be directed to alternative settings, and would no longer require the consideration of surplus capacity outside the relevant planning district. They would provide limited exceptions for projects involving planning districts whose annual increase in bed need is relatively small, and for projects involving life care communities. As with the existing regulations, the proposed new standards would require applications to address the issue of availability of essential personnel, physical accessibility, operational viability, compliance with applicable codes and requirements, and proper service by essential utilities.

Statutory Authority: § 32.1-120 of the Code of Virginia.

Written comments may be submitted until February 23, 1987.

Contact: John P. English, Health Planning Consultant, Madison Bldg., Room 1010, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4766

COUNCIL ON HEALTH REGULATORY BOARDS

† January 20, 1987 - 11 a.m. - Open Meeting
Koger Center, Surry Building, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested)

A regular quarterly meeting of the council. Reports of standing and special committees will be considered.

Executive Committee/Regulatory Evaluation and Research Committee

† January 5, 1987 - 10 a.m. - Open Meeting
Koger Center, Surry Building, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☐ (Interpreter for the deaf provided if requested)

The committees will review regulations proposed by health regulatory boards within the Department of Health Regulatory Boards and prepare comments for council approval in accordance with the provision of

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the Code of Virginia § 54-955.1.L.

Contact: Richard D. Morrison, Policy Analyst, Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005, telephone (804) 662-9918

VIRGINIA BOARD FOR HEARING AID DEALERS AND FITTERS

† **January 5, 1987 - 8:30 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review (i) disciplinary cases; (ii) correspondence; and (iii) administrator Hearing Aid Dealer and Fitter Examination.

Contact: Roberta L. Banning, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505

DEPARTMENT OF HIGHWAYS AND TRANSPORTATION BOARD COMMONWEALTH TRANSPORTATION BOARD (As of 1/1/87)

† **January 15, 1987 - 10 a.m.** – Open Meeting
† **February 19, 1987 - 10 a.m.** – Open Meeting
Department of Transportation Building, Board Room, 3rd Floor, 1401 East Broad Street, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

† **January 8, 1987 - 8:30 a.m.** – Open Meeting
Fourth Street Office Building, 7th Floor Conference Room, 205 North Fourth Street, Richmond, Virginia. ☒

To develop recommended regulations pertaining to the construction, maintenance, operation and inspection of amusement devices for consideration by the Board of

Housing and Community Development.

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

February 2, 1987 - 7 p.m. – Public Hearing
Woodbridge Senior High School, 3001 Old Bridge Road, Woodbridge, Virginia

February 3, 1987 - 7 p.m. – Public Hearing
J. Sargeant Reynolds Community College, The Auditorium, 1st Floor, 700 East Jackson Street, Richmond, Virginia

February 4, 1987 - 8 p.m. – Public Hearing
Old Dominion University, Chandler Hall, Norfolk, Virginia

February 5, 1987 - 7 p.m. – Public Hearing
Department of Highways and Transportation, 731 Harrison Avenue, Salem, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **Virginia Confined Space Standard**. This standard proposes to regulate entry into and work in confined spaces in Virginia general industry and Virginia construction industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until January 31, 1987, to Commissioner Carol Amato, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241

Contact: Jay Withrow, Technical Services Director, Department of Labor and Industry-VOSH, 205 N. 4th St., Richmond, Va. 23241, telephone (804) 786-8011

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February 2, 1986 - 1 p.m. – Public Hearing
War Memorial Building, Lord Fairfax Room, Winchester, Virginia.

February 3, 1986 - 2 p.m. – Public Hearing
Southside Community College, John H. Daniel Campus, Room 55, Keysville, Virginia

February 4, 1986 - 3 p.m. – Public Hearing
Eastern Shore Community College, Lecture Hall, Route 13, Melfa, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **VR**

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425-02-13. Virginia Field Sanitation Standard. This standard proposes to regulate sanitation requirements for Virginia Agricultural Hand-Labor Operations.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until January 31, 1987, to Commissioner Carol Amato, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241

Contact: Jay Withrow, Technical Services Director, Department of Labor and Industry, 205 N. 4th St., Richmond, Virginia 23241, telephone (804) 786-8011

VIRGINIA LONG-TERM CARE COUNCIL

January 6, 1987 - 9:30 a.m. – Open Meeting James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss Virginia's long-term care service system and issues relating to the coordination and provision of services and programs. The council will continue to develop the Statewide Information Management System for human services.

