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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

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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 355-35-01. Rules and Regulations Governing Restaurants.**

Statutory Authority: §§ 35.1-11 and 35.1-14 of the Code of Virginia.

Public Hearing Date: August 28, 1987 - 10 a.m.
(See Calendar of Events section for additional information)

REGISTRAR'S NOTICE: Due to its length, the proposed Rules and Regulations Governing Restaurants filed by the Department of Health is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of the full text. The full text of the regulations is available for public inspection at the office of the Registrar of Regulations and at the Department of Health.

Summary:

The department's purpose in amending the Rules and Regulations Governing Restaurants is to update the regulations in accordance with current format requirements, and changes in food technology and in food protection practices and principles.

The regulation amendments are summarized below:

1. Revise the definitions of commissary, potentially hazardous food, and safe materials.

2. Delete requirement that new owners of short order restaurants are to install public handwashing and toilet facilities.

3. Add a requirement that permits are not transferable from one location to another location.

4. Clarify the requirement that all refrigerated facilities, including freezers, are to be provided with thermometers.

5. Specify the temerature at which frozen food is stored should be .O°F.

6. Add a temperature requirement of 45°F or below for maintaining individual service nondairy, whitening or whipping agents.

7. Add a requirement that prohibits reuse of soiled tableware by self-service consumers.

8. Clarify the requirements for grease traps and public and employee toilet facilities with respect to Virginia Uniform Statewide Building Code.

9. Include properly sealed concrete as an approvable floor construction.

10. Clarify the requirement on carpeting to prohibit use in food preparation, equipment and utensil-washing areas.

11. Add a requirement that a utility facility be provided with hot and cold running water.

12. Reclassify storage categories of poisonous or toxic materials.

13. Clarify the requirement that prohibits traffic of unnecessary persons in a food preparation facility.

15. Include footnote references instead of the text of Food, Drug and Cosmetic Act and the Code of Federal Regulations.

STATE BOARD OF PHARMACY

Title of Regulation: **VR 530-01-1. State Board of Pharmacy Regulations.**

Statutory Authority: §§ 54-524.16 and 54-524.19 of the Code of Virginia.

Public Hearing Date: August 12, 1987 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The board proposes to repeal existing regulations and promulgate new regulations stating the requirements for licensure, the standards for the practice of pharmacy and businesses in which the dispensing, manufacturing, or distribution of drugs and devices occurs, and disciplinary provisions and fees.

VR 540-01-1. State Board of Pharmacy Regulations.

PART I.
GENERAL PROVISIONS.

§ 1.1. Public participation guidelines.

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents:

1. "Notice of intent" to promulgate regulations.

2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulation.

3. Final regulation adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their desires to continue to receive documents or to be deleted from the list. After 30 days, the names of the persons who do not respond will be deleted from the list.

C. Notice of intent.

At least 30 days prior to the publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

D. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

At any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

§ 1.2. Definitions.

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

"Board" means the Virginia State Board of Pharmacy.

"Expiraton date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

"Hermetic container" means a container that is impervious to air or any other gas under the ordinary or customary conditions of handling, shipment, storage, and distribution.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Light resistant container" means a container that protects the contents from the effects of light by virtue of the specific properties of the material of which it is composed, including any coating applied to it. Alternatively, a clear and colorless or a translucent container may be made light-resistant by means of an opaque covering, in which case the label of the container bears a statement that the opaque covering is needed until the contents have been used. Where a monograph directs protection from light, storage in a light-resistant container is intended.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act(s) being performed. Neither prior nor future instructions shall be sufficient nor, shall supervision rendered by telephone,

written instructions, or by any mechanical or electronic methods be sufficient.

"Radiopharmaceutical" means any article that exhibits spontaneous decay or disintegration of any unstable atomic nucleus, usually accompanied by the emission of ionizing radiation and any nonradioactive reagent kit or nuclide generator which is intended to be used in the preparation of any such article.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Safety closure container" means a container which meets the requirements of the Federal Poison Preventing Packaging Act, i.e, in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which termperature in maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

2. "Room temperature" means the temperature prevailing in a working area.

3. "Controlled room temperature" is a temperature maintained thermostatically between 15° and 30°C (50° and 86°F).

4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).

5. "Excessive heat" means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to the destructive alteration of the dosage form, the container label bears an appropriate instruction to protect the product from freezing.

"Tight container" means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescence, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopoeia-National Formulary.

"Unit-dose container" means a container that is a single-unit container, as defined in United States Pharmacopoeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for patient.

"Unit dose system" means a pharmacy coordinated method of drug dispensing and control in which drugs are distributed in properly labeled unit-dose containers or single-unit containers in ready to administer form as far as possible, in a supply for not more than seven days.

"U.S.P.-N.F." means the United States Pharmacopeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

§ 1.3. Fees.

The fee which shall accompany an application or a renewal for a license, permit, registration or the charge for the delinquent payment of a renewal shall be as follows:

A. The application fee for pharmacist examination shall be $300. If applicant withdraws the application after the deadline for filing, all but $25 of the fee will be refunded.

B. The application fee for a temporary or probationary or reciprocal license shall be $300.

C. Renewal of pharmacist license shall be $20.

1. The application fee for a person whose license has been revoked or suspended indefinitely shall be $50.

2. If a pharmacist does not maintain a license within the Commonwealth, all back renewal fees and a $10 delinquent fee shall be paid before a renewal of the license will be issued.

D. Permit to conduct a pharmacy shall be $75 annually.

E. Physician drug dispensing license shall be $75 annually.

F. 1. Nonrestricted manufacturing permit shall be $200 annually.

2. Restricted manufacturing permit shall be $200 annually.

3. Wholesaler or distributor shall be $200 annually.

G. Controlled substances registration shall be $20 annually.

H. If a licensee fails to renew a required license, registration or permit prior to the expiration date for the license or, registration, a $10 late fee shall be assessed.

I. Duplicate certificate of registration for a pharmacist or the certification of grades and registration for a pharmacist shall be $15.

PART II.
ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Practical experience required.

A. Each applicant for licensure by examination shall have gained practical experience in prescription compounding and dispensing within a pharmacy for a period of not less than six months.

B. During the six months of practical experience required, the applicant shall accumulate a minimum of 1,000 hours. For purposes of this regulation, credit will not be given for more than 40 hours in any one week.

C. All practical experience credit required shall only be gained after completion of the first professional year in an approved school of pharmacy.

D. Practical experience gained in a college of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience needed toward fulfilling the six months of experience required.

E. An applicant shall not be admitted to the examination unless all of the practical experience has been gained.

§ 2.2. Procedure for gaining practical experience.

A. Each pharmacy student, except those enrolled in an approved college clerkship program, who desires to gain practical experience in a pharmacy within the Commonwealth shall register with the board on a form provided by the board prior to becoming so engaged. This requirement shall also apply to students gaining practical experience within the Commonwealth for licensure in another state. The student shall be called a "student externe."

B. Graduates in pharmacy of an approved school of pharmacy who wish to gain practical experience within the Commonwealth shall register with the board prior to being so engaged. Such graduates shall be called "pharmacy interne." Experience gained in another state must be certified by the board in the state in which the experience was gained.

C. The applicant shall be supervised by a pharmacist who holds an unrestricted license and assumes full responsibility for the training, supervision and conduct of the externe or the interne. The supervising pharmacist shall not supervise more than one interne or externe during the same time period for experience during or after the last professional year.

D. The practical experience of the student externe shall be gained nonconcurrent with the school year excepting that gained in any program of a pharmacy school which meets the requirements of § 54-524.21 of the Code of Virginia.

E. Any practical experience gained within any state by a student externe or a pharmacy interne who has not registered with the board in the state in which the experience is being gained will not be accepted by this board nor certified to another state by the board.

F. All practical experience of the student externe shall be evidenced by an affidavit which shall be filed with the application for examination for licensure.

G. An applicant for examination shall file the certificate of experience no less than 30 days prior to the date of the examination, and such certificates required in G and H of this section shall be on a form prescribed by the board.

H. The registration of a student externe shall be valid only while the student is enrolled in a school of pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

§ 2.3. Curriculum and approved colleges of pharmacy.

A. Length of curriculum.

The following educational requirements for licensure for the specified periods shall be recognized by the board for the purpose of licensure.

1. On and after June 1, 1928, but before June 1, 1936, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.

2. On and after June 1, 1936, but before June 1, 1964, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.

3. On and after June 1, 1964, the applicant for licensure shall have been graduated from a five-year course of study with a Bachelor of Science degree in pharmacy awarded.

B. First professional degree required.

In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of a college of pharmacy which meets the requirements of § 54-524.21 of the Code of Virginia.

§ 2.4. Content of the examination and grades required.

A. The examination for licensure as a pharmacist shall consist of the examination (NABPLEX) provided by the National Association of Boards of Pharmacy and law examinations provided by the board.

B. Passing requirements.

On and after June 23, 1986, subjects will not be identified on the examination (NABPLEX) and a passing grade shall not be less than 75. The passing grade on pharmacy law examinations shall not be less than 75.

C. Limitation on admittance to examination.

When an applicant for licensure by examination fails to meet the passing requirements of paragraph B of this section on three occasions, he shall not be readmitted to the examinations until he has completed an additional six months of practical experience as a pharmacy interne as set forth in § 2.2.

§ 2.5. Acceptance of official reciprocal application.

The executive director of the board may accept an application from a pharmacist licensed in another state, who possesses the legal qualifications, and issue a license; such application shall be subject to acceptance by the board at the first board meeting subsequent to the filing of the application.

PART III.

PHARMACIES.

§ 3.1. Pharmacy permits generally.

A. A pharmacy permit shall not be issued to a pharmacist to be simultaneously in charge of more than one pharmacy.

B. The pharmacist-in-charge or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the pharmacist-in-charge or other pharmacist on duty by nonpharmacist personnel shall be deemed the practice of pharmacy.

C. When the pharmacist-in-charge ceases practice at a pharmacy, an application for a new pharmacy permit shall be filed within 10 days.

§ 3.2. Special or limited-use pharmacy permits.

For good cause shown, the board may issue a special or limited-use pharmacy permit, when the scope, degree or type of pharmacy practice or service to be provided is of a special, limited or unusual nature as compared to a regular pharmacy service. The permit to be issued shall be based on special conditions of use requested by the applicant and imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. A policy and procedure manual detailing the type and method of operation, hours of operation, and method of documentation of continuing pharmacist control must accompany the application.

2. The issuance and continuation of such permits shall be subject to continuing compliance with the conditions set forth by the board.

§ 3.3. Pharmacies going out of business.

Ten days prior to the closing date, the board shall be notified by the pharmacist-in-charge or other responsible person of the closing of the pharmacy. At that time, the disposition of all Schedule II through VI drugs shall be reported to the board. If the pharmacy drug stock is to be transferred to another licensee, the pharmacist-in-charge or other responsible person shall inform the board of the name and address of the licensee to whom the drugs are being transferred.

§ 3.4. New pharmacies.

A. Inspection and notice required for new pharmacies.

1. The proposed location of a pharmacy practice area shall be inspected by an agent of the board prior to the issuance of a permit.

2. Pharmacy permit applications which indicate a

requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

3. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

B. At the time of the inspection, the dispensing area shall comply with §§ 3.5, 3.6, 3.7, 3.8, and 3.10 of these regulations.

C. Drugs shall not be stocked within the proposed pharmacy until adequate safeguards against diversion have been provided and approved by the board or its authorized agent.

§ 3.5. Physical standards for all pharmacies.

A. Space requirements.

The area which is to be used for the storage, compounding, and preparation of prescriptions for Schedule II through VI drugs shall not be less than 240 square feet. The patient waiting area or the area used for devices, cosmetics, and proprietary medicines shall not be considered a part of the minimum 240 square feet. The total area shall be consistent with the size and scope of the services provided.

B. Access to dispensing area.

Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the pharmacist shall not be through the dispensing area or drug storage area. This subsection shall not apply to dispensing areas which are established prior to the effective date of this regulation.

C. The pharmacy shall be constructed of permanent and secure materials. Trailers or other moveable facilities or temporary construction shall not be permitted.

D. The entire area of the location of the pharmacy practice, including all areas where drugs are stored shall be well lighted, well ventilated; the proper storage temperature shall be maintained to meet U.S.P.-N.F. specifications for drug storage.

E. The counter work space shall be used only for the compounding and dispensing of drugs and necessary record keeping.

F. A sink with hot and cold running water shall be within the immediate compounding and dispensing area.

G. Adequate refrigeration facilities for the storage of drugs requiring cold storage temperature shall be maintained within the compounding and dispensing area.

§ 3.6. Sanitary conditions.

A. The entire area of any place bearing the name of a pharmacy shall be maintained in a clean and sanitary manner and in good repair and order.

B. The dispensing area and work counter space and equipment in the dispensing area shall be maintained in a clean and orderly manner.

C. Adequate trash disposal facilities and receptacles shall be available.

§ 3.7. Required minimum equipment.

The pharmacist-in-charge shall be responsible for maintaining the following equipment:

A. A current copy of the United States Pharmacopeia Dispensing Information Reference Book.

B. A set of Prescription Balances, sensitive to 15 milligrams, and weights.

C. A refrigerator with a monitoring thermometer.

D. A copy of the current Virginia Drug Control Act and board regulations.

E. A current copy of the Virginia Voluntary Formulary.

F. A laminar flow hood for pharmacies engaging in the compounding of sterile product(s).

§ 3.8. Safeguards against diversion of drugs.

A device for the detection of breaking shall be installed in each dispensing and drug storage area of each pharmacy. The installation and the device shall be based on accepted burglar alarm industry standards, and shall be subject to the following conditions:

A. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

B. The device shall be maintained in operating order.

C. The device shall fully protect the immediate drug compounding, dispensing and storage areas and shall be capable of detecting breaking by any means whatsoever in the area when the pharmacy or other business in which the pharmacy is located is closed.

D. The alarm system must have an auxiliary source of power.

E. This regulation shall not apply to pharmacies which have been granted a permit prior to the effective date of this regulation provided a previously approved security alarm system is in place and provided further that a

breaking and loss of drugs does not occur.

§ 3.9. Special security requirements.

A. If the compounding and dispensing area is to be closed while the remainder of the pharmacy or business in which the dispensing area is located is open for the conduct of business, an alarm system shall be installed in the dispensing area and be subject to the following requirements:

1. The alarm system is activated and operated separately from any other alarm system in the pharmacy or the business in which the dispensing area is located.

2. The alarm system will detect breaking in the dispensing area when it is closed.

3. The alarm system is controlled only by the pharmacist.

B. An emergency key or access code to the system shall be maintained as set forth in § 3.10 of these regulations.

C. If the dispensing and drug storage area is enclosed from floor to ceiling, the separately activated alarm system referred to in this regulation shall not be required.

§ 3.10. Dispensing area enclosures.

A. The drug dispensing and drug storage areas of each pharmacy shall be provided with enclosures subject to the following conditions:

1. The enclosure shall be constructed in such a manner that it protects the controlled drug stock from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

2. The enclosure shall be of sufficient height as to prevent anyone from reaching over to gain access to the drugs.

3. Entrances to the enclosed area must have a door which extends from the floor and which is at least as high as the adjacent counters or adjoining partitions.

4. Doors to the area must have adequate locking devices which will prevent entry in the absence of the pharmacist.

B. The door keys to the dispensing areas shall be subject to the following requirements:

1. Only pharmacists practicing at the pharmacy and authorized by the pharmacist-in-charge shall be in possession of any keys to the locking device on the door to such enclosure.

2. The pharmacist may place a key in an envelope or other container which contains a seal and a signature placed by the pharmacist on the envelope or container in a safe or vault within the pharmacy or other secured place.

3. The key may be used to allow emergency entrance to the dispensing area by other pharmacists.

C. Restricted access to the dispensing area.

The prescription drug compounding and dispensing area is restricted to pharmacists, externes, and internes who are practicing at the pharmacy. Clerical assistants and other persons designated by the pharmacist may be allowed access by the pharmacist but only during the hours the pharmacist is on duty.

§ 3.11. Drugs outside of dispensing area.

Any Schedule II through VI drug not stored within the prescription compounding and dispensing area and kept for stock replenishing shall be secured and access to it shall be restricted to the pharmacist and persons authorized by the pharmacist.

§ 3.12. Prescriptions awaiting delivery.

Prescriptions prepared for delivery to the patient may be placed in a secure place outside of the compounding and dispensing area and access to the prescriptions restricted by the pharmacist to designated clerical assistants. The prepared prescriptions may be transferred to the patient whether or not a pharmacist is on duty.

§ 3.13. Dispersion of Schedule II drugs.

Schedule II drugs may be dispersed with other schedules of drugs or maintained within a locked cabinet, drawer, or safe.

§ 3.14. Safeguards for controlled paraphernalia.

Controlled paraphernalia shall not be placed on open display or in an area completely removed from the drug compounding and dispensing area whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control.

§ 3.15. Expired drugs; security.

Any drug which has exceeded the expiration date shall be separated from the stock used for dispensing and may be maintained in a designated area with the unexpired stock prior to the disposal of the expired drug.

§ 3.16. Destruction of Schedule II through V drugs in pharmacies.