Contact: Catherine Saunders, Long-Term Care Manager, Virginia Department for the Aging, 18th Floor, 101 N. 14th St., Richmond, Va. 23219-2797, telephone (804) 225-2271/225-2912

MARINE RESOURCES COMMISSION

† **January 12, 1987 - 9:30 a.m. – Open Meeting**
† **February 3, 1987 - 9:30 a.m. – Open Meeting**
Newport News City Council Chamber, 2400 Washington Avenue, Newport News, Virginia

The Marine Resources Commission will meet to hear and decide cases on fishing licensing; oyster ground leasing; environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It will also hear and decide 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 5 days.

Contact: Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, Virginia 23607, telephone (804) 247-2208

VIRGINIA STATE BOARD OF MEDICINE

Chiropractic Examination Committee

† **January 29, 1987 - 12 Noon – Open Meeting**
Department of Health Regulatory Boards, Koger Center, Surry Building, Board Room, 2nd Floor, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting in open and executive session to continue the development of the Virginia Chiropractic Part III examination.

Credentials Committee

† **January 30, 1987 - 8 a.m. – Open Meeting**
† **January 31, 1987 - 8 a.m. – Open Meeting**
Department of Health Regulatory Boards, Koger Center, Surry Building, Board Room 1, 2nd Floor, 1601 Rolling Hills Drive, 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.

Executive Committee

† **January 9, 1987 - 9 a.m. – Open Meeting**
Department of Health Regulatory Boards, Koger Center, Surry Building, Board Room 1, 2nd Floor, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review case decisions made by the president of the board on disciplinary matters and discuss other items which may come before the committee.

Informal Conference Committee

† **January 16, 1987 - 1 p.m. – Open Meeting**
Department of Health Regulatory Boards, Koger Center, Surry Building, Second Floor, 1601 Rolling Hills Drive, Richmond, 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.

Contact: Eugenia K. Dorson, Executive Secretary, Surry Bldg., 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 786-0575

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STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

† January 28, 1987 - 10 a.m. - Open Meeting
Planning District 19, Petersburg, Virginia. ☒

A regular monthly meeting. The agenda will be published on January 21 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Mental Health and Mental Retardation Board Secretary, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

State Human Rights Committee

† January 9, 1987 - 9 a.m. - Open Meeting
James Madison Building, Conference Room, 13th Floor, 109 Governor Street, Richmond, Virginia. ☒

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to meeting.

Contact: Elsie D. Little, A.C.S.W., State Human Rights Director, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3988

MIGRANT AND SEASONAL FARM WORKERS BOARD

† January 7, 1987 - 10 a.m. - Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

A regular meeting of the board that will include (i) exploring concerns of the agricultural worker and employer; (ii) setting the goals and objectives of the board; and (iii) any other business.

Contact: Ms. Jeff Hudson, VEC, 703 E. Main St., Richmond, Va. 23219, telephone (804) 786-8706

DEPARTMENT OF MINES, MINERALS AND ENERGY

January 7, 1987 - 10 a.m. - Public Hearing
Division of Mined Land Reclamation Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines,

Minerals and Energy intends to amend regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** Proposed amendments to Virginia's program for surface coal mining operations to consider areas unsuitable for mining, and for reclaiming abandoned mines.

Statutory Authority: § 45.1-230 of the Code of Virginia.

Written comments may be submitted until January 7, 1986.

Contact: Conrad T. Spangler, Chief Engineer, Division of Mined Land Reclamation, P.O. Drawer U, Big Stone Gap, Va. 24219, telephone (703) 523-2925

VIRGINIA BOARD OF OPTOMETRY

January 10, 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 Virginia Board of Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Virginia Board of Optometry.** The proposed amendments provide standards for the practice of optometry in Virginia and state requirements for candidates for licensure of optometrists.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until January 10, 1986.

Other pertinent information: The proposed regulations were developed as a part of the comprehensive review of regulations initiated by Governor Charles S. Robb.

Contact: Moria C. Lux, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 786-0131 (After 1/1/87 (804) 662-9910) (Toll-free number 1-800-533-1560)

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† January 20, 1987 - 8 a.m. - Open Meeting
Egyptian Building, Baruch Auditorium, 1223 East Marshall Street, Richmond, Virginia

To administer Virginia Practical Examination and Diagnostic Pharmaceutical Agents Examination.

† January 21, 1987 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, Koger Center, Surry Building, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A general business meeting.

Contact: Moira C. Lux, Executive Director, Virginia Board

Calendar of Events

of Optometry, Koger Center, Surry Bldg., 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 786-0131

PERINATAL SERVICES ADVISORY BOARD

† **January 8, 1987 - 12:30 p.m.** – Open Meeting
James Madison Building, Main Floor Auditorium, 109 Governor Street, Richmond, Virginia. ☒

A regular meeting. (Agenda will be provided upon request two weeks prior to the meeting.)