If a pharmacist-in-charge wishes to destroy unwanted Schedule II through V drugs kept for dispensing, in lieu of returning the drugs to the Drug Enforcement

Administration (DEA), he shall use the following procedures for the drug destruction:

A. At least 14 days prior to the destruction date, the pharmacist-in-charge shall provide a written notice to the board office; the notice shall state the following:

1. Date, time, and manner or place of destruction.

2. The names of the pharmacists who will witness the destruction process.

B. If the destruction date is to be changed or the destruction does not occur, a new notice must be provided to the board office as set forth above in this subsection.

C. The DEA Drug Destruction Form No. 41 must be used to make a record of all drugs to be destroyed.

D. The drugs must be destroyed by burning in an incinerator; an alternate method of flushing or appropriate covering at a landfill may be used if incineration is not possible and if permitted by the municipality.

E. The actual destruction shall be witnessed by the pharmacist-in-charge and another pharmacist not employed by the pharmacy.

F. Each form shall show the following information:

1. Legible signatures of the pharmacist-in-charge and the witnessing pharmacist;

2. The license numbers of the pharmacists destroying the drugs; and

3. The date of the destruction.

G. At the conclusion of the destruction of the drug stock:

1. Two copies of the completed destruction form shall be sent to Drug Enforcement Administration, Washington Field Division, Room 2558, 400 - 6th Street S.W., Washington, D.C. 20024, Attn: Diversion Control Group.

2. A copy of the completed destruction form shall be sent to the office of the board.

3. A copy of the completed destruction form shall be retained with the pharmacy inventory records.

PART IV.
NUCLEAR PHARMACIES.

§ 4.1. General requirements for pharmacies providing radiopharmaceutical services.

A. A permit to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist. In emergency situations, in the pharmacist's absence, he may designate one or more other qualified pharmacists to have access to the licensed area. These individuals may obtain single doses of radiopharmaceuticals for the immediate emergency and shall document such withdrawals in the control system.

B. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area.

C. A prescription order for a radiopharmaceutical shall be dispensed in a unit-dose package. A pharmacy may furnish the radiopharmaceuticals for office use only to practitioners for an individual patient except for the occasional transfer to a pharmacist.

D. In addition to any labeling requirements of the board for nonradioactive drugs, the immediate outside container of a radioactive drug to be dispensed shall also be labeled with: (i) the standard radiation symbol; (ii) the words "Caution–Radioactive Material"; (iii) the name of the radionuclide; (iv) the chemical form; (v) the amount of radioactive material contained, in millicuries or microcuries; (vi) if a liquid, the volume in milliliters; (vii) the requested calibration time for the amount of radioactivity contained; and (viii) the practitioner's name and the assigned lot number.

E. The immediate inner container shall be labeled with: (i) the standard radiation symbol; (ii) the words "Caution–Radioactive Material"; and (iii) the prescription number.

F. The amount of radioactivity shall be determined by radiometric methods for each individual dose immediately prior to dispensing.

G. Nuclear pharmacies may redistribute approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner nor violate the product packaging.

§ 4.2. Qualification as a nuclear pharmacist.

In order to practice as a nuclear pharmacist, a pharmacist shall possess the following qualifications:

1. Meet Nuclear Regulatory Commission standards of training for medically used or radioactive by-product material.

2. Have received a minimum of 90 contact hours of didactic instruction in nuclear pharmacy.

3. Attain a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified

nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an approved college of pharmacy.

4. Submit an affidavit of experience and training to the board.

PART V.
DRUG INVENTORY AND RECORDS.

§ 5.1. Manner of maintaining records, prescriptions, inventory records.

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.

3. Location of records. All records of Schedule II through V drugs shall be maintained at the same location as the stock of drugs to which the records pertain.

4. Inventory after drug theft. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54-524.56(d) of the Drug Control Act, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.

B. Prescriptions.

1. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

2. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs.

§ 5.2. Automated data processing records of prescriptions.

A. An automated data processing system may be used for the storage and retrieval of original and refill dispensing information for prescriptions instead of manual record keeping requirements, subject to the following conditions:

1. Any computerized system shall provide retrieval (via CRT display or printout) of original prescription information for those prescriptions which are currently authorized for dispensing.

2. Any computerized system shall also provide retrieval via CRT display or printout of the dispensing history for prescriptions dispensed during the past two years.

3. Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an originial prescription for a drug is correct shall be provided by the individual pharmacist who makes use of such system. If the system provides a printout of each day's prescription dispensing data, the printout shall be verified, dated and signed by the individual pharmacist who dispensed the prescription. The individual pharmacist shall verify that the data indicated is correct and then sign the document in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith).

a. In place of such printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day, in the manner previously described, attesting to the fact that the dispensing information entered into the computer that day has been reviewed by him and is correct as shown.

b. Printout of dispensing data requirements.

Any computerized system shall have the capability of producing a printout of any dispensing data which the user pharmacy is responsible for maintaining under the Drug Control Act.

§ 5.3. Pharmacy repackaging of drug; records required.

A. Records required.

Pharmacies in which bulk reconstitution of injectables, bulk compounding or the prepackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used, strength, if any, quantity prepared, initials of the pharmacist supervising the process, manufacturer's or distributor's name, control number or the assigned number, and an expiration date.

B. Expiration date.

The drug name, strength, if any, the manufacturer's or distributor's name and control number or assigned control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units:

1. If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted unit dose.

2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.

3. If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted unit doses.

PART VI.
PRESCRIPTION ORDER AND DISPENSING STANDARDS.

§ 6.1. Distribution of a prescription device.

Any person, except those persons who are registered under the provisions of § 54-524.31 of the Drug Control Act, who sells or distributes a Schedule VI device which under the applicable federal or state law may be sold, dispensed, or distributed only by or on the order of prescription of a practitioner, shall maintain every such prescription or order on file for two years.

§ 6.2. Emergency prescriptions for Schedule II drugs.

In case of an emergency situation, a pharmacist may dispense a drug listed in Schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period;

2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54-524.67 of the Drug Control Act, except for the signature of the prescribing practitioner;

3. If the pharmacist does not know the practitioner, he shall make a reasonable effort to determine that the oral authorization came from a practitioner using his phone number as listed in the telephone directory or other good-faith efforts to ensure his identity; and

4. Within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 54-524.67 of the Drug Control Act, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the nearest office of the Drug Enforcment Administration and the board if the prescribing practitioner fails to deliver a written prescription to him. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

§ 6.3. Partial dispensing of Schedule II prescriptions.

A. The partial filling of a prescription for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription, and he makes a notation of the quantity supplied on the face of the written prescription. The remaining portion of the prescription may be dispensed within 72 hours of the first partial dispensing; however, if the remaining portion is not or cannot be dispensed within the 72-hour period, the pharmacist shall so notify the prescribing practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

B. Prescriptions for Schedule II drugs written for patients in nursing homes may be dispensed in partial quantities, to include individual dosage units. For each patient dispensing, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial dispensing, quantity dispensed, remaining quantity authorized to be dispensed, and the identification number of the dispensing pharmacist. The total quantity of Schedule II drugs in all partial dispensing shall not exceed the total quantity prescribed. Schedule II prescriptions shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

C. Information pertaining to current Schedule II prescriptions for patients in a nursing home may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original prescription number, date of issue, identification of prescribing practitioner, identification of patient, identification of the nursing home, identification of drug authorized (to include dosage form, strength, and quantity), listing of partial dispensing under each prescription and the information required in subsection B of this section.

2. Immediate (real time) updating of the prescribing record each time a partial dispensing of the prescription is conducted.

§ 6.4. Dispensing of prescriptions; acts restricted to pharmacists.

A. The following acts shall be performed by a pharmacist, or by a student externe or pharmacy interne, provided a method for monitoring such acts of the externe or interne is provided:

1. The accepting of an oral prescription from a practitioner and the reducing of such oral prescription to writing.

2. The personal supervision of the compounding of extemporaneous preparations.

3. The providing of drug information to practitioners and to the patients.

4. The interpretation of the information contained in medication profile records.

B. Persons assisting pharmacist.

The following shall apply only to persons present in the compounding and dispensing area:

1. Only one person who is not a pharmacist may be present in the immediate compounding and dispensing area at any given time with each pharmacist for the purpose of assisting the pharmacist in preparing and packaging of prescriptions.

2. In addition to the person authorized in paragraph 1 in this section, personnel authorized by the pharmacist may be present in the immediate compounding and dispensing area for the purpose of performing clerical functions.

C. Certification of completed prescription.

After the prescription has been prepared and prior to the delivery of the order, the patient shall inspect the prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certificate of the accuracy of, and the responsibility for, the entire transaction.

§ 6.5. Refilling of prescriptions.

A. Schedule II drugs.

A prescription for a Schedule II drug shall not be refilled.

B. Schedule III through V drugs.

A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. Partial dispensing of prescriptions. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling;

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

C. Schedule VI drugs.

1. A prescription for a drug listed in Schedule IV shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled.

2. A prescription for a Schedule VI drug or device shall not be refilled if the prescription is more than two years old. In instances where the drug or device is to be continued, authorization shall be obtained from the prescriber and a new prescription shall be filed.

D. As an alternative to all manual record-keeping requirements provided for in subsections A and B of this section, an automated data processing system as provided in § 5.2 may be used for the storage and retrieval of dispensing information for prescription for drugs dispensed.

PART VII.
LABELING AND PACKAGING STANDARDS FOR PRESCRIPTIONS.

§ 7.1. Labeling of prescription as to content and quantity.

A. Unless otherwise directed by the prescribing practitioner, any drug dispensed pursuant to a prescription shall bear on the label of the container, in addition to other requirements, the following information:

1. The drug name and strength, when applicable;

a. If a trade name drug is dispensed, the trade name of the drug or the generic name of the drug.

b. If a generic drug is dispensed in place of a trade name drug, in addition to the requirements of § 32.1-87.A of the Code of Virginia, one of the following methods shall be used:

(1) The generic name or,

(2) A name for the product dispensed which appears on the generic manufacturer's label.

(3) The generic name followed by the words "generic for" followed by the trade name of the drug for which the generic drug is substituted.

2. The number of dosage units, or if liquid, the number of milliliters dispensed.

§ 7.2. Packaging standards for dispensed prescriptions.

A drug shall be dispensed only in packaging approved by the current U.S.P.-N.F. for that drug. In the absence of such packaging standard for that drug, it shall be dispensed in a well-closed container.

§ 7.3. Special packaging.

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from such requirements promulgated pursuant to the Poison Prevention Packaging Act of 1970.

B. Each pharmacy may have a sign posted near the compounding and dispensing area advising the patients that nonspecial packaging may be requested.

PART VIII.
STANDARDS FOR PRESCRIPTION TRANSACTIONS.

§ 8.1. Issuing a copy of a prescription that can be refilled.

A. A copy of a prescription for a drug which pursuant to § 54-524.68 of the Code of Virginia, can be refilled at the time the copy is issued shall be given upon request to another pharmacist.

B. The transfer of original prescription information for a drug listed in Schedules III through VI for the purpose of refill dispensing is permissible between pharmacies if the transfer is communicated directly between two pharmacists, and the transferring pharmacist records the following information:

1. Records the word "VOID" on the face of the invalidated prescription;

2. Records on the reverse of the invalidated prescription the name, address, and the Drug Enforcement Administration (DEA), except for prescriptions in Schedule VI, registry number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information; and

3. Records the date of the transfer and the name of the pharmacist transferring the information.

C. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

1. Write the word "TRANSFER" on the face of the transferred prescription.

2. Provide all information required to be on a prescription and include:

a. Date of issuance of original prescription;

b. Original number of refills authorized on the original prescription;

c. Date of original dispensing;

d. Number of valid refills remaining and date of last refill;

e. Pharmacy name, address, DEA registry number except for Schedule VI prescriptions, and original prescription number from which the prescription information was transferred; and

f. Name of transferring pharmacist.

3. Both the original and transferred prescription shall be maintained for a period of two years from the date of last refill.

D. Nothing in this regulation shall prevent the giving of a prescription marked "For Information Only" to a patient.

§ 8.2. Issuing a copy of a prescription that cannot be refilled.

A. A copy of a prescription for a drug which, pursuant to § 54-524.68 of the Drug Control Act, cannot be refilled at the time the copy is issued, shall be given on request of a patient but such copy shall be marked with the statement "FOR INFORMATION ONLY," the patient's name and address, the date of the original prescription, and the date the copy was given.

B. A copy marked in this manner is not a prescription, as defined in § 54-524.2 of the Drug Control Act, and shall not be refilled.

C. The original prescription shall indicate that a copy has been issued, to whom it was issued, and the issuing date.

§ 8.3. Confidentiality of patient information.

A pharmacist shall not exhibit, dispense, or reveal any prescription or discuss the therapeutic effects thereof, or the nature or extent of, or the degree of illness suffered by or treatment rendered to, any patient served by the pharmacist with any person other than the patient or his authorized representative, the prescriber, or other licensed practitioner caring for this patient, or a person duly authorized by law to receive such information.

§ 8.4. Kickbacks, fee-splitting, interference with supplier.

A. A pharmacist shall not solicit or foster prescription practice by secret agreement with a prescriber of drugs or any other person providing for rebates, "kickbacks", fee-splitting, or special charges in exchange for prescription drugs.

B. A pharmacist shall not interfere with the patient's right to choose his supplier of medication or cooperate with any person or persons in denying a patient the opportunity to select his supplier of prescribed medications.

§ 8.5. Returning of drugs and devices.

Drugs or devices shall not be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed unless such drug or devices are in the manufacturer's original sealed containers or in unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement.

§ 8.6. Physician licensed by the board.

Physicians licensed by the board to dispense drugs shall be subject to the following sections of these regulations:

§ 3.8. Safeguards against diversion of drugs.

§ 5.1. Manner of maintaining records, prescriptions, inventory records.

§ 6.4. Filling of prescriptions.

§ 6.5. Refilling of prescriptions.

§ 7.1. Labeling of prescriptions.

§ 7.2. Packaging standards for dispensed prescriptions.

§ 7.3. Special packaging.

§ 8.5. Returning of drugs and devices.

PART IX.
UNIT DOSE DISPENSING SYSTEMS.

§ 9.1. Unit dose dispensing system.

A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or nursing home. The following requirements shall apply:

A. If a unit dose system is utilized by a pharmacy, no more than a seven-day supply of drugs shall be dispensed at any one given time.

B. A signed order by the prescribing physician shall accompany the requests for a Schedule II drug, except that a verbal order for a hospital patient for a Schedule II controlled substance may be transmitted to a licensed nurse or pharmacist employed by the hospital who will promptly reduce the order to writing in the patient's chart. Such an order shall be signed by the prescriber within 72 hours.

C. All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.

D. The patient's individual drug drawer or tray shall be labeled with the patient's name and location.

E. All unit dose drugs intended for internal use shall be maintained in the patient's individual drawer or tray unless special storage conditions are necessary.

F. A back-up dose of a drug of not more than one unit may be maintained in the patient's drawer, tray, or special storage area provided that the dose is maintained in the patient's drawer, tray, or special storage area with the other drugs for that patient.

G. A record shall be made and maintained within the pharmacy for a period of one year showing:

1. The date of filling of the drug cart;

2. The location of the drug cart;

3. The initials of person who filled the drug cart; and

4. The initials of the pharmacist checking the drug cart.

H. A patient profile record or medication card will be accepted as the dispensing record of the pharmacy for unit dose dispensing systems only, subject to the following conditions:

1. The record of dispensing must be entered on the patient profile record or medication card at the time the drug drawer or tray is filled.

2. In the case of Schedule II through V drugs, after the patient profile record or medication card has been completed, the card must be maintained for two years.

PART X.
HOSPITAL PHARMACIES.

§ 10.1. Hospital pharmacies: chart order not a prescription.

A chart order is an order for a medication to be dispensed for an inpatient in a hospital. It is not a prescription order as defined in the Drug Control Act.

§ 10.2. Standards for hospital pharmacies.

A. Hospitals not having a full-time pharmacist, but in which drugs are prepackaged or relabeled or drugs transferred from one container to another, shall obtain a pharmacy permit with a part-time pharmacist designed to perform such functions or to provide personal supervision of such functions.

B. If there is no formally organized pharmacy department, the pharmacy service shall be obtained from another hospital having such a service or from a community pharmacy. Properly labeled and prepackaged drugs may then be distributed from the storage area under the supervision and discretion of the pharmacist-in-charge of the service provider.

§ 10.3. Labeling of drugs; preparation and storage of drugs.

A. Labeling.

All medications issued as floor stock shall be labeled with the name of the drug, strength, assigned lot number and expiration date when applicable. In the case of a drug order sent to a nursing unit in a multiple dose container for subsequent administration to a particular patient, the drug shall be labeled with the name and the strength of the drug and the name and the location of the patient.

B. Equipment.

There shall be adequate equipment, properly maintained, and supplies provided to ensure proper professional and administrative services as may be required for patient safety through proper storage, compounding, dispensing, distribution and administration of drugs. When sterile products are prepared in the pharmacy, the product shall be prepared by qualified personnel in the environment of a laminar flow hood.

C. Storage.

All drugs within the pharmacy and throughout the hospital shall be under the supervision of the pharmacist. The drugs shall be stored under proper conditions of temperature, light, sanitation and security.

§ 10.4. After-hours access of the pharmacy.

When authorized by the pharmacist-in-charge, a supervisory nurse may have access to the pharmacy in the absence of the patient in order to obtain emergency medication, provided that such drug is available in the manufacturer's original package or in units which have been prepared and labeled by a pharmacist and provided further that a separate record shall be made and left within the pharmacy on a form prescribed by the pharmacist-in-charge and such records are maintained within the pharmacy for a period of one year showing:

1. The date of withdrawal;

2. The patient's name;

3. The name of the drug and dose prescribed;

4. Number of doses removed; and

5. The signature of the authorized nurse.

§ 10.5. Floor stock drugs.

A. Proof of delivery.

A delivery receipt shall be obtained for Schedule II through V drugs supplied as floor stock. Receipts shall be maintained in the pharmacy for a period of two years.

B. Distribution records.

A record of disposition/administration shall be used to document administration of Schedule II through V drugs when a floor stock system is used for such drugs. The record shall be returned to the pharmacy within three months of its issue. The pharmacist-in-charge or his designee shall:

1. Match returned records with delivery receipts to verify that all records are returned;

2. Periodically audit returned administration records for completeness as to patient's names, dose, date and time of administration, signature or initials of person administering the drug, and date the record is returned;

3. Verify the accuracy of all entries;

4. Initial or sign the returned record and retain for two years from the date of return; and

5. Establish a system of documentation of administration of drugs in all areas where drugs are stored or administered.

C. Repackaging.

Drugs repackaged for floor stock shall comply with § 5.3.

§ 10.6. Securing the pharmacy.

The pharmacy shall be locked in the absence of a pharmacist prior to, and after, routine hours of operation and shall be secured from access to other personnel except as provided in § 10.4 of these regulations.

§ 10.7. Emergency room.

All drugs in the emergency department shall be under the control and supervision of the pharmacist-in-charge and shall be subject to the following additional requirements:

A. All drugs kept in the emergency room shall be in a secure place from which unauthorized personnel and the general public are excluded.

B. Drugs may be administered by a nurse in the emergency room upon oral or written order of a medical practitioner. Oral orders shall be reduced to writing and shall be signed by the practitioner.

C. In the emergency room, a medical practitioner may dispense drugs for the immediate need of his patient if permitted to do so by the hospital; the drug container and the labeling shall comply with the requirements of these regulations and the Drug Control Act.

D. A record shall be maintained of all drugs administered in the emergency room.

E. A separate record shall be maintained on all drugs, including drug samples, dispensed in the emergency room. The records shall be maintained for a period of two years showing:

1. Date dispensed;

2. Patient's name;

3. Physician's name;

4. Name of drug dispensed, strength, dosage form, quantity dispensed, and dose.

§ 10.8. Outpatient pharmacy permit.

A. An outpatient pharmacy of a hospital shall be operated under a separate pharmacy permit issued to a specific pharmacy-in-charge of each such operation; if the pharmacy dispensed drugs to walk-in customers who are not patients of the hospital, the outpatient pharmacies shall be governed by laws and regulations as they apply to pharmacies in general and shall be operated in a space separated from the hospital pharmacy.

B. An outpatient pharmacy of a hospital may be operated under the permit of the hospital pharmacy, if the drugs are dispensed only:

1. To patients who receive treatments or consultations on the premises;

2. To inpatients, outpatients, or emergency patients upon discharge for their personal use away from the hospital; and

3. To the hospital employees, medical staff members, or students for personal use or for the use of their dependents.

§ 10.9. Mechanical devices for dispensing drugs.

A hospital may utilize mechanical devices for the dispensing of drugs pursuant to § 54-524.54 of the Drug Control Act, provided the utilization of such mechanical devices is under the personal supervision of the pharmacist. Such supervision shall include:

A. The packaging and labeling of drugs to be placed in the mechanical dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents.

B. The placing of previously packaged and labeled drug units into the mechanical dispensing device.

C. The removal of the drug from the mechanical device and the final labeling of such drugs after removal from the dispensing device.

D. In the absence of a pharmacist, a person legally qualified to administer drugs may remove drugs from such mechanical device.

§ 10.10. Certified emergency medical technician program.

The pharmacy may prepare a drug kit for a Certified Emergency Medical Technician Program provided:

1. The pharmacist-in-charge of the hospital shall be responsible for all controlled drugs contained in this drug kit.

2. The drug kit is sealed in such a manner that it will preclude any possibility of loss of drugs.

3. Drugs may be administered by a technician upon an oral order of an authorized medical practitioner. The oral order shall be reduced to writing by the technician and shall be signed by the physician.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. A record signed by the physician for the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations.

§ 10.11. Identification for interne or resident prescription form in hospitals.

The prescription form for the prescribing of Schedule II

through V drugs for use by medical interns or residents who prescribe only in a hospital shall bear the prescriber's signature, the legibly printed name, address, and telephone number of the prescriber and an identification number assigned by the hospital. The identification number shall be the Drug Enforcement Administration number assigned to the hospital pharmacy plus a suffix assigned by the institution. The assigned number shall be valid only within the course of duties within the hospital.

PART XI.
PHARMACY SERVICES TO NURSING HOMES.

§ 11.1. Drugs in nursing homes.

Drugs, as defined in the Drug Control Act, shall not be floor stocked by a nursing home, except those the stat drug box or emergency drug box provided for within these regulations.

§ 11.2. Pharmacist's responsibilities to nursing homes.

The pharmacist serving a nursing home shall ascertain:

A. That a valid order exists prior to the dispensing of any drug.

B. That the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.

C. That each cabinet utilized for the storage of the drugs for individual patients is locked and accessible only to authorized personnel.

D. That the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is of the appropriate temperature.

E. That poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

F. That discontinued drugs are destroyed under the following conditions:

1. The drugs are destroyed on the premises of the facility.

2. The drugs are destroyed in the presence of the pharmacist supplying pharmacy service to the facility and the director of nurses of the facility.

3. A complete and accurate record of the drugs destroyed shall be maintained and signed by the pharmacist and director of nurses.

4. All destruction of the drugs is done without 30 days of the time the drug was discontinued.

5. The records of destruction shall be made a part of the records on all Schedule II through V drugs administered in the nursing home.

6. This procedure does not apply to discontinued drugs in unit-dose containers which meet U.S.P.-N.F. Class A or Class B container requirements or the manufacturer's sealed containers. Such drugs may be returned to the issuing pharmacist for reuse.

G. That drug reference materials are available on the nursing units.

H. That a monthly review of a drug therapy by a pharmacist is conducted for each patient. Such review shall be used to determine any irregularities. The pharmacist shall sign and date the notation of the review. An irregularity shall include such therapy which is not right and proper, and may include drug interactions or drug administration or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

§ 11.3. Emergency drug kit.

The pharmacist may prepare an emergency kit for a facility served by the pharmacy provided:

A. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

B. The contents of the kit shall be determined by the Pharmacy and Therapeutics Committee of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.

C. The kit is sealed in such a manner that it will preclude any possible loss of the drug.

D. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.

E. Any drug used from the kit shall be covered by a prescription, signed by the physician, when legally required, within 72 hours.

§ 11.4. Stat-drug box.

An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy and shall be subject to the following conditions:

A. The box is sealed in such a manner that will preclude the loss of drugs.

B. When the stat-drug box has been opened, it is

returned to the pharmacy.

C. Any drug used from the box shall be covered by a drug order signed by the physician, when legally required, within 72 hours.

D. There shall not be more than one box per 200 patients in a facility.

E. There shall be a listing of the contents of the box maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.

F. The drug listing on the box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

G. Contents of the stat-drug box.

The contents of the box shall be limited to the following classes of drugs, the drug strengths to be selected by the drug committee of the facility in consultation with the providing pharmacist:

1. Antibiotics (injectable) - Not more than five doses of each of four different antibiotics.

2. Antibiotics (oral) - Not more than five doses each of five different antibiotics including two strengths of each antibiotic.

3. Antiemetics - Not more than five doses each of three different antiemetics.

4. Antihistamines - Not more than five doses each of two different antihistamines.

5. Antihypertensives - Not more than five doses each of two different antihypertensives.

6. Antipyretics - Not more than five doses each of two antipyretics.

7. Antipsychotic - Not more than five doses each of five antipsychotics.

8. Diuretics - Not more than five doses each of two diuretics.

9. Antidiarrheals - Not more than five doses of two oral antidiarrheal products.

10. Anticonvulsants - Not more than five doses of two oral anticonvulsants.

11. Analgesics - Not more than five doses of one oral narcotic drug in Schedule III or IV and five doses of one nonnarcotic drug in Schedule III or IV.

PART XII.
OTHER INSTITUTIONS AND FACILITIES.

§ 12.1. Drugs in industrial infirmaries/first aid rooms.

A. Controlled drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia and who is employed by an institution, agency, or business which does not hold a pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All controlled drugs will be maintained and secured in a suitable locked facility, the key to which will be in the possession of the practitioner or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of prescription drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a physician in an emergency situation when the timely prior verbal or written order of a physician is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this regulation, emergency shall be defined as a circumstance requiring administration of controlled drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes.

D. A nurse may, in the absence of a practitioner, administer nonprescription drugs and provide same in unit dose containers in quantities which in the professional judgment of the nurse and the existing circumstances will maintain the person at an optimal comfort level until the employee's personal practitioner can be consulted. The administering and providing of such medication must be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the intsitution, agency, or business.

§ 12.2. Licensed humane societies and animal shelters; use of pentobarbital.

A humane society or animal shelter, after having obtained the proper permits pursuant to state and federal laws, may purchase, possess and administer Sodium Pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets and animals provided that:

1. The facility shall be under the general supervision of a veterinarian.

2. The person(s) responsible for administering the drug shall have been trained by a veterinarian in the manner of administration.

3. The drug shall be stored in a secure place and only the person responsible for administering the drug may have access to the drug.

4. The drug shall be obtained and administered in the injectable form only.

5. All invoices and order forms shall be maintained for a period of two years.

6. Complete and accurate records shall be maintained on the administration of the drug; the record shall show the date of administration, the species of the animal, the weight of animal, the amount of drug administered and signature of the person administering the drug.

§ 12.3. Drugs in correctional institutions.

All prescription drugs at any correctional unit shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. The prescription orders shall be initiated by the physician or his agent.

2. The number of doses on each prescription order shall be specified.

3. All prepared drugs shall be maintained in a suitable locked facilty with only the person responsible for administering the drugs having access.

4. All drugs shall be taken in the presence of the person administering the drug.

5. Drug administration record. Complete and accurate records shall be maintained on all drugs received, administered and discontinued. This record shall consist of a two-part drug administration record. The administration record shall show the:

a. Prescription number;

b. Drug name and strength;

c. Number of dosage units received;

d. Physician's name; and

e. Date, time and signature of person administering the individual dose of drug.

6. Disposal of unused drugs. All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy along with Part 2 of the drug administration record within seven days. The drug shall be returned by the same means as it was originally sent.

a. The provider pharmacy shall compare the number of drug dosage units dispensed against Part 2 of the drug administration record, the number of dosage units administered and the number of dosage units returned to the issuing pharmacy.

b. The drug administration records shall be filed in chronological order by the provider pharmacy and maintained for a period of one year or, at the option of the facility, the records may be returned by the provider pharmacy to the facility.

c. The returned drugs shall be destroyed at least every 30 days. This destruction shall be carried out by the provider pharmacy and a responsible witness. The Board of Pharmacy shall be notified two weeks prior to the destruction in order that the board may witness any such destruction. An agent of the board shall, from time to time, witness a destruction of such drugs and, prior to the destruction, randomly reconcile the contents of selected containers against the drug administration record.

d. Drugs in the manufacturer's original sealed container may be returned to the stocks of the provider pharmacy.

7. Emergency and stat-drug box.

An emergency box and a stat-drug box may be prepared for the facility served by the pharmacy pursuant to §§ 11.3 and 11.4 of the regulations provided:

a. The facility employs one or more full-time physicians, registered nurse, licensed practical nurse or correctional health assistant;

b. No drugs are to be administered from the emergency box or stat-drug box unless authorized by the physician either in writing or orally. If orally, the order must be signed by the physician within 72 hours.

c. Only the physician, nurse, licensed practical nurse or correctional health assistant may administer a drug from the emergency box or "stat" box.

d. The emergency drug box or "stat" box must be sealed in such a manner that it will preclude any possibility of loss of drugs. Any drug box which has been opened must be returned to the pharmacy within 72 hours.

PART XIII.
EXEMPTED STIMULANT OR DEPRESSANT DRUGS AND CHEMICAL PREPARATIONS.

§ 13.1. Excluded substances.

The list of excluded substances, which may be lawfully

sold over the counter withiut a prescription under the Federal Food, Drug and Cosmetic Control Act (21.U.S.C. 301), as set forth in the Code of Federal Regulations, Title 21, Part 1308.22, is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

§ 13.2. Exempted chemical preparations.

The list of exempt chemical preparations set forth in the Code of Federal Regulations, Title 21, Part 1308.24 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

§ 13.3. Excepted compounds.

The list of excepted compounds set forth in the Code of Federal Regulations, Title 21, Part 1308.32 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c); the excepted compounds are drugs which are subject to the provisions of § 54-524.84:13 of the Drug Control Act.

PART XIV.
MANUFACTURERS, WHOLESALERS, AND DISTRIBUTORS

§ 14.1. Manufacturers, wholesalers and distributors.

A permit shall not be issued to any manufacturer or distributor to operate from a private dwelling, unless a separate entrance is provided, and the place of business is open for inspection at all times during normal business hours. In any case, all other state and local laws and ordinances shall be complied with before any permit is issued.

§ 14.2. Manufacturers and wholesalers safeguards against diversion of drugs.

The following requirements shall comply to manufacturers or wholesaler of drugs:

1. The holder of the permit shall restrict all areas in which Schedule II-V drugs are manufactured, stored, or kept for sale, to a limited number of designated and necessary persons.

2. The holder of the permit shall take reasonable measures to prevent any person from pilfering drugs from the restricted area.

3. The holder of the permit shall not deliver any drug to a licensed business at which there is no one in attendance at the time of the delivery nor to any person who may not legally process such drugs.

4. The holder of a permit to manufacture or wholesale only Schedule VI drugs shall comply with the security requirements set forth in § 3.8.

5. This regulation shall not apply to the holder of a permit to manufacture or wholesale medical gases.

§ 14.3. Manufacturing of cosmetics.

A. The building in which cosmetics are manufactured, processed, packaged and labeled, or held shall be maintained in a clean and orderly manner and shall be of suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:

1. Provide adequate space for the orderly placement of equipment and materials used.

2. Provide adequate lighting and ventilation.

3. Provide adequate washing, cleaning, and toilet facilities.

PART XV.
GOOD MANUFACTURING PRACTICES.

§ 15.1. Good manufacturing practices.

A. The Good Manufacturing Practices regulations set forth in the Code of Federal Regulations, Title 21, Part 212 and effective April 1, 1986, are adopted by reference.

B. Each manufacturer of drugs shall comply with the requirements set forth in the federal regulations referred to in subsection A of this section.

OMB Approval No. 1117-0007	DEPARTMENT OF JUSTICE / DRUG ENFORCEMENT ADMINISTRATION REGISTRANTS INVENTORY OF DRUGS SURRENDERED	PACKAGE No.

The following schedule is an inventory of controlled substances which is hereby surrendered to you for proper disposition.

FROM: *(Include Name, Street, City, State and ZIP Code in space provided below).*

Signature of applicant or authorized agent

Registrant's DEA Number

Registrant's Telephone Number

NOTE: Registrants will fill in Columns 1, 2, 3, and 4 Only.

NAME OF DRUG OR PREPARATION	Number of Containers	CONTENTS (Number of grams, tablets, ounces or other units per container)	Controlled Substance Content (Each Unit)	FOR DEA USE ONLY		
				DISPOSITION	QUANTITY GMS.	QUANTITY MGS.
1	2	3	4	5	6	7
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						

DEA Form 41 (Mar. 1980) — Previous edition may be used. — * See instructions on reverse side

The controlled substances surrendered in accordance with Title 21 of the Code of Federal Regulations, Section 1307.21, have been received in ____ packages purporting to contain the drugs listed on this inventory and have been: **(1) Forwarded tape-sealed without opening; (2) Destroyed as indicated and the remainder forwarded tape-sealed after verifying contents; (3) Forwarded tape-sealed after verifying contents.

DATE _____ 19 ____

DESTROYED BY: _____
Signature

(PRINT NAME) _____

License No. _____

WITNESSED BY- _____

(PRINT NAME) _____

License No. _____

** *Strike out lines not applicable.*

INSTRUCTIONS

1. List the name of the drug in column 1, the number of containers in column 2, the size of each container in column 3, and in column 4 the controlled substance content of each unit described in column 3: e.g., morphine sulfate tabs., 3 pkgs., 100 tabs., 1/4 gr. (16 mg.) or morphine sulfate tabs., 1 pkg., 83 tabs., 1/2 gr. (32 mg.), etc.
2. All packages included on a single line should be identical in name, content and controlled substance strength.
3. Prepare this form in quadruplicate. Mail two (2) copies of this form to the Special Agent in Charge under separate cover. Enclose one additional copy in the shipment with the drugs. Retain one copy for your records. One copy will be returned to you as a receipt. No further receipt will be furnished to you unless specifically requested. Any further inquiries concerning these drugs should be addressed to the DEA District Office which serves your area.
4. There is no provision for payments for drugs surrendered. This is merely a service rendered to registrants enabling them to clear their stocks and records of unwanted items.
5. Drugs should be shipped tape-sealed via prepaid express or registered mail to Special Agent In Charge, Drug Enforcement Administration, of the DEA District Office which serves your area.