Contact: Alice C. Linyear, M.D., M.P.H., Director, Division of Maternal and Child Health, James Madison Bldg., 6th Floor, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-7367

ADVISORY BOARD ON PHYSICAL THERAPY

† **January 23, 1987 - 8:30 a.m.** – Open Meeting
Department of Health Regulatory Boards, Koger Center, Surry Building, Board Room 1, 2nd Floor, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The meeting will cover the review of the proposed regulations, reports from the Ad Hoc Committee and presentations from Compliance on Complaint Procedures and other items which may come before the board.

Contact: Eugenia K. Dorson, Executive Secretary, Surry Bldg., 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 786-0575

VIRGINIA REAL ESTATE BOARD

January 16, 1987 - 10:30 a.m. – Public Hearing
Department of Commerce, Travelers Building, Room 395, 3600 West Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.** Regulate licensed real estate firms, brokers and salesperson; registered rental location agents; and proprietary schools

Statutory Authority: §§ 54-1.28 and 54-740 of the Code of Virginia.

Written comments may be submitted until January 10, 1987.

Contact: Florence R. Brassier, Assistant Director, Virginia

Real Estate Board, Department of Commerce, 3600 W. Broad St., Richmond Va. 23230-4917, telephone (804) 257-8552 (toll-free number 1-800-552-3016)

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January 16, 1987 - 10:30 a.m. – Public Hearing
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. 23230 ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Real Estate Board intends to amend regulations entitled: **VR 585-01-2. Condominium Regulations.** Rules and regulations governing the marketing and sale of condominiums in Virginia.

Statutory Authority: § 55-79.98 (a) of the Code of Virginia.

Written comments may be submitted until January 10, 1987.

Contact: Lucia Anna Trigiani, Property Registration Administrator, Virginia Real Estate Board, Department of Commerce, 5th Floor, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8510 (toll free number 1-800-552-3016)

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January 16, 1987 - 10:30 a.m. – Public Hearing
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Real Estate Board intends to amend regulations entitled: **VR 585-01-3. Time-Share Regulations.** Rules and regulations governing the marketing and sale of time-shares in Virginia. The board is amending these regulations because of statutory changes and for clarification.

Statutory Authority: § 55-396 A of the Code of Virginia.

Written comments may be submitted until January 10, 1987.

Contact: Lucia Anna Trigiani, Property Registration Administrator, Department of Commerce, 5th Floor, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8510 (toll-free number 1-800-552-3016)

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

January 9, 1987 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1

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of the the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-70-5. Health Care Coverage.**

Statutory Authority: Code of Federal Regulations 45 CFR 302, 304, 305 and 306 and §§ 20-60.3, 63.1-250, 63.1-250.1, 63.1-250.2, 63.1-252.1 and 63.1-287 of the Code of Virginia.

Contact: Jane Clements, Bureau of Chief Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23228, telephone (804) 281-9074

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January 7, 1987 - 10 a.m. - Public Hearing
Commonwealth Building, Suite 100, 210 Church Street, S.W.,
Roanoke, Virginia

January 14, 1987 - 8:30 a.m. - Open Meeting
Blair Building, Rooms A and B, 8007 Discovery Drive,
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 adopt regulations entitled: **Policy Regarding Child Protective Services Central Registry Information.** This regulation will establish the timeframe and rationale for name entry into the Central Registry.

Statutory Authority: § 63.1-248.1 et seq. of the Code of Virginia.

Written Comments may be submitted until January 23, 1987.

Contact: Janine Tondrowski, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9081 (toll-free 1-800-552-7091)

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February 6, 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 amend the regulation entitled: **VR 615-70-1. State Income Tax Intercept for Child Support.**

Statutory Authority: § 63.1-25 of the Code of Virginia and 45 CFR 303.102 of the Code of Federal Regulations effective October 1, 1985.

Written comment may be submitted until February 6, 1987, to Ray C. Goodwin, Acting Director, Child Support Enforcement, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23288.

Contact: Jane L. Clements, Chief, Bureau of Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone 281-9074

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February 10, 1987 - 10 a.m. - Public Hearing
Koger Center, Blair Building, 8007 Discovery Drive,
Richmond, Virginia. ☒

February 12, 1987 - 10 a.m. - Public Hearing
Commonwealth Building, 201 Church Street, Roanoke,
Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services (Board of) and Division of Licensing Programs intend to amend regulations entitled: **VR 615-22-02. Standards and Regulations for Licensed Homes for Adults.** The purpose of these amendments is to regulate homes which provide care and maintenance to the aged and infirm.