PRIVACY ACT INFORMATION

AUTHORITY: Section 307 of the Controlled Substances Act of 1970 (P.L. 91-513)

PURPOSE: To document the surrender of controlled substances which have been forwarded by registrants to DEA for disposal.

ROUTINE USES: This form is required by Federal Regulations for the surrender of unwanted Controlled Substances. Disclosures of information from this system are made to the following categories of users for the purposes stated.

A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes

B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes

EFFECT: Failure to document the surrender of unwanted Controlled Substances may result in prosecution for violation of the Controlled Substances Act.

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

COMMISSION OF GAME AND INLAND FISHERIES

NOTE: The Commission of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

Title of Regulation: **VR 325-02. Game.**

Statutory Authority: §§ 29-125, 29-126, and 29-127 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

VR 325-02-1. IN GENERAL.

§ 14. Trapping prohibited except by permit on certain wildlife management areas.

It shall be unlawful to trap except by commission permit on the Chicahominy, Barbour's Hill, *Briery Creek,* Hog Island, Lands End, Pocahontas-Trojan, Powhatan and Saxis Wildlife Management Areas.

§ 20. Restricted use of certain steel leg-hold traps.

It shall be unlawful to set above the ground any steel leg-hold trap with teeth set upon the jaws ~~;~~ ~~or larger than size No. 2,~~ or with a jaw spread exceeding 6-1/2 inches.

§ 22. Dates for setting traps in water.

It shall be unlawful to set any trap in water prior to December 1 [~~*in all counties and portions of counties west of U.S. Route I-95 and prior to December 15 in all counties and portions of counties east of U.S. Route I-95*~~].

VR 325-02-2. BEAR.

§ 1. Open season; generally.

Except as otherwise provided by local legislation and with the specific exceptions provided in the sections appearing in this regulation, it shall be lawful to hunt bear from the fourth Monday in November through ~~January 5~~ *the first Saturday in January,* both dates inclusive.

§ 3. Continuous closed season in certain counties and areas.

It shall be unlawful to hunt bear at any time in the Counties of Accomack, Amelia, Appomattox, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Greensville, Halifax, Hanover, Henrico, Henry, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Richmond, ~~Roanoke,~~ Scott, Southampton, Spotsylvania, Stafford, Surry, Sussex, Westmoreland, Wise and York; and in the Cities of Hampton, Newport News and Virginia Beach; and on the Hidden Valley Wildlife Management Area.

§ 7. Bow and arrow hunting.

A. It shall be lawful to hunt bear with bow and arrow from the ~~second~~ [~~*third*~~ *second*] Saturday in October through the Saturday prior to the ~~second~~ [~~*third*~~ *second*] Monday in November, both dates inclusive.

(NOTE: Proposed amendment of subsection A of this section rejected by the Commission.)

VR 325-02-3. BEAVER.

§ 2. Open season ~~generally~~ .

~~Except as otherwise provided by the sections appearing in this regulation,~~ It shall be lawful to trap beaver from December ~~15~~ *1* through the last day of February, both dates inclusive.

§ 3. Same; in certain counties and cities.

Rescind this section in its entirety. Open season will be controlled by § 2 of this regulation.

§ 5. Pelts to be sealed before sale, etc.

Rescind this section in its entirety.

VR 325-02-6. DEER.

§ 1. Open season; generally.

Except as otherwise provided by local legislation and with the specific exceptions provided in the sections

appearing in this regulation, it shall be lawful to hunt deer from the third Monday in November through ~~January 5~~ *the first Saturday in January,* both dates inclusive.

§ 4. Bow and arrow hunting.

A. Season generally.

It shall be lawful to hunt deer with bow and arrow from the ~~second~~ [~~*third*~~ *second*] Saturday in October through the Saturday prior to the ~~second~~ [~~*third*~~ *second*] Monday in November, both dates inclusive, except where there is a closed general hunting season on deer.

B. Additional season west of Blue Ridge Mountains and certain counties east of Blue Ridge Mountains.

In addition to the season provided in subsection A of this section, it shall be lawful to hunt deer with bow and arrow in all counties west of the Blue Ridge Mountains and in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of [*Norfolk*] Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of [*Norfolk*] Southern Railroad) from the Monday following the close of the regular firearms season on deer west of the Blue Ridge Mountains through [~~January 5~~ *the first Saturday in January*], both dates inclusive.

(NOTE: Proposed amendment to subsection A of this section was rejected by the Commission, but a new amendment B was adopted. Subsections A and C through F of this section not affected by amendment.)

§ 5. Muzzle-loading gun hunting.

A. Season.

Except as otherwise specifically provided by the sections appearing in this regulation, it shall be lawful to hunt deer with primitive weapons (muzzle-loading guns) from the third Monday in December through ~~January 5~~ *the first Saturday in January,* both dates inclusive, in all counties west of the Blue Ridge Mountains, and in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad).

B. What deer may be taken; deer counted toward seasonal bag limit.

Only deer with antlers visible above the hair may be taken with a muzzle-loading gun during a special muzzle-loading season, and any deer taken during such special season shall apply toward the seasonal bag limit for deer in said county or area open to fall deer hunting; provided, that deer of either sex may be taken on the last ~~day~~ *three days* of a special muzzle-loading season in counties permitting either sex deer hunting during the general firearms deer season.

(NOTE: Subsections C and D of this section not affected by amendment.)

§ 6. Bag limit; generally.

Except with the specific exceptions provided in the sections appearing in this regulation, the bag limit for deer shall be one ~~buck~~ *antlered deer* a license year. *Anterless deer may be taken only during designated either-sex deer hunting days.*

§ 8. Same; one a day, two a license year, either sex last three days, in certain counties and areas.

The bag limit for deer shall be one a day, two a license year, either sex on the last three hunting days only, in the counties of Amherst, ~~Bedford,~~ Buckingham (except on Buckingham-Appomattox State Forest), Campbell, Cumberland (except on Cumberland State Forest), Fluvanna, Franklin (except on Philpott Reservoir), Goochland, *Hanover, Henrico,* Henry (except on Fairystone Wildlife Management Area and Philpott Reservoir), *Louisa,* Nelson, Patrick (except on Fairystone Park, Fairystone Wildlife Management Area and Philpott Reservoir) ~~Pittsylvania, Powhatan and Prince George~~ *and Spotsylvania;* and on Fort A.P. Hill (non-impact areas) *and* Fort Pickett, and *on the Powhatan, G. Richard Thompson,* Leesville *and White Oak Mountain* Wildlife Management ~~Area~~ *Areas* .

§ 9. Same; one a day, two a license year, either sex last 12 days, in certain counties and areas.

The bag limit for deer shall be one a day, two a license year, either sex during the last 12 hunting days only, in the counties of ~~Brunswick, Caroline,~~ [*Caroline,*] Essex, Fauquier (except on the G. Richard Thompson and Chester F. Phelps Wildlife Management Areas), King and Queen ~~, King George, Lancaster,~~ *and* Loudoun ~~Northumberland, Rappahannock, Richmond, and Westmoreland~~ ; and on Fort A.P. Hill (impact area).

§ 10. Same; one a day, three a license year, either sex, one of which must be an antlerless deer, in certain counties, cities and areas.

The bag limit for deer shall be one a day, three a license year, either sex, one of which must be an antlerless deer, in the county of Fairfax, and on Back Bay National Wildlife Refuge, Camp Peary, Cheatham Annex, Chincoteague National Wildlife Refuge ~~(sika and white tail deer in the aggregate)~~ , Dahlgren Naval Surface Weapons Center, *Dam Neck Amphibious Training Base, Eastern Shore of Virginia National Wildlife Refuge,* Fort Belvoir, Fort Dustis, Harry Diamond Laboratory, Langley Air Force Base, *Yorktown* Naval Weapons Station, Quantico Marine Corps Reservation, Radford Army Ammunition Plant, the City of Suffolk (except west of the Dismal Swamp line), and Dismal Swamp and Presquile National Wildlife Refuges.

§ 11. Same; one a day, two a license year, either sex last day, in certain counties and areas.

The bag limit for deer shall be one a day and two a license year, either sex the last hunting day only, in the counties of Appomattox, *Chesterfield,* Greene, Madison, Mathews, and Middlesex; and on the Buckingham-Appomattox State Forest, *Chester F. Phelps Wildlife Management Area,* Cumberland State Forest, *Fairystone Wildlife Management Area, Fairystone State Park, Philpott Reservoir* and Prince Edward State Forest.

§ 12. Same; one a day, two a license year, either sex last six days, in certain counties, cities and areas.

The bag limit for deer shall be one a day, two a license year, either sex on the last six hunting days only, in the counties of Albemarle, Amelia, *Bedford,* [~~*Caroline,*~~] Charlotte, ~~Chesterfield,~~ Culpeper *(except on Chester F. Phelps Wildlife Management Area),* Dinwiddie (except on Fort Pickett), Gloucester, ~~Halifax,~~ ~~Hanover,~~ ~~Henrico,~~ James City, King William, ~~Louisa,~~ Lunenburg, ~~Mecklenburg,~~ Nottoway (except on Fort Pickett), Orange, *Pittsylvania (west of Norfolk Southern Railroad), Powhatan (except on Powhatan Wildlife Management Area), Prince Edward (except on Prince Edward State Forest), Prince William (except on Harry Diamond Laboratory and Quantico Marine Reservation),* ~~*Spotsylvania,*~~ *Stafford (except on Quantico Marine Reservation), and York (except on Camp Peary, Cheatham Annex and Naval Weapons Station); and in the cities of Chesapeake (except on Dismal Swamp National Wildlife Refuge), Hampton (except on Langley Air Force Base), Newport News (except on Fort Eustis), and Virginia Beach (except on Back Bay National Wildlife Refuge, Dam Neck Amphibious Training Base and False Cape State Park)* ; ~~and~~ ~~on~~ ~~the~~ ~~C.~~ ~~Richard~~ ~~Thompson~~ ~~and~~ ~~Chester~~ ~~F.~~ ~~Phelps~~ ~~Wildlife~~ ~~Management~~ ~~Areas~~ .

§ 13. Same; one a day, three a license year, one of which must be an antlerless deer, either sex last six days, in certain counties.

The bag limit for deer shall be one a day, three a license year, one of which must be an antlerless deer, either sex last six days, in the counties of Accomack (except on Chincoteague National Wildlife Refuge), *Brunswick,* Charles City, *Halifax, Mecklenburg,* New Kent, Northampton *(except Eastern Shore of Virginia National Wildlife Refuge and Fisherman's Island National Wildlife Refuge), Pittsylvania (east of Norfolk Southern Railroad, except on White Oak Mountain Wildlife Management Area) and Prince George .*

§ 14.1. Same; one a day, three a license year, one of which must be an antlerless deer, either-sex last 12 days, in certain counties.

The bag limit for deer shall be one a day, three a license year, one of which must be an anterless deer, either-sex last 12 days, in the counties of King George, Lancaster, Northumberland, Rappahannock, Richmond and Westmoreland.

VR 325-02-15. OTTER.

§ 2. Open season for trapping [~~in~~ ~~counties~~ ~~*and cities*~~] east of Blue Ridge Mountains ~~generally~~ .

~~Except~~ ~~as~~ ~~otherwise~~ ~~provided~~ ~~by~~ ~~the~~ ~~sections~~ ~~appearing~~ ~~in this~~ ~~regulation,~~ It shall be lawful to trap otter in all counties east of the Blue Ridge Mountains from December ~~15~~ *1* through the last day of February, both dates inclusive.

§ 3. Same; in certain counties and parts thereof and cities.

Rescind this section in its entirety. Trapping season now covered by § 2 of this regulation.

VR 325-02-16. PHEASANT.

§ 1. Open season; counties east of Blue Ridge Mountains.

It shall be lawful to hunt pheasant in all counties east of the Blue Ridge Mountains from the ~~second~~ [~~*first*~~ *third*] Monday in November through ~~January~~ ~~31~~ [~~*the first Saturday in February*~~ *January 31*], both dates inclusive.

VR 325-02-17. QUAIL.

§ 1. Open season[;] ~~Counties~~ [~~east~~ ~~of~~] ~~Blue~~ ~~Ridge~~ ~~Mountains~~ [~~*U.S. Route I-95*~~ ~~generally~~].

[~~Except~~ ~~as~~ ~~otherwise~~ ~~specifically~~ ~~provided~~ ~~by~~ ~~the sections~~ ~~appearing~~ ~~in this~~ ~~regulation,~~] It shall be lawful to hunt quail [~~in~~ ~~all~~ ~~counties~~ ~~*and portions of counties*~~ ~~east~~ ~~of~~] ~~the~~ ~~Blue~~ ~~Ridge~~ ~~Mountains~~ [~~*U.S. Route I-95*~~] from the [*third*] Monday [~~immediately~~ ~~preceding~~ ~~Thanksgiving~~ *in November*] through ~~the~~ ~~last~~ ~~day~~ ~~of~~ [~~*the third Saturday in*~~ ~~February~~ *January 31*], both dates inclusive.

§ 2. Same; Fort Pickett [~~*and Fort A.P. Hill*~~].

[~~It~~ ~~shall~~ ~~be~~ ~~lawful~~ ~~to~~ ~~hunt~~ ~~quail~~ ~~from~~ ~~the~~] ~~second~~ [~~*first*~~ ~~Monday~~ ~~in~~ ~~November~~ ~~through~~ ~~January~~ ~~31~~ ~~on~~ ~~Fort Pickett~~ ~~*and Fort A.P. Hill.*~~]

Rescind this section in its entirety. Open season will be controlled by § 1 of this regulation.

§ 3. Same; ~~Counties~~ [*Counties*] west of ~~Blue~~ ~~Ridge~~ ~~Mountains~~ [~~*U.S. Route I-95*~~ *Blue Ridge Mountains*].

[~~It~~ ~~shall~~ ~~be~~ ~~lawful~~ ~~to~~ ~~hunt~~ ~~quail~~ ~~in~~ ~~all~~ ~~counties~~ ~~*and portions of counties*~~ ~~west~~ ~~of~~] ~~the~~ ~~Blue~~ ~~Ridge~~ ~~Mountains~~ [~~*U.S. Route I-95*~~ ~~from~~ ~~the~~ ~~first~~ ~~Monday~~ ~~in~~ ~~November~~ ~~through~~] ~~January~~ ~~31~~ [~~*the first Saturday in February,*~~ ~~both dates~~ ~~inclusive.~~]

Rescind this section in its entirety. Open season will be controlled by § 1 of this regulation.

§ 4. Bag limit.

The bag limit for quail shall be eight a day ~~and 125 a license year~~ ; provided, that, the bag limit for quail shall be ~~two~~ *four* per day on the Elm Hill Wildlife Management Area.

VR 325-02-19. RACCOON.

PART I.
CHASING.

§ 1.2. Open season; counties west of Blue Ridge Mountains; possession of certain devices unlawful.

[~~Rescind this section in its entirety.~~]

(NOTE: Proposed recission to this section was rejected by the Commission. No change made to this section.)

PART II.
HUNTING AND TRAPPING.

§ 2.1. Open season for hunting; counties east of the Blue Ridge Mountains.

Except as otherwise provided by local legislation and with the specific exceptions provided in the sections appearing in this regulation, it shall be lawful to take raccoon by hunting in all counties east of the Blue Ridge Mountains from November 1 through ~~the last day of February~~ *March 10* , both dates inclusive.

§ 2.3. Open season for trapping; counties east of the Blue Ridge Mountains.

Except as otherwise specifically provided by local legislation and with the specific exceptions provided in the sections appearing in this regulation, it shall be lawful to take raccoon by trapping in all counties east of the Blue Ridge Mountains from November 15 through ~~the last day of February~~ *March 10,* both dates inclusive.

§ 2.5. Bag limit for hunting and trapping; counties east of the Blue Ridge Mountains.

The bag limit for hunting raccoon in all counties east of the Blue Ridge Mountains shall be ~~two~~ [~~five~~ *three*] per hunting party, individual or organized, taken between noon of one day and noon the following day. ~~The season bag limit shall be 25 raccoons in the aggregate, taken by hunting and trapping combined.~~

§ 2.6. Same; counties west of the Blue Ridge Mountains.

Except as provided by local legislation, the bag limit for hunting raccoon in all counties west of the Blue Ridge Mountains shall be two per hunting party, individual or organized, taken between noon of one day and noon the following day. ~~The season bag limit shall be 15 raccoons in the aggregate, taken by hunting and trapping combined.~~

VR 325-02-21. SQUIRREL.

PART I.
GRAY AND RED SQUIRREL.

§ 1.6. Season; certain counties; ~~Same~~ - ~~Same~~ October 1 through October 14 and the first Monday in November through January 31.

It shall be lawful to hunt squirrel from October 1 through 14, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Accomack, Alleghany, Amherst, Augusta, Clarke, Culpeper, Fairfax (except that section closed to all hunting), Fauquier, Frederick, Gloucester, Greene, Isle of Wight, King George, Lancaster, Loudoun, Louisa, Madison, Mathews, Middlesex, Nelson, Northampton, Northumberland, *Orange,* Page, Prince William, Rappahannock, Richmond, Rockbridge, Rockingham, Shenandoah, Stafford, Warren and Westmoreland; in the City of Suffolk (that portion formerly Nansemond County); and within Quantico Marine Reservation.

§ 1.8. Bow and arrow hunting.

A. Season.

It shall be lawful to hunt squirrel with bow and arrow from the ~~second~~ [~~third~~ *second*] Saturday in October through the Saturday prior to the ~~second~~ [~~third~~ *second*] Monday in November, both dates inclusive.

(NOTE: Proposed amendment of subsection A of this section was rejected by the Commission.)

VR 325-02-22. TURKEY.

§ 1. Open season; generally.

Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to hunt turkeys from the ~~first Monday in November~~ [~~last Saturday in October~~ *first Monday in November*] through ~~December 31~~ *the first Saturday in January,* both dates inclusive.

§ 2. Same; certain counties and areas.

It shall be lawful to hunt turkeys on the first Monday in November and for 11 consecutive hunting days following in the counties of Charles City, Chesterfield, Greensville, Henrico, ~~Lee,~~ *King George, Lancaster,* Mecklenburg, Middlesex, New Kent, ~~Prince George, Russell (except on Clinch Mountain Wildlife Management Area), Scott,~~ *Northumberland, Richmond, Southampton, Surry,* Sussex, ~~Wise,~~ *Westmoreland* and York, and on Camp Peary.

§ 3. Same; ~~1986 and 1987 seasons~~ *Spring season* for bearded turkeys.

It shall be lawful to hunt bearded turkeys only from the

second Saturday in April through the second Saturday in May, ~~1986,~~ both dates inclusive, ~~and from the second Saturday in April through the second Saturday in May, 1987, both dates inclusive,~~ from 1/2 hour before sunrise to 11 a.m. Bearded turkeys may be hunted by calling. It shall be unlawful to use dogs or organized drives for the purpose of hunting.

§ 4. Continuous closed season in certain counties, cities and areas.

There shall be continuous closed turkey season, except where a special Spring season for bearded turkeys is provided for in § 3 of this regulation, in the Counties of Accomack, Arlington, Buchanan, Dickenson, Gloucester, Isle of Wight, James City, ~~King George, Lancaster,~~ Mathews *and* Northampton; ~~Northumberland, Richmond, Southampton, Surry, and Westmoreland;~~ and in the Cities of Chesapeake, Hampton, Newport News, Suffolk and Virginia Beach.

§ 5. Bow and arrow hunting.

A. Season.

It shall be lawful to hunt turkey with bow and arrow in those counties and area open to Fall turkey hunting from the ~~second~~ [~~*third*~~ *second*] Saturday in October through the Saturday prior to the ~~second~~ [~~*third*~~ *second*] Monday in November, both dates inclusive.

(NOTE: Proposed amendment of subsection A of this section was rejected by the Commission.)

§ 6. Bag limit.

The bag limit for hunting turkeys shall be one a day, ~~two~~ *three* a license year, ~~either sex during the fall season~~ *no more than two of which may be taken in the Fall and no more than two of which may be taken in the Spring.*

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: **VR 380-02-01. Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas and Certificates.**

Statutory Authority: § 23-268 of the Code of Virginia.

Effective Date: August 1, 1987

Summary:

Several changes were made to the proposed regulations in response to public comment. The kinds of information required to be included in advertisements by institutions was modified. The definition of "Part-Time Faculty" and the minimal standards relating to curriculum and faculty credentials were clarified. New selections were added to continue the current exemptions from approval held by certain out-of-state institutions and to provide for the orderly closure of institutions that cease operations in Virginia or whose approvals to operate are denied or revoked.

VR 380-02-01. Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas and Certificates.

PART I.
DEFINITIONS, PROHIBITIONS, ADVERTISING.

§ 1.1. Definitions.

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

"Adjunct faculty" means a person who is employed by an institution to teach no more than two courses during only one semester, quarter, or equivalent term during an academic year.

"CIP code number" means the six-digit Classification of Instructional Programs number assigned to each discipline specialty.

"Council" means the State Council of Higher Education for Virginia.

"Course for degree credit" means a single course whose credits are applicable to the requirements for earning a degree, diploma, or certificate.

"Degree" means any earned award at the associate, baccalaureate, master's, first professional, or doctoral level which represents satisfactory completion of the requirements of a program or course of study or instruction beyond the secondary school level and includes certificates and specialist degrees when such awards represent a level of educational attainment above that of the associate degree level.

"Degree program" means a curriculum or course of study that leads to a degree in a discipline specialty and normally is identified by a six-digit CIP code number.

"Diploma" or "certificate" means an award which represents a level of educational attainment at or below the associate degree level and which is given for successful completion of a curriculum comprised of two or more courses and applies only to those awards given for coursework offered within Virginia by institutions of higher education which are appropriately approved to offer, either within the Commonwealth or outside the Commonwealth, degrees at the associate, baccalaureate, graduate, or professional level.

"Educational and general (E&G)" means those budget expenditures that are allocated to instruction, research, public service, academic support, libraries, student services, institutional support, operation and maintenance of plant, and scholarships and fellowships. Auxiliary enterprise accounts and mandatory transfer accounts (that is, expenditures that must be made in order to fulfill a binding legal obligation of the institution) are excluded.

"Full-time faculty" means a person whose: (i) employment is based upon an official contract, appointment, or agreement with an institution; (ii) principal employment is with that institution; and (iii) major assignments are in teaching and research. A full-time administrator who teaches classes incidental to administrative duties is not a full-time faculty member.

"In-state institution" means an institution of higher education that is formed, chartered or established within Virginia.

"Institution" or "institution of higher education" means any person, firm, corporation, association, agency, institute, trust, or other entity of any nature whatsoever offering education beyond the secondary school level which: (i) offers courses or programs of study or instruction which lead to, ,or which may reasonably be understood to be applicable to, a degree; or (ii) operates a facility as a college or university or other entity of whatever kind which offers degrees or other indicia of level of educational attainment beyond the secondary school level; or (iii) uses the term "college" or "university," or words of like meaning, in its name or in any manner in connection with its academic affairs or business.

"Instructional faculty" means a person employed by an institution of higher education who is engaged in instructional, research, or related activities.

"Library volume" means a physical unit of any printed or typewritten work that is contained in one binding or portfolio, whether hardbound or softbound, or in microformat, and that has been cataloged, classified, or otherwise prepared for use. Textbooks and other materials regularly used in classroom instruction are excluded from this definition. Single-purpose institutions offering only occupational/technical programs in closely related disciplines may include multi-media materials in this definition.

"One full-time (1.0 FTE) faculty" means a statistical unit equal to either: (i) 15 credit hours of courses taught at the associate degree level or below; (ii) 12 credit hours of courses taught at the bachelor's level or (iii) nine credit hours of courses taught at the master's level or above. Courses taught by administrators, as well as those taught by instructional faculty, shall be included in this calculation.

One full-time (1.0 FTE) librarian" or "one full-time equivalent (1.0 FTE) library clerical or support staff" means a statistical unit based on a work schedule of 40 hours per week.

"One full-time equivalent (1.0 FTE) student" means a statistical unit equal to either: (i) 15 hours of degree credit courses each term at the bachelor's level or lower, or (ii) 12 hours of degree credit courses each term at the master's level or higher.

"Out-of-state institution" means an institution of higher education that is formed, chartered or established outside Virginia.

"Part-time faculty" means a person whose: (i) annual employment is based upon an official contract, appointment, or agreement with an institution; (ii) principal employment is with an entity other than that institution; and (iii) teaching assignments include at least one course during [~~two of three semesters, three of four quarters, or the equivalent,~~ at least two terms] within the academic year.

"Program area" means a group of closely related discipline specialties in which two or more degree programs may be offered and normally is identified by the first two digits of a six-digit CIP code number.

"Program of study" means a curriculum of two or more courses that is intended or understood to lead to a degree, diploma, or certificate. It may include all or some of the courses required for completion of a degree program.

"Site" means a location in Virginia where an institution (i) offers one or more courses for degree credit on an established schedule and (ii) enrolls two or more persons who are not members of the same household. If two or more locations are within 30 minutes' travel time of one another or within 25 miles of one another, the locations constitute a single site.

"Standards" or "standards for institutional approval" means the 26 paragraphs composing subsection A of § 4.2 of these regulations.

"Telecommunications activity" means any course for degree credit or program of study offered by an institution of higher education or consortium of institutions where the primary mode of delivery to a site is television, video cassette or disc, film, radio, computer, or other telecommunications devices.

§ 1.2. Prohibitions.

A. Except as in accordance with these regulations, no person, firm, or institution shall sell, barter, or exchange for any consideration, or attempt to sell, barter, or exchange for any consideration, any degree, diploma, or certificate.

B. No person, firm, or institution shall use, or attempt to use, in connection with any business, trade, profession, or

occupation any degree or certification of degree or degree credit, including but not limited to a transcript of coursework, which has knowingly been fraudulently issued, obtained, forged, or materially altered.

C. Unless exempted from the provisions of these regulations pursuant to § 23-266 of the Code of Virginia, no person, firm, or institution may represent that credits earned at or granted by that person, firm, or institution are applicable for credit toward a degree, except under such conditions and in a manner specified and approved by the council in accordance with these regulations.

D. Use of certain terms prohibited.

1. No person, firm, association, institution, trust, corporation, or other entity shall use in any manner, within the Commonwealth of Virginia, the term "college" or "university" or any abbreviation thereof, or any words or terms tending to designate it as, or create the impression that it is, an institution of higher education in its name or title, or in connection with its official business or in any literature, catalogs, pamphlets, or descriptive matter, unless such person, firm, association, institution, trust, corporation, or other entity shall have obtained the appropriate approval, as provided in these regulations, to confer degrees, offer programs or courses for degree credit, or to award or issue certificates or diplomas within the Commonwealth or unless exempted from the provisions of these regulations pursuant to § 23-266 of the Code of Virginia or unless authorized to do so by the council while a request for approval is pending before the council.

2. This subsection shall not apply to any person, firm, association, trust, corporation, or other entity which used the term "college" or "university" openly and conspicuously in its title within the Commonwealth prior to July 1, 1970.

§ 1.3. Advertisements, announcements, and other promotional materials.

A. Only an institution which is approved by the council in accordance with these regulations may indicate in catalogs, advertisements, and other publications that the council has approved the institution to confer degrees, diplomas, or certificates in Virginia.

B. An institution shall use its name as shown in its letter of approval from the council, together with a complete address, for all advertising and promotional purposes within Virginia.

C. An in-state institution, until such time as it receives approval from the council to confer degrees in new or additional degree programs, shall state in all of its [~~advertisements,~~] publications, [promotional materials sent to prospective students,] and enrollment agreements that:

1. The institution is seeking approval from the council to confer [specific new or additional] degrees;

2. The institution does not yet have approval from the council to confer [the specific new or additional] degrees; and

3. The institution will be able to confer [the specific new or additional] degrees only if and when it receives approval from the council.

D. An out-of-state institution shall state in all of its advertisements, announcements, and course registration materials which are distributed in Virginia that:

1. Each course or degree, diploma, or certificate program offered in Virginia is approved by the governing board of the institution;

2. The appropriate state agency [, if any,] in the state where the main campus of the institution is located has granted [whatever] approval [~~to~~ may be necessary for] the institution to:

a. Offer courses or degree, diploma, or certificate programs at the level for which credit is being awarded for those courses or programs in Virginia;

[~~b. Offer each course or degree, diploma, or certificate program being offered in Virginia;~~

~~c. Offer courses or degree programs outside its state; and~~]

[b. Offer courses or degree programs outside its state;

c. Offer each course or degree, diploma, or certificate program being offered in Virginia; and]

3. Any credit earned for coursework offered by the institution in Virginia can be transferred to the institution's principal location outside Virginia as part of an existing degree, diploma, or certificate program offered by the institution.

E. All advertisements, announcements, and promotional material of any kind which are distributed in Virginia shall be free from statements that are untrue, deceptive, or misleading with respect to the institution, its personnel, its services, or the content, accreditation status, and transferability of its courses or degree, diploma, or certificate programs.

F. No advertisement, announcement, or any other material produced by or on behalf of an institution of higher education shall in any way indicate that the institution is supervised, recommended, endorsed, or accredited by the Commonwealth of Virginia, by the Council of Higher Education or by any other state agency in Virginia; neither shall it include the name of the State

Council of Higher Education for Virginia, except to assert that the council has authorized the institution to offer the specified course or has approved the institution to offer the specified degree, diploma, or certificate program.

PART II.
EXEMPTIONS.

§ 2.1. State-supported institutions.

These regulations shall not apply to the institutions named in § 23-9.5 of the Code of Virginia, including their branches, divisions, or colleges, or to any state-supported institution of higher education that may be established in the future.

§ 2.2. Religious institutions.

A. These regulations shall not apply to any institution of higher education whose primary purpose is to provide religious training or theological education, provided that the institution:

1. Awards only degrees, diplomas, or certificates (i) whose titles indicate the institution's primary purpose plainly upon their face and (ii) which state that the institution is excluded from the requirement of state approval; and

2. States plainly in its catalogs and other publications that (i) the institution's primary purpose is to provide religious training or theological education, (ii) the institution's degrees, diplomas, or certificates are so titled and worded, and (iii) the institution is exempt from the requirement of state approval.

B. The title of each degree, diploma, or certificate awarded by an institution which claims an exemption under the provisions of this section must reflect that the institution's primary purpose is religious education.

1. The titles of "religious" degrees that may be awarded include, but are not limited to, (i) Bachelor of Christian Education, (ii) Master of Divinity, and (iii) Doctor of Sacred Theology.

2. The titles of "secular" degrees that may not be awarded in any discipline, including religion, christian education, and biblical studies, are (i) Associate of Arts, (ii) Associate of Science, (iii) Associate of Applied Science, (iv) Associate of Occupational Science, (v) Bachelor of Arts, (vi) Bachelor of Science, (vii) Master of Arts, (viii) Master of Science, (ix) Doctor of Philosophy, and (x) Doctor of Education.

C. An institution which complies with all of the provisions of subsection A of this section may state in writing to the director of the council that the institution is exempt from the provisions of Chapter 21 of the Code of Virginia and these regulations. Upon recognition of the institution's claim by the council, the institution thereafter shall not be required to submit to the council any further statement or application for exemption from the requirement of state approval, unless the institution ceases to comply with one or more of the provisions of this section, or unless the institution wishes to be partially exempt under the provisions of paragraph 6 of subsection A of § 2.3 of these regulations.

D. The council, on its own motion, may initiate formal or informal inquiries to confirm that these regulations are not applicable to a religious institution if the council has reason to believe that the institution may be in violation of the provisions of this section.

1. Any institution which claims an exemption under subsection A of this section on the basis that its primary purpose is to provide religious training or theological education shall be entitled to a rebuttable presumption of the truth of that claim.

2. It shall be the council's responsibility to show that an institution is not exempt under subsection A of this section.

3. The council assumes no jurisdiction or right to regulate religious beliefs under these regulations.

E. An institution whose claim for exemption under subsection A of this section is denied by the council shall have the opportunity to appeal the council's action in accordance with § 2.4 of these regulations.

§ 2.3. Institutions, programs, degrees, diplomas, and certificates exempt by council action.

A. Upon a determination by the council, as provided in subsection B of this section, the following institutions, programs, degrees, diplomas, and certificates shall be exempt from the provisions of these regulations:

1. Any school subject to the provisions of Chapter 16 (§22.1-319 et seq.) [of Title 22] of the Code of Virginia.

a. Included are proprietary schools and other post-secondary nondegree-granting institutions that are licensed by the State Board of Education.

b. A proprietary school or other post-secondary nondegree-granting institution licensed by the State Board of Education that applies to the council for approval to confer degrees shall continue to comply with the provisions of Chapter 16 (§22.1-319 et seq.) [of Title 22] of the Code of Virginia and relevant regulations of the State Board of Education until such time as the council grants approval to confer degrees.

2. Any honorary degree conferred or awarded by an institution, as long as the degree (i) does not

represent the satisfactory completion of all or any part of the requirements of a program or course of study and (ii) is normally regarded as one which is intended to be commemorative in nature in recognition of an individual's contributions to society.

3. Any postsecondary educational course or program of study offered by an institution of higher education at a United States military post or reservation when that course or program is open only to military post personnel or civilians employed by that military post or reservation.

a. Military personnel or civilians employed at one military post or reservation may take courses or programs of study at another military post or reservation without affecting the exemption from these regulations.

b. This exemption shall not apply to an institution that offers a course or program of study at a military post or reservation if:

(1) Civilians who are not employed by the military post or reservation are enrolled in the course or program at that site.

(2) The appropriate military official at the military post or reservation submits a written request to the director of the council that the institution be subject to these regulations.