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

Written comments may be submitted until February 1, 1987.

Contact: Catherine A Loveland, Program Specialist, Division of Licensing Programs, Department of Social Service, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free 1-800-552-7091)

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† February 20, 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: **Minimum Standards for Local Agency Operated Volunteer Respite Care Programs.** These regulations establish minimum standards for the provision of volunteer staffed respite care for children by local social service/public welfare agencies.

STATEMENT

Basis: This regulation is issued under authority granted by §§ 63.1-25 and 63.1-55 of the Code of Virginia.

Subject: This regulation sets forth minimum standards for the provision of volunteer staffed respite care for children by local departments of social service/public welfare.

Purpose: This regulation provides standards which local departments of social services/public welfare must meet to ensure the health and well being of children who are provided volunteer respite care in an agency operated

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program.

Substance: This regulation provides local department of social services/public welfare with information regarding minimum requirements of the Department of Social Services for the establishment and maintenance of volunteer respite care programs.

Issues: The intent of this regulation is to ensure local departments of social service/public welfare that choose to provide volunteer respite child care do so in accordance with basic standards. Similar standards have been established for other local agency approved providers, such as Family Day Care Homes. This regulation will require local agency operated volunteer respite care programs to meet standards that do not currently exist for such programs.

Statutory Authority: §§ 63.1-25 and 63.1-55 of the Code of Virginia.

Written comments may be submitted until February 20, 1987.

Contact: Vernon Simmons, State Volunteer Services Coordinator, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9288 (toll free 1-800-552-7091)

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **January 7, 1987 - 9:30 a.m. – Open Meeting**
General Assembly Building, Senate Room A, Capitol Square, Richmond, Virginia. ☐

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permits.

Contact: David Effert, James Madison Bldg., Room 502, 109 Governor St., Richmond, Va. 23119, telephone (804) 786-1750

THE TREASURY BOARD

January 8, 1987 - 10 a.m. – Public Hearing
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that The Treasury Board intends to amend regulations entitled: **VR 640-02. The Virginia Security for Public Deposits Act Regulations.** These regulations make permanent and amend the emergency regulation that expires May 21, 1987.

Statutory Authority: § 2.1-364(a) of the Code of Virginia.

Written comments may be submitted until January 9, 1986.

Contact: Pat Watt, Director, Financial Policy Analysis, Department of Treasury, P.O. Box 6H, Richmond, Va. 23215, telephone (804) 225-2142

DEPARTMENT OF WASTE MANAGEMENT

January 6, 1987 - 10 a.m. – Open Meeting
James Monroe Building, Conference Room D, 101 North 14th Street, Richmond, Virginia. ☐

A public meeting to consider the proposed draft of the regulations entitled "Financial Assurance Regulations for Solid Waste Facilities."

Contact: Cheryl Cashman, Public Information Officer, Department of Waste Management, James Monroe Building, 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

January 5, 1987 - 2 p.m. – Open Meeting
Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

January 7, 1987 - 2 p.m. – Open Meeting
Williamsburg/James City County Courthouse, Council Chambers, Court and South Henry Street, Williamsburg, Virginia

January 8, 1987 - 2 p.m. – Open Meeting
McCourt Building, Board Room, County of Prince William, 1 County Complex, 4850 Davis Ford Road, Prince William, Virginia

A public meeting to receive comments on the promulgation of regulations to control and manage the discharge of toxic pollutants into the waters of the Commonwealth to ensure that no adverse impacts occur.

Contact: Alan J. Anthony, Ph.D., Richard Ayers, or Durwood Willis, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0791

LEGISLATIVE

COAL AND ENERGY COMMISSION
Oil and Gas Subcommittee

† January 13, 1987 - 10:30 a.m. - Open Meeting
General Assembly Building, Conference Room, 5th Floor
West, Capitol Square, Richmond, Virginia. ☒

The subcommittee will meet to discuss any recommendations to the full commission regarding the Virginia Recycled Oil Program and changes to the Virginia Oil and Gas Act.

Contact: Michael Ward, Staff Attorney, or Martin Farber, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

VIRGINIA CODE COMMISSION

December 29, 1986 - 10 a.m. - Open Meeting
December 30, 1986 - 10 a.m. - Open Meeting
General Assembly Building, 6th Floor Conference Room,
Capitol Square, Richmond, Virginia. ☒

The commission will continue with recodification of Title 54.