4. Any nursing education program offered by an institution to the extent that the program is regulated by the Virginia State Board of Nursing.

a. The State Board of Nursing is the state agency which is authorized to license registered nurses and to approve nursing programs with regard to the adequacy of the curriculum and resources for preparing students to take the licensing examination.

b. To award a degree in nursing, an institution must have obtained prior council approval in accordance with these regulations to award degrees at the appropriate degree level.

5. A professional program for professional or occupational training offered by an institution to the extent that the program is subject to approval by a regulatory board pursuant to Title 54 of the Code of Virginia.

6. Any religious degree, certificate, and diploma that is awarded by an institution whose primary purpose is to provide religious training or theological education but which also awards secular degrees as defined in subsection B of § 2.2 of these regulations.

7. A certificate or diploma awarded by an institution on the basis of Continuing Education Unit (CEU) credit, or the equivalent, provided that:

a. The institution shall plainly state on the face of the certificate or diploma that the CEU credit is neither intended to be applicable to a degree program nor to be used in place of that for which degree credit is required.

b. The institution, as required by § 23-8.2 of the Code of Virginia, shall register annually with the council any course for CEU credit offered at a Virginia site other than the institution's home campus.

8. Any course or program of study given by or approved by any professional body, fraternal organization, civic club, or benevolent order principally for professional education or advancement or similar purpose and for which no degree or degree credit is awarded.

B. The council shall determine the validity of each exemption claimed by an institution as provided by subsection A of this section.

1. An institution of higher education which claims an exemption under the provisions of subsection A of this section shall file with the council such information as may be required by the council either to determine whether the institution is exempt or to ensure that the institution continues to be exempt. The information required by the council shall be strictly limited to that which is necessary and relevant for such purposes.

2. An institution shall indicate in its application for an exemption the specific paragraph in subsection A of this section under which it claims to be exempt and shall certify the specific program or course that qualifies for exemption in accordance with that paragraph.

§ 2.4. Denial of exemption; appeal of council action.

A. If the council determines that an institution does not qualify for an exemption as provided by §§ 2.2 or 2.3 of these regulations, the director of the council shall provide written notification to the institution of the reasons for that determination and the council's action to deny the exemption.

B. An institution whose claim of exemption is denied by the council shall have an opportunity to appeal the council's action, either through informal proceedings before the council in accordance with § 9-6.14:11 of the Code of Virginia or through formal proceedings in accordance with § 9-6.14:12 of the Code [of Virginia].

C. An institution wishing to take the opportunity for either formal or informal proceedings shall make a written request to the director of the council within 10 days of receiving notification of the council's determination

that the institution is not exempt from these regulations. No extension beyond the 10-day period shall be granted except for good cause shown.

D. When an institution has requested formal or informal proceedings, the proceedings shall be held at a time and date convenient to both the institution and the council. Any formal proceedings will be scheduled by the hearing officer. Any informal proceedings will be scheduled by the council.

E. An institution requesting formal or informal proceedings in accordance with this section shall bear the cost of any independent consultants and attorneys representing the institution. In addition, an institution which elects formal proceedings shall bear the cost of those proceedings, including the cost of any court reporter and for the preparation of a transcript.

PART III.
INSTITUTIONS FOR WHICH APPROVAL IS REQUIRED.

Article 1.
In-State Institutions.

§ 3.1. Certain existing approvals and exemptions continued.

A. An in-state institution that has been approved or authorized to confer degrees at a particular level or to offer one or more degree programs or program areas may continue to confer those degrees and to offer those programs until and unless the institution's approval or authorization is revoked by the council in accordance with § 6.9 of these regulations.

1. An in-state institution that was approved or authorized to confer degrees by the council, the State Board of Education, or act of the General Assembly of Virginia prior to July 1, 1980, shall be subject to whatever conditions or stipulations may have been imposed at the time the approval or authorization was granted.

2. An in-state institution that was granted full approval to confer degrees by the council on or after July 1, 1980, shall be subject to any stipulations imposed by the council in granting that approval.

B. An in-state institution that is wholly or partially exempt from the requirement of state approval may continue to confer degrees and offer credit and noncredit instruction in accordance with Part II of these regulations until and unless the institution no longer qualifies for exemption from these regulations.

§ 3.2. Approval required for new institutions.

A new in-state institution must receive approval from the council prior to conferring degrees at any level or in any degree program or program area.

§ 3.3. Approval required for existing institutions to confer degrees at a new level or in certain new programs.

A. An in-state institution that holds approval to confer degrees at a specific level must receive approval from the council prior to conferring any degree at a new or additional degree level.

B. An in-state institution that holds approval to confer degrees only in specific degree programs or program areas must receive approval from the council prior to conferring degrees in any additional degree program or program area.

§ 3.4. Approval required to award certain diplomas and certificates.

An in-state institution must receive approval from the council prior to awarding any type or category of certificate or diploma at or below the associate level unless the institution awarded certificate or diplomas at or below the associate level prior to July 1, 1980.

Article 2.
Out-of-State Institutions.

[§ 3.5. Certain existing exemptions continued.

An out-of-state institution that is wholly or partially exempt from the requirement of state approval may continue to confer degrees and offer credit and noncredit instruction in accordance with Part II of these regulations until and unless the institution no longer qualifies for exemption from these regulations.

[~~§ 3.5.~~ § 3.6.] Approval required to offer instruction for degree credit and to confer degrees.

A. An out-of-state institution must receive approval from the council prior to offering any degree program, program of study, course for degree credit, or telecommunications activity at a site within the Commonwealth.

1. An out-of-state institution's instructional offerings for degree credit in Virginia are subject to these regulations, even though the degree credit awarded for those offerings may be transferred to a location outside Virginia.

2. An out-of-state institution must receive approval from the council for all degree credit instruction it offers at each site in the Commonwealth. Approval of an institution to offer instruction for degree credit at a specific site is limited to that site and does not affect the approval requirement for degree credit offerings by the institution at any other site.

B. An out-of-state institution must receive approval from the council prior to conferring any degree whose requirements have been fulfilled either completely or partially at a Virginia site.

1. The institution must receive approval for each degree program for which it confers degrees in Virginia.

2. The institution must receive approval for each degree program, offered at a Virginia site, whose satisfactory completion leads to the conferral of a degree by the institution at a location outside Virginia, including the institution's principal location.

[§ ~~3.6.~~ § 3.7.] Approval required to offer certain certificate and diploma programs.

An out-of-state institution must receive approval from the council prior to offering a certificate or diploma program at or below the associate level, regardless of whether the institution is approved to confer degrees or to offer instruction for degree credit in the Commonwealth.

PART IV.
STANDARDS FOR APPROVAL.

§ 4.1. Application of the standards.

A. The council's standards for institutional approval are designed (i) to ensure that all institutions of higher education that are subject to these regulations meet minimal academic standards and (ii) to be in the best interests of students who are expending time and money in obtaining postsecondary education and persons who rely on postsecondary degrees, diplomas, and certificates in judging the competence of individuals.

B. Unless otherwise specified, the standards for institutional approval apply only to an institution's site or sites in Virginia.

C. The site visit committee shall have discretion in using the council's standards for institutional approval to evaluate an institution's offering of courses for degree credit, programs of study, or degree programs through nontraditional learning situations, such as (i) practicums, (ii) clinical experiences, (iii) internships, (iv) cooperative work experiences, (v) coursework offered in newspapers or other publications, or (vi) telecommunications activity.

1. The institution must ensure that degree credit is awarded only for actual academic learning which is demonstrated through testing or other appropriate evaluative measures consistent with institutional policy.

2. In recommending approval for an institution's offering of courses for degree credit, programs of study, or degree programs through nontraditional learning situations, the site visit committee must:

a. Identify any standards for institutional approval that are inapplicable or inappropriate; and

b. State explicitly in its report the reasons for recommending that the institution be approved.

D. In evaluating an institution's information resources and services, the site visit committee shall give due consideration to any library networking arrangements or electronic information services that are available to students and faculty at the institution's Virginia site. In addition, if an out-of-state institution's principal location outside Virginia is within 25 miles of the institution's Virginia site, the library or learning resource center at the institution's principal location may meet the standards (paragraphs 21 through 24 of subsection A of § 4.2 of these regulations) for the provision of information resources and services at the Virginia site.

E. Notwithstanding an institution's failure to comply fully with one or more of the standards for institutional approval, the site visit committee may recommend that the institution be granted approval by the council. In order to make that recommendation, the site visit committee shall:

1. Judge the general educational environment of the institution to be sound because:

a. Demonstrable academic excellence directly compensates for failure to meet certain of the standards; or

b. The history of the institution indicates long-term stability and progress towards meeting the standards in question.

2. Identify in its report the standards that are not met and recommend specific actions to be taken by the institution in order to comply fully with those standards.

§ 4.2. Standards for institutional approval.

A. The following standards shall apply to each institution for which council approval is required:

1. The institution shall have a clear, accurate, and comprehensive written mission statement which shall be available to the public upon request. The statement of mission minimally shall include the following items:

a. The history and development of the institution;

b. An identification of any persons, entities, or institutions that have a controlling ownership or interest in the institution;

c. The purpose of the institution, including a statement of the relative degree of emphasis on instruction, research, and public service;

d. A description of the institution's activities including telecommunications activities away from its principal location, including a list of all program areas in which courses are offered away from the principal location;

e. A list of all locations in Virginia at which the institution offers courses, a list of the degree programs currently offered or planned to be offered in Virginia, and the relationship of these programs to the statement of purpose; and

f. The institution's long-range plan (minimally for five years) in subparagraphs c, d, and e of this paragraph.

2. The institution shall have a current, written document, available to students and the general public upon request, that accurately states the powers, duties, and responsibilities of:

a. The governing board or owners of the institution;

b. The chief operating officer at each site in Virginia;

c. The principal administrators at each site in Virginia;

d. The faculty at each site in Virginia; and

e. The students, if students participate in institutional governance.

3. The institution shall have and maintain, and shall provide to all applicants upon request, a policy document accurately defining the minimum requirements for eligibility for admission to the institution and for acceptance at the specific degree level or into all specific degree programs offered by the institution. In addition, the document shall explain:

a. The standards for academic credit given for experience;

b. The criteria for transfer credit;

c. The criteria for refunds of tuition and fees; and

d. Students' rights, privileges, and responsibilities.

4. The institution shall maintain records on all enrolled students. These records minimally shall include (i) each student's application for admission, which shall be retained for seven years or until the student's graduation, and (ii) a transcript of the student's academic work, which shall be retained permanently. In addition, the institution shall have a written plan for the preservation of students' transcripts by another institution or agency, as well as for access to the transcripts, in the event of institutional closure or revocation of approval to operate in Virginia.

5. The institution shall provide to prospective students and applicants for admission basic information about opportunities for student financial aid, if any. This information shall include, but not be limited to:

a. The institution's policies regarding student financial aid;

b. The financial aid programs currently available at the institution; and

c. The eligibility requirements and student obligations for the receipt of financial aid.

6. The institution shall have a written plan for curriculum development and evaluation. The plan shall:

a. Explain how each degree level or degree program is consistent with the mission of the institution;

b. State the planned headcount and full-time equivalent student enrollments for each proposed program; and

c. Specify the process for evaluating each degree level or program once initiated.

7. The institution shall ensure that full-time faculty with training in appropriate fields are involved in curricular planning and development. If an out-of-state institution does not provide for the planning and development of curricular offerings at each site in Virginia, that planning and development shall occur regularly at the institution's principal location outside Virginia.

8. The institution shall establish and maintain minimum requirements for the satisfactory completion of each degree level and program. The requirements of each degree program shall be consistent with those generally expected for its degree level and discipline. In addition, all degree programs at the associate and baccaluareate levels, unless exempt from these regulations to the extent specified in paragraphs 4 and 5 of subsection A of § 2.3, shall include [the following curriculum components] :

[~~a. General education courses composing at least 25% of the total credit hours required for the degree; and either~~

~~b. Required courses in the major field of study composing no more than 75% of the total credit hours required for terminal occupation/technical programs leading to the Associate of Applied Science (A.A.S.) or Associate of Occupational Science (A.O.S.) degree; or~~

~~c. Required courses in the major field of study composing no more than 50% of the total credit hours required for a college transfer program at the associate or baccalaureate degree level.~~]

[a. For terminal occupational/technical programs leading to the Associate of Occupational Science (A.O.S.) degree, general education courses composing at least 10% of the total credit hours required for the degree;

b. For terminal occupational/technical programs leading to the Associate of Applied Science (A.A.S.) degree, general education courses composing at least 25% of the total credit hours required for the degree;

c. For all college-transfer associate degree programs and all baccalaureate degree programs, (i) general education courses composing at least 25% of the total credit hours required for the degree and (ii) required courses in the major field of study composing no more than 50% of the total credit hours required for the degree in a specific discipline.

d. As an alternative to subparagraphs a through c of this paragraph, a program curriculum in a specific discipline that meets or exceeds the curriculum specifications promulgated or endorsed by a reputable professional association or a recognized programmatic accreditation agency.]

9. The institution shall ensure that:

a. All instructional courses for degree credit normally require a minimum of 15 class contact hours for each semester credit hour or a minimum of 10 class contact hours for each quarter credit hour, or the equivalent; and

b. The elective and required courses for each program are offered on a schedule and in a sequence that enables both full-time and part-time students to complete the program in a reasonable period of time.

10. The institution shall state in its catalog and other appropriate publications:

a. The minimum requirements for satisfactory completion of each degree level and degree program;

b. If the institution offers programs leading to the Associate of Applied Science (A.A.S.) or [Associate of Occupational Science] (A.O.S.) degree, that these programs are terminal occupational/technical programs and their credits generally are not applicable to other degrees;

c. A course description of each required or elective course offered by the institution; and

d. The academic schedule for the period covered by the publication.

11. The institution shall ensure that instructional faculty are accessible to students for academic advising at stated times outside regularly scheduled class hours at each site where a course is offered and throughout the period during which the course is offered. The institution's policy on accessibility of faculty shall be current, written, and distributed to students.

12. The institution shall provide evidence of its fiscal stability by maintaining an itemized annual budget of past, current, and projected revenues and expenditures for the total institution, regardless of principal location, and for each proposed site in Virginia. Each budget shall:

a. List all sources of income and all Educational and General (E&G) expenditures and specify the dollar amounts and percentages for each component of the budget for the preceding three fiscal years (including the current year) and for the next three fiscal years;

b. Reflect any projected reallocation of institutional resources to support any new or proposed programs and the anticipated effect of that reallocation on existing programs; and

c. Identify current and proposed programs that are supported by federal grants and contracts and indicate any alternative sources of funds available to support those programs.

13. If the institution has a policy allowing for refunds of tuition and fees to students (see subparagraph c of paragraph 3 of this subsection), the institution shall have and maintain:

a. Either a line of credit or real (including capital) assets of value equal to the amount of total projected revenues from tuition and fees for any given year; or

b. Either an endowment or reserve funds that are adequate to provide refunds to students; or

c. A surety bond, issued by a surety company authorized to transact business in Virginia, adequate to provide refunds to students.

14. The institution shall demonstrate sound business and financial management by establishing and maintaining all of the following:

a. An internal organizational arrangement for the administration and management of its financial resources;

b. An institutional budget planning process; and

c. Accounting and auditing procedures consistent

with those established by the National Association of College and University Business Officers (NACUBO).

15. The institution shall allocate a portion of its annual Educational and General (E&G) budget to the "instruction" category. The minimum amount spent annually for instruction shall be:

a. At least 20% of the total E&G budget; or

b. At or above the 25th percentile for member institutions of the Southern Association of Colleges and Schools (SACS) at the institution's degree level and enrollment category.

16. The institution shall ensure that each full-time, part-time, or adjunct instructional faculty member holds appropriate academic credentials in the program area or discipline in which the faculty member teaches. Each instructional faculty member shall either:

a. Possess one or more degrees in an appropriate discipline; or

b. As an alternative to formal academic credentials, demonstrate competence by virtue of prior experience or academic training, or both, which are related to the field in which the instruction will be offered.

17. The institution shall ensure that each full-time, part-time, or adjunct instructional faculty member holds academic credentials appropriate to the degree level of the program or programs in which the faculty member teaches.

a. All instructional faculty teaching in a terminal occupational/technical program leading to the Associate of Applied Science (A.A.S.) or Associate of Occupational Science (A.O.S.) degree shall:

(1) If teaching general education courses, hold a baccalaureate degree plus at least 18 graduate credit hours in the discipline being taught.

(2) If teaching occupational/technical courses, hold either (i) an associate degree [~~plus at least five years professional experience~~] or (ii) [~~an occupational or professional license plus at least ten years professional experience~~ qualify for a faculty appointment by virtue of scholarly or professional achievements].

b. All instructional faculty teaching in a college-transfer program at the associate level shall [:]

[(1) If teaching general education courses or in programs in the liberal arts and sciences,] hold a baccalaureate degree plus at least 18 graduate credit hours in the discipline being taught.

[(2) If teaching occupational/technical courses, either (i) hold a baccalaureate degree or (ii) qualify for a faculty appointment by virtue of scholarly or professional achievements.]

c. An institution that offers one or more degree programs at the baccalaureate level shall ensure that at least one-third of the instructional faculty, including at least one instructional faculty member teaching in each program, shall hold a doctoral or other terminal degree. All other instructional faculty members who teach in programs at the baccalaureate level shall either:

(1) Hold a master's degree; or

(2) Qualify for a [~~tenure-track~~] faculty [~~position~~ appointment] by virtue of scholarly or professional achievements.

d. All instructional faculty teaching in a program at the master's, first professional, or doctoral level shall either:

(1) Hold a doctoral or other terminal degree; or

(2) Qualify for a [~~tenure-track~~] faculty [~~position~~ appointment] by virtue of scholarly or professional achievements.

18. The institution's instructional faculty at each site shall hold either full-time, part-time, or adjunct appointments.

a. At least 50% of the instructional faculty at each site shall hold full-time appointments; or

b. At least one full-time faculty member shall be teaching in each program at each site; and

c. At least 40% of the instructional faculty [teaching courses in the liberal arts and sciences] at each site who do not hold full-time appointments shall hold part-time appointments.

19. The institution shall have at each site not less than 1.0 full-time equivalent (FTE) faculty per 25 full-time equivalent (FTE) students.

20. The institution shall disclose to the instructional faculty whatever policies may exist regarding faculty:

a. Selection and evaluation;

b. Promotion, tenure, and termination;

c. Salaries and fringe benefits;

d. Development programs and sabbaticals;

e. Academic freedom; and

f. Rights, privileges, and responsibilities.

21. The institution shall ensure that its library or learning resource center is accessible to students and faculty a sufficient number of hours, including stated times outside regularly scheduled class hours, at each site where coursework is offered and throughout the period during which the coursework is offered. The institution's policy on accessibility to the library shall be current, written, and made available to students and faculty.

22. The institution shall have in the library or learning resource center at each site:

a. Sufficient professional library staff to provide adequate library services; and

b. At least 1.0 full-time equivalent (FTE) clerical or other support staff, including student assistants, for each 1.0 FTE professional or paraprofessional librarian.

23. The institution shall have at each site an organized library or learning resources collection containing a minimal number of library volumes sufficient to meet the academic needs of the projected full-time equivalent (FTE) students, FTE faculty, and programs being offered at the site. The minimal number of volumes that must be accessible on the date when the first students are enrolled shall depend upon the highest degree level offered at the site.

a. An institution that offers degree programs at the associate level only shall have at least the minimum number of library volumes derived by the following formula:

(1) Basic collection ..... 8,500 volumes

(2) For each FTE faculty member ..... 50 volumes

(3) For each FTE student ..... 6 volumes

(4) For each degree program ..... 165 volumes

b. An institution that offers degree programs at the baccalaureate or above shall have at least the minimum number of library volumes derived by the following formula:

(1) Basic collection ..... 10,150 volumes

(2) For each FTE faculty member ..... 100 volumes

(3) For each FTE student ..... 12 volumes

(4) For each bachelor's degree program ..... 335 volumes

(5) For each master's degree program ..... 3,050 volumes

(6) For each doctoral degree program ..... 24,500 volumes

24. The institution shall allocate a portion of its annual Educational and General (E&G) budget to library or learning resource services. The minimum amount spent annually for these services shall be:

a. Sufficient to support the staffing requirements of paragraph 22 of this subsection and to purchase materials resulting in at least a 5.0% annual increase in the number of library volumes before withdrawals; or

b. At least 5.0% of the institution's total Educational and General (E&G) budget; or

c. At or above the 25th percentile for member institutions of the Southern Association of Colleges and Schools (SACS) at the institution's degree level and enrollment category.

25. As an alternative to paragraphs 21 through 24 of this subsection, an institution may make contractual or other formal arrangements with another institution of higher education for library or learning resource services that will meet the requirements of paragraphs 21 through 24 of this subsection. The institution of higher education providing those services by contract or other formal agreement shall:

a. Be located within 30 minutes' travel time or within 25 miles of the site of the institution contracting for the services;

b. Be fully accredited by an accrediting body recognized by the U.S. Department of Education at the degree level of the programs offered by the contracting institution; and

c. Offer one or more comparable programs at the degree level of the programs offered by the contracting institution.

26. The institution, through ownership, leasehold, or other contractual arrangements, shall provide adequate classroom and laboratory space, library space, and faculty and administrative offices to support the instructional activities at each site.

B. An institution may comply with paragraphs 3, 5, 11, 20, and 21 of subsection A of this section by publication of the information specified in those paragraphs in the institution's catalog or bulletin.

C. An institution may charge the public a reasonable fee to recover the costs of providing any information that must be available to the public in accordance with subsection A of this section.

PART V.
INSTITUTIONAL APPLICATIONS FOR APPROVAL.

Article 1.
In-State Institutions.

§ 5.1. Authorization required to transact business in Virginia.

An in-state institution must receive authorization from the Virginia State Corporation Commission to transact business in the [~~state~~ Commonwealth] , in accordance with either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.-801 et seq.) of Title 13.1 of the Code of Virginia, prior to making any application to the council for approval.

§ 5.2. Application by a new institution for approval to confer degrees.

A. A new in-state institution must receive authorization from the council before either (i) using the term "college" or "university" or similar term as defined by paragraph 1 of subsection D of § 1.2 of these regulations or (ii) publicizing its intent to enroll students into courses in one or more programs leading to degrees at a specified level. The council shall grant the required authorization upon submission by the chief executive officer of the institution of the following items:

1. A copy of the institution's certificate from the Virginia State Corporation Commission authorizing the institution to transact business in the [~~state~~ Commonwealth] ;

2. A statement of institutional mission that includes all the information specified in paragraph 1 of subsection A of § 4.2 of these regulations;

3. A written unconditional assurance that:

a. The chief executive officer has reviewed these regulations;

b. The institution will seek to meet all of the standards for institutional approval prior to conferring the first degrees to students to be enrolled in courses at the degree level for which approval is sought; and

c. The institution, until such time as it receives approval from the council to confer degrees, will clearly state in all of its [~~advertisements,~~] publications, [promotional materials sent to prospective students,] and enrollment agreements, as required by subsection C of § 1.3 of these regulations, that it is not approved by the council and will be able to confer degrees only if and when it receives appropriate approval from the council.

B. A new in-state institution that has received authorization from the council to use the term "college" or "university" or similar term and to advertise must receive authorization from the council before enrolling any student into a course for degree credit.

1. No later than two years after receiving initial authorization in accordance with subsection A of this section, the institution must request authorization to enroll students by submitting the following items:

a. Evidence that the institution complies with paragraphs 1, 2, 3, 4, 5, 6(b), 11, 13, 16, 17, 19, and 20 of subsection A of § 4.2 of these regulations; and

b. A plan for ensuring that adequate library services and facilities, as required by paragraphs 21 through 26 of subsection A of § 4.2 of these regulations, will be available to support the proposed programs.

2. Failure of an institution to request authorization to enroll students within two years following initial authorization by the council in accordance with subsection A of this section shall result in revocation of that authorization by the council except for good cause shown.

C. A new in-state institution that has received authorization to enroll students in accordance with subsection B of this section must submit to the council (i) a complete application for approval and (ii) a request for a site visit in accordance with subsection B of § 6.2 of these regulations.

1. The institution must demonstrate in its application that it complies with all the requirements in subsection B of § 4.2 of these regulations.

2. The institution must submit its application and request for a site visit at a time no later than the earlier of the two following dates:

a. The midpoint between enrolling the first student and conferring the first degree; or

b. Two years after receiving the authorization to enroll students.

3. Failure of the institution to submit its application and request for a site visit to the council within the time limits specified in paragraph 2 of this subsection shall result in revocation by the council of the institution's authorizations in accordance with

subsections A and B of this section except for good cause shown.

§ 5.3. Application by an existing institution for approval to confer degrees at a new level or in a new program area.

A. An existing in-state institution that seeks to confer degrees at a degree level or in a new program area for which it does not hold approval must receive authorization from the council before enrolling any student into a course for degree credit at a new level or in a new program area.

1. The institution may request authorization to enroll students at the new level or in the new program area by submitting the following items:

a. Evidence that the institution complies with paragraphs 1, 2, 3, 4, 5, 6(b), 11, 13, 16, 17, 19, and 20 of subsection A of § 4.2 of these regulations; and

b. A statement certifying that the institution has adequate library resources to support the courses to be offered.

2. The institution may forego submitting a request for authorization to enroll students and instead submit (i) a complete application for approval to confer degrees at the new level or in the new program area in accordance with subsection B of this section and (ii) a request for a site visit in accordance with subsection B of § 6.2 of these regulations. An institution that selects this option, however, shall not enroll any student into courses at the new level or in the new program area until and unless the council grants approval to the institution to confer degrees at the new level.

B. An existing in-state institution to which subsection A of this section is applicable shall submit (i) a complete application for approval and (ii) a request for a site visit in accordance with subsection B of § 6.2 of these regulations.

1. The institution must demonstrate in its application that it complies with all of the requirements in subsection B of § 4.2 of these regulations.

2. An institution that has received authorization to enroll students in accordance with paragraph 2 of subsection A of this section must submit its application and request for a site visit at a time no later than the earlier of the two following dates:

a. The midpoint between enrolling the first student and conferring the first degree at the new level or in the new program area; or

b. Two years after receiving the authorization to enroll students.

3. Failure of the institution to submit its application and request for a site visit to the council within the time limits specified in paragraph 2 of this subsection shall result in revocation by the council of the institution's authorization to enroll students in accordance with subsection A of this section except for good cause shown.

§ 5.4. Application by an existing institution for approval to confer degrees in additional programs within an existing program area.

A. An existing in-state institution that holds approval to confer degrees in one or more programs within a specific program area must receive approval from the council before conferring degrees in additional programs within that program area.

1. An institution that (i) holds full accreditation from an appropriate accrediting body recognized by the U.S. Department of Education and (ii) has received a site visit from either the council or an appropriate accrediting body within three years prior to submitting its application may apply for approval to offer the additional programs in accordance with subsection B of this section.

2. An institution to which paragraph 1 of this subsection is inapplicable shall apply for approval to offer the additional programs in accordance with § 5.3 of these regulations.

B. An institution that meets the requirements of paragraph 1 of subsection A of this section shall submit an abbreviated application for approval of the additional programs. The application shall contain evidence that the institution complies with paragraphs 8, 9, 10, 12, 16, 17, 19, and 26 of subsection A of § 4.2 of these regulations.

§ 5.5. Application by an existing postsecondary school for approval to confer degrees.

A. An existing postsecondary school, licensed by either (i) the Virginia Department of Education in accordance with Chapter 16 (§ 22.1-319 et seq.) [of Title 22.1] of the Code of Virginia or (ii) any other state agency empowered by the Code of Virginia to license the school, its teachers or curriculum, or both, must receive approval from the council to confer degrees at a particular level or in any program or program area prior to enrolling any student into a course for degree credit or program of study. The school must submit an application for approval that shall contain all of the following items:

1. A copy of the school's certificate from the Virginia State Corporation Commission authorizing the school to transact business in the [~~state~~ Commonwealth] ;

2. A written unconditional assurance that:

a. The chief executive officer of the school has

reviewed these regulations; and

b. The school will seek to meet all of the standards for institutional approval prior to conferring the first degrees to students to be enrolled in courses at the degree level for which approval is sought.

3. Evidence that the school complies with all of the requirements in subsection B of § 4.2 of these regulations.

4. Request for a site visit in accordance with subsection B of § 6.2 of these regulations.

B. The school shall not enroll any student into a course for degree credit or program of study until and unless the council has granted approval to the school to confer degrees as an institution of higher education.

Article 2.
Out-of-State Institutions.

§ 5.6. Authorization required to transact business in Virginia.

An out-of-state institution that is a corporation in the jurisdiction of origin must receive authorization from the Virginia State Corporation Commission to transact business or to conduct affairs in the [~~state~~ Commonwealth] , in accordance with either Article 17 of Chapter 9 (§ 13.1-757 et seq.) or Article 14 of Chapter 10 (§ 13.1-919 et seq.) of Title 13.1 of the Code of Virginia, prior to making any application to the council for approval.

§ 5.7. Accreditation of institution required.

An out-of-state institution must be fully accredited by an accrediting body recognized by the U.S. Department of Education prior to making an application to the council for approval. The accreditation held by the institution must apply to all instruction for degree credit at all degree levels, including certificate and diploma programs, for which the institution seeks approval to offer in Virginia.

§ 5.8. Application for approval to operate at a new site.

A. An out-of-state institution must receive approval from the council prior to offering any instruction for degree credit at a site in Virginia. The institution must submit an application for approval to the council for each course for degree credit, program of study, or degree program including certificate and diploma programs at or below the associate level to be offered at a site. The application shall include all of the following items:

1. A copy of the institution's certificate from the Virginia State Corporation Commission, as required by § 5.6 of these regulations;

2. A written unconditional assurance that:

a. Each course, program of study, or degree, diploma, or certificate program proposed to be offered in Virginia has been approved by the governing board of the institution, and, if applicable, by the appropriate state agency in the state where the main campus of the institution is located;

b. The institution has been approved [as necessary] by the appropriate state agency [, if any,] in the state where the main campus of the institution is located to:

(1) Offer degree, diploma, or certificate programs at the level for which credit is proposed to be awarded in those programs in Virginia; and

(2) Offer degree programs outside the state where the main campus is located.

c. Any credit earned in Virginia can be transferred to the institution's principal location outside Virginia as part of an existing degree, diploma, or certificate program offered by the institution.

3. All materials specified in either subsection B or C of this section, depending upon the scope of the instruction to be offered at the Virginia site.

B. An out-of-state institution that seeks to offer either (i) one or more programs of study whose total number of courses constitute more than 25% of the number required for completion of a particular degree program or program level or (ii) one or more degree programs at a site in Virginia must receive approval from the council for each program of study or degree program to be offered at that site.

1. The institution must submit an application for approval that includes all of the following items:

a. The materials specified in subsection A of this section; and

b. Evidence that the institution complies with all of the requirements in subsection B of § 4.2 of these regulations.

2. The institution shall not enroll any student at the site until and unless the council, in accordance with Article 2 of Part VI of these regulations, has granted approval to the institution to offer specific programs or study or degree programs at that site.

C. An out-of-state institution that seeks to offer only courses for degree credit at a Virginia site, provided that the cumulative total number of courses offered at the site during the time the institution operates in Virginia shall not exceed 25% of the total number of courses required for completion of a particular program or degree level, must receive authorization from the council to offer courses for degree credit prior to enrolling any student at

the site.

1. The institution must submit an application for authorization to enroll students in courses for degree credit that includes all of the following items:

a. The materials specified in subsection A of this section;

b. Evidence that the institution complies with paragraphs 1, 2, 3, 4, 5, 6(b), 11, 13, 16, 17, 19, 20, and 26 of subsection A of § 4.2 of these regulations; and

c. Written assurance that the institution has adequate library resources at the site to support the courses to be offered.

2. Failure of an out-of-state institution, which has received authorization from the council in accordance with subsection B of § 6.4 of these standards, to enroll students in degree courses during any of the semesters or terms during an academic year shall result in revocation by the council of that authorization.

§ 5.9. Application for approval to offer additional programs of study or degree programs at an established site.

A. An out-of-site institution that holds approval to offer one or more programs of study or degree programs at a Virginia site must receive approval from the council prior to enrolling any students in new or additional programs of study or degree programs at that site.

B. An out-of-state institution that seeks to offer one or more programs of study or degree programs, in a different program area from one in which it offers an approved program of study or degree program, must submit a complete application for approval that shall include all of the following items:

1. The written unconditional assurance specified in paragraph 2 of subsection A of § 5.8 of these regulations; and

2. Evidence that the institution complies with paragraphs 1, 2, 3, 4, 5, 6(b), 11, 13, 16, 17, 19, 21 through 24 or 25, and 26 of subsection A of § 4.2 of these regulations.

C. An out-of-state institution that seeks to offer one or more additional programs of study or degree programs, in a program area in which if offers an approved program of study or degree program, must submit an abbreviated application for approval to offer the additional programs of study or degree programs. The application shall contain evidence that the institution complies with paragraphs 8, 9, 10, 12, 16, 17, 19, and 26 of subsection A of § 4.2 of these regulations.

Article 3.

Effect of Application for Approval.

§ 5.10. Commitment to comply with law and regulations.

A. Each application for approval shall commit the institution to comply with § 23-265 through § 23-276 of the Code of Virginia and with these regulations.

B. An institution applying for approval in accordance with these regulations shall:

1. Make available to the council, upon request, all pertinent information and records of the institution required by the council to carry out its responsibilities under these regulations.

2. Permit the council to inspect the institution to verify compliance with these regulations.

§ 5.11. Freedom of Information Act to apply.

All materials submitted by an institution in its application for approval or in response to a request by the council for pertinent information shall be subject to the Virginia Freedom of Information Act (Chapter 21 of Title 2.1 of the Code of Virginia) and shall be available for public inspection in accordance with the provisions of § 21-342 of the Code [of Virginia].

§ 5.12. Retention of application materials submitted by an institution.

The application for approval and all other pertinent information submitted by an institution in accordance with these regulations shall be retained on file by the council until the final disposition of the institution's request for approval.

PART VI.
APPROVAL PROCESS.

Article 1.
Verification of Compliance with Regulations; Staff Recommendations for Council Action on Applications.

§ 6.1. Council staff review of applications.