Contact: Joan W. Smith, General Assembly Bldg., 2nd Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-3591

COMMISSION STUDYING LOCAL GOVERNMENT
STRUCTURES

† January 6, 1987 - 10 a.m. - Open Meeting
General Assembly Building, 6th Floor Conference Room,
Capitol Square, Richmond, Virginia. ☒

This Commission has scheduled a working session to discuss information obtained at 1986 public hearings and plans for 1987 interim. (HJR 163)

Contact: C. M. Conner, Jr., Staff Attorney or Dr. R. J. Austin, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

SUBCOMMITTEE STUDYING MATTERS RELATING TO
MOTOR VEHICLES LIABILITY INSURANCE,
INCLUDING INSURANCE RATES OF TAXICAB OWNERS

† January 13, 1987 - 1 p.m. - Open Meeting
General Assembly Building, House Room D, Capitol

Square, Richmond, Virginia. ☒

Subcommittee will meet to discuss report and make any revisions that may be necessary. (HJR 43)

Contact: Terry Barrett, Research Associate, Division of Legislative Services, General Assembly Bldg., 2nd Floor, Richmond, Va. 23219, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

December 23

Handicapped Children, Interagency Coordinating Council on Delivery of Related Services to

December 29

Code Commission, Virginia

December 30

Alcoholic Beverage Control Board, Virginia
Code Commission, Virginia

January 5

† Hearing Aid Dealers and Fitters Board, Virginia
State Board of
† Health Regulatory Board, Council on
- Executive Committee
- Regulatory Evaluation and Research Committee
Water Control Board, State

January 6

† Local Government Structures, Commission Studying
Long Term-Care Council, Virginia
Waste Management, Department of

January 7

† Criminal Justice Services Board
† Criminal Justice Services Board
- Committee on Training
† Migrant and Seasonal Farm Workers Board
† Sewage Handling and Disposal Appeals Review
Board, State
Water Control Board, State

January 8

† Environment, Virginia Council on the
† Housing and Community Development
- Amusement Device Technical Advisory Committee
† Perinatal Services Advisory Board
Water Control Board, State
Corrections, Board of

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- † Medicine, Virginia State Board of
- Executive Committee
- Mental Health and Mental Retardation, Department of
- State Human Rights Committee

January 10

- † Conservation and Historic Resources, Department of
- Virginia Cave Board

January 12

- † Marine Resources Commission

January 13

- † Coal and Energy Commission
- Oil and Gas Subcommittee
- † Motor Vehicles Liability Insurance, Including
Insurance Rates of Taxicab Owners, Subcommittee
Studying Matters Relating to

January 14

- † Community Colleges, State Board for

January 15

- † Apprenticeship Council, Virginia
- † Community Colleges, State Board for
- † Highways and Transportation Board, Virginia
Department of

January 16

- † Conservation and Historic Resources, Department of
- Falls of the James Advisory Board

January 16

- † Medicine, Virginia State Board of
- Informal Conference Committee

January 19

- † Accountancy, Virginia State Board of

January 20

- † Accountancy, Virginia State Board of
Aging, Governor's Advisory Board on
- † Health Regulatory Boards, Council on
- † Optometry, Virginia Board of

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- Aging, Governor's Advisory Board on
- † Optometry, Virginia Board of

January 23

- † Physical Therapy, Advisory Board on

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- † Mental Health and Mental Retardation Board, State

January 29

- † Medicine, Virginia State Board of
- Chiropractic Examination Committee

January 30

- † Medicine, Virginia State Board of
- Credentials Committee

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- † Medicine, Virginia State Board of
- Credentials Committee

February 3

- † Auctioneers Board, Virginia
- † Marine Resources Committee

February 6

- † General Services, Department of
- Art and Architectural Review Board

February 19

- † Highways and Transportation Board, Virginia
Department of

PUBLIC HEARINGS

December 19

- Fire Programs, Department of (Board of)

December 30

- Mines, Minerals and Energy, Department of

January 7

- Mines, Minerals and Energy, Department of
- Social Services, Department of

January 8

- Treasury Board

January 14

- State Air Pollution Control Board
- Social Services, Department of

January 16

- Education, State Board of
- Virginia Real Estate Board

January 26

- † Barber Examiners, Virginia Board of

February 2

- Labor and Industry, Department of

February 3

- Labor and Industry, Department of

February 4

- Labor and Industry, Department of

February 5

- Labor and Industry, Department of

February 9

- Health, Department of

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Health, Department of
Social Services, Department of

February 12
Health, Department of
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February 17
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February 23
† Statewide Health Coordinating Council, Virginia

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† Health, Department of

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