A. The council staff will review all applications for approval that are submitted by institutions in accordance with Part V of these regulations. The staff will verify that each application:

1. Contains all items specified in the applicable section of Part V of these regulations; and

2. Demonstrates that the institution is in substantial compliance with those standards, included in § 4.2 of these regulations, that are specified in the applicable section of Part V of these regulations.

B. If an application is in good order, the council staff will prepare a report with recommendation for council action, as specified in § 6.2 of these regulations.

§ 6.2. Council staff recommendations to council for action on applications.

A. The council staff will prepare a report, containing a description of institutional compliance with these regulations and a recommendation for action by the council, in response to:

1. An application for authorization to enroll students in courses for degree credit, submitted by an institution in accordance with subsection B of § 5.2, subsection A of § 5.3, or subsection C of § 5.8 of these regulations.

2. An application for approval to offer one or more additional degree programs in a new program area, submitted by an institution in accordance with either subsection B of § 5.4 or subsection C of § 5.9 of these regulations.

B. The council staff will prepare a report in response to an application for approval to confer degrees or to offer degree programs, made by an institution in accordance with subsection C of § 5.2, subsection B of § 5.3, § 5.5, subsection B of § 5.8, or subsection B of § 5.9 of these regulations.

1. Before preparing a report, the council staff will organize a site visit committee to visit the Virginia site where the institution offers the degree instruction for which council approval is sought.

a. The principal task of the site visit committee will be to verify that the institution complies with the council's standards for institutional approval at the site and to report its findings to the council.

b. The site visit committee shall be composed of:

(1) One or more persons who are qualified by academic training or professional experience to verify the institution's compliance with the council's standards for approval, and, as applicable, to evaluate the institution's activities in accordance with § 4.1 of these regulations.

(2) A member of the council staff who shall serve as chairman of the committee.

c. The site visit will be scheduled at a time which is mutually convenient to the institution and the council but shall be conducted no later than three months prior to the date when the first student would complete any degree program for which approval is sought.

d. The institution shall pay the reasonable expenses associated with the site visit.

2. Following a site visit to the institution's Virginia site, the council staff will prepare a report that contains:

a. A signed report by the site visit committee; and

b. A recommendation by the council staff for action by the council in response to the institution's application.

C. A draft of a staff report prepared in accordance with subsection A or B of this section will be provided to the institution for correction of factual errors and comment. The staff report and any institutional comments then will be presented to the council for action on the institution's application.

§ 6.3. Withdrawal of application by institution.

A. An institution that has submitted an application to the council in accordance with Part V of these regulations may withdraw that application without prejudice at any time prior to the time when the application is considered by the council at scheduled meeting of the council.

B. Withdrawal of an application by an institution shall result in revocation by the council of all authorizations associated with that application that previously had been granted to the institution in accordance with Part V of these regulations.

C. An institution that has withdrawn an application may submit, at any time and without prejudice, a new application to the council in accordance with Part V of these regulations.

Article 2.
Council Actions to Approve Institutions.

§ 6.4. Duplication of, and need for instruction for degree credit is irrelevant.

In considering an institution's application, made in accordance with Part V of these regulations, the council shall not take into account either duplication of effort by public and private institutions in Virginia or need within the Commonwealth for the course for degree credit, program of study, or degree program for which approval is sought.

§ 6.5. Approval actions limited to specific sites.

Each approval action by the council in accordance with these regulations shall be limited to the specific site or sites at which the institution proposes to offer instruction for degree credit.

§ 6.6. Authorization to enroll students in degree courses.

A. The council, in response to an application by an in-state institution and upon recommendation by the

council staff, may authorize the institution to enroll students in degree courses.

1. The council will authorize a new in-state institution to enroll students in degree courses, pending the submission by the institution of a complete application for approval in accordance with subsection C of § 5.2 of these regulations.

2. The council will authorize an existing in-state institution to enroll students in degree courses at a new degree level or in a new program area, pending the submission by the institution of a complete application for approval in accordance with subsection B of § 5.3 of these regulations.

B. The council, in response to an application by an out-of-state institution and upon recommendation by the council staff, may authorize the institution to enroll students in degree courses to the extent provided by subsection C of § 5.8 of these regulations.

1. The authorization to enroll students shall be for a term of five years.

2. The institution may request an extension of the authorization by submitting to the council a new application in accordance with paragraph 1 of subsection C of § 5.8 of these regulations. The new application must be received by the council no later than 60 days prior to the expiration of the institution's current term of authorization.

§ 6.7. Approval of an in-state institution to confer degrees.

A. The council, in response to an application by a new in-state institution and upon recommendation by the council staff, may grant approval to the institution to confer degrees at a specified level or in specific degree programs or program areas at a particular degree level. The council may specify certain conditions under which approval is granted and may stipulate requirements to be fulfilled by the institution during the term of approval.

1. The council will grant provisional approval to the institution if it is in substantial compliance with the council's standards for institutional approval, subject to the following conditions:

a. The institution shall complete, in the manner and during the time period stipulated by the council, any actions that may be required in order to come into full compliance with the council's standards.

b. The institution shall make satisfactory progress towards gaining accreditation from an appropriate accrediting agency recognized by the U.S. Department of Education.

(1) The institution normally shall seek accreditation from an accrediting body recognized by the U.S. Department of Education as an institutional accrediting agency.

(2) If the institution offers degree programs at the baccalaureate level or above and in only one discipline, it may seek accreditation from an accrediting agency recognized by the U.S. Department of Education as a programmatic accrediting agency for that discipline.

(3) The council shall determine the appropriateness of the accrediting agency from which the institution will seek accreditation.

(4) In addition to the other accreditation requirements stated in this subparagraph, if the institution offers a degree program or course of study to prepare students for a profession or occupation which is licensed by a regulatory board pursuant to Title 54 of the Code of Virginia, the institution shall seek any accreditation for the degree program or course of study that may be required by the regulatory board.

c. The initial term or provisional approval shall be for five years. The council shall grant an extension of provisional approval for an additional five-year term only if the institution:

(1) Has gained Candidate for Accreditation status with an appropriate accrediting agency and has reasonable expectations of gaining full accreditation before the end of the second five-year term or professional approval; or

(2) Submits evidence to the council that it has reasonable expectations of gaining Candidate for Accreditation status with an appropriate accrediting agency within one year and of gaining full accreditation before the end of the second five-year term of provisional approval.

2. The council may grant full approval to the new in-state institution to confer degrees when it is in full compliance with these regulations and holds full accreditation from an appropriate accrediting agency recognized by the U. S. Department of Education.

B. The council, in response to an application by an existing in-state institution and upon recommendation by the council staff, may grant approval to the institution to confer degrees at a new level or in specific new degree programs or program areas at a particular degree level. The council may specify certain conditions under which approval is granted and may stipulate requirements to be fulfilled by the institution during the term of approval.

1. The council will grant provisional approval to the institution if it is in substantial compliance with the council's standards for institutional approval, subject to the following conditions:

a. The institution shall complete, in the manner and during the time period stipulated by the council, any actions that may be required in order to come into full compliance with the council's standards.

b. The institution shall make satisfactory progress towards gaining accreditation for the new degree programs.

(1) The institution normally shall seek the additional accreditation from the recognized accrediting body with whom it holds institutional accreditation.

(2) If the institution offers a new degree program in a discipline that is accredited by a recognized programmatic accrediting agency, the council may stipulate that the institution seek accreditation for program from the appropriate accrediting agency.

c. The initial term of provisional approval shall be for five years. The council will grant an extension of provisional approval for an additional five-year term only if the institution submits evidence to the council that it has reasonable expectations of gaining appropriate full accreditation for the new degree programs by the end of the second five-year term of provisional approval.

2. The council may grant full approval to the institution when it is in full compliance with these regulations and holds full accreditation from an appropriate accrediting agency for the new programs.

C. The council, in response to an application from an existing in-state institution and upon recommendation by the council staff, may grant full approval to an existing in-state institution to offer additional degree programs in a program area for which it holds approval to confer degrees.

§ 6.8. Approval of an out-of-state institution to offer programs of study or degree programs.

A. The council, in response to an application by an out-of-state institution and upon recommendation by the council staff, may grant approval to the institution to offer one or more programs of study or degree programs at a new site in Virginia. The council may specify certain conditions under which approval is granted and may stipulate requirements to be fulfilled by the institution during the term of approval.

1. The council will grant conditional approval to the institution if the institution's application, made in accordance with subsection B of § 5.8 of these regulations, demonstrates that the institution is in substantial compliance with the council's standards for institutional approval at the site.

a. The term of conditional approval shall be for not more than two years.

b. During the term of conditional approval, the council staff, in accordance with subsection B of § 6.2 of these regulations, shall conduct a site visit to the institution's Virginia site and prepare a report and recommendation for council action.

c. If the site visit committee determines that the institution fails to comply with one or more of the council's standards but can quickly come into full compliance with those standards, the council may grant a 90-day extension of conditional approval with stipulations of actions to be taken by the institution. During the 90-day term, the institution must comply with all the stipulations and demonstrate full compliance with the council's standards.

2. The council will grant full approval to the institution to offer one or more programs of study or degree programs at the new site when the institution is in full compliance with these regulations.

a. The term of full approval shall be for five years.

b. The institution may request an extension of approval by submitting to the council a new application in accordance with subsection B of § 5.8 of these regulations. The new application must be received by the council no later than 60 days prior to the expiration of the institution's current term of full approval.

B. The council, in response to an application by an out-of-state institution and upon recommendation by the council staff, may grant approval to the institution to offer one or more courses of study or degree programs in a new program area at a site where the institution holds full approval. The council may specify certain conditions under which approval is granted and may stipulate requirements to be fulfilled by the institution during the term of approval.

1. The council will grant conditional approval to the institution if the institution's application, made in accordance with subsection B of § 5.9 of these regulations, demonstrate that the institution is in substantial compliance with the council's standards at the site.

2. If the application is submitted during the fourth or fifth year of the institution's current term of full approval at the site, no site visit will be required and the council will grant a term of conditional approval that expires at the same time as the expiration date of the institution's current term of full approval at the site.

3. If the application is submitted before the end of the third year of the institution's current term of full approval at the site, the council will:

a. Grant conditional approval for a term of one year;

b. Require that the institution, during the term of conditional approval, receive a site visit in accordance with subparagraphs b and c of paragraph 1 of subsection A of this section; and

c. Grant full approval, when the institution is in full compliance with these regulations, for a term that expires at the same time as the expiration date of the institution's current term of full approval at the site.

C. The council, in response to an application from an out-of-state institution and upon recommendation by the council staff, will grant full approval to the institution to offer one or more additional programs of study or degree programs in a program area at a site where it holds full approval to offer at least one degree program in that program area. The term of full approval shall expire at the same time as the expiration date of the institution's current term of full approval at the site.

Article 3.
Council Denial, Suspension, or Revocation of Approval.

§ 6.9. Denial, suspension, or revocation of approval.

A. The council, on its own motion, may deny an institution's application to confer degrees or to offer courses for degree credit, programs of study, or degree programs at a Virginia site, if the council determines that the institution has done one or more of the following:

1. Knowingly submitted any material information to the council in connection with its application for approval that is misleading or untrue.

2. Failed to comply with the council's standards for institutional approval, providing that there is clear and convincing evidence of that failure.

3. Publicly made or caused any false or misleading representation that it has complied with any of the requirements of § 23-265 through § 23-276 of the Code of Virginia and these regulations.

4. Violated any of these regulations.

5. Willfully refused to furnish the council with any requested information or records demonstrably necessary for the council to carry out its responsibilities in accordance with Chapter 21 (§ 23-265 et seq.) [of Title 23] of the Code of Virginia and these regulations.

B. The council, on its own motion, may suspend an institution's approval to confer degrees or to offer courses for degree credit, programs of study, or degree programs at a Virginia site, including any approval or authorization referred to in subsection A of § 3.1 of these regulations, if the council determines that the institution has done either of the following:

1. Failed to comply with the council's standards for institutional approval, provided that there is clear and convincing evidence of that failure.

2. Failed to maintain full accreditation with an accrediting agency recognized by the U. S. Department of Education.

C. The council, on its own motion, may revoke an institution's approval to confer degrees or to offer courses for degree credit, programs of study, or degree programs at a Virginia site, including any approval or authorization referred to in subsection A of § 3.1 of these regulations, if the council determines that the institution has done any of the following:

1. Committed any of the actions described in paragraphs 1 through 5 of subparagraph A of this section.

2. Failed to comply with one or more of the conditions or stipulations imposed by the council when granting approval to the institution, including the requirement that the institution gain full accreditation from an appropriate accrediting agency recognized by the U. S. Department of Education.

3. Not enrolled any students within two years after receiving authorization from the council to enroll students in courses for degree credit.

4. Not enrolled any students during any of the consecutive semesters, quarters, or equivalent terms composing a full academic year.

5. Ceased to operate, and has no plans to reinstitute operations again within one year, at:

a. The main campus of an in-state institution; or

b. A Virginia site of an out-of-state institution.

D. No later than seven days after the council denies, suspends, or revokes the approval of an institution, the director of the council shall provide written notification to the institution of:

1. The council's action and reasons for that action; and

2. The institution's opportunity, in accordance with § [~~6.11~~ 6.12] of these regulations, to appeal the council's action.

[§ 6.10. Orderly closure when approval denied or revoked.

A. The council, on its own motion, may authorize an

institution whose application for approval is denied in accordance with subsection A of § 6.9 of these regulations to continue to offer instruction for degree credit to all currently enrolled students until the end of the semester, quarter, or other academic term during which approval is denied.

B. The council, on its own motion, may authorize an institution whose approval is revoked in accordance with subsection C of § 6.9 of these regulations to offer the coursework necessary for all currently enrolled students to complete their programs and to award degrees to those students, provided that the institution:

1. Offers degree coursework only to those students who were enrolled at the time the institution's approval is revoked; and

2. Offers all necessary coursework on a schedule that permits all currently enrolled students to complete their programs in a reasonable period of time.]

[~~§ 6.10.~~ § 6.11.] New application required when approval denied or revoked.

In order again to receive an approval that has been denied or revoked by the council, an institution must submit a new application for approval in accordance with Part V of these regulations.

Article 4.
Appeals of Council Actions.

[~~§ 6.11.~~ § 6.12.] Appeal process.

A. An institution whose approval has been denied, suspended, or revoked by the council shall have an opportunity to appeal the council's action, either through informal proceedings before the council in accordance with § 9-6.14:11 of the Code of Virginia or through formal proceedings in accordance with § 9-6.14:12 of the Code [of Virginia].

B. An institution wishing to take the opportunity for either formal or informal proceedings shall make a written request to the director of the council within 10 days of receiving the written notification required by subsection D of § 6.9 of these regulations. No extension beyond the 10-day period shall be granted except for good cause shown.

C. When an institution has requested formal or informal proceedings, the proceedings shall be held at a time and date convenient to both the institution and the council. Any formal proceedings will be scheduled by the hearing officer. Any informal proceedings will be scheduled by the council.

D. An institution requesting formal or informal proceedings in accordance with this section shall bear the cost of any independent consultants or attorneys representing the institution. In addition, an institution which elects formal proceedings shall bear the cost of those proceedings, including the cost of any court reporter and for the preparation of a transcript.

[~~§ 6.12.~~ § 6.13.] Council action after appeal.

A. No later than 60 days following either informal or formal proceedings in accordance with subsection C of [~~§ 6.11~~ § 6.12] of these regulations, the council shall make a determination on the appeal by an institution whose approval has been denied, suspended, or revoked.

B. After consideration of an appeal by an institution whose approval has been denied or revoked, the council may:

1. Reaffirm its action to deny or revoke the approval;

2. Reinstate the approval; or

3. Grant probationary approval to the institution.

a. The council may specify certain conditions under which the probationary approval is granted and may stipulate requirements to be fulfilled by the institution during the term of probationary approval.

b. The term of probationary approval shall be for not less than one year nor more than two years.

c. Prior to the expiration of the term of probationary approval, the institution shall demonstrate that it:

(1) Has complied with all the conditions and stipulations imposed by the council; and

(2) Is in complete compliance with these regulations.

d. Upon the expiration of the term of probationary approval, the council shall either reinstate or revoke the approval of the institution.

C. After consideration of an appeal by an institution whose approval has been suspended in accordance with subsection B of § 6.9 of these regulations, the council may either:

1. Revoke the approval, or

2. Grant probational approval for a term of two years.

a. Probationary approval shall be granted by the council only if the institution offers convincing evidence that, by the end of the two-year term, it will have corrected the deficiencies cited in paragraph 1 or 2 of subsection B of § 6.9 that resulted in the suspension of approval by the council.

b. Prior to the expiration of the term of probationary approval, the institution shall demonstrate to the council that it is in full compliance with § 4.2 of these regulations and has regained full accreditation with an accrediting agency recognized by the U. S. Department of Education.

c. Upon the expiration of the term of probationary aproval, the council shall either reinstate or revoke the full approval of the institution.

D. No later than seven days after the council makes its determination on the appeal in accordance with subsection B or C of this section, the director of the council shall provide written notification of the council's action to the institution.

PART VII.
ADDITIONAL REGULATIONS.

§ 7.1. Virginia law to apply to agreements.

The laws of Virginia shall govern any agreement, contract, or instrument of indebtedness executed between an institution of higher education and any person enrolling in any course or program offered or to be offered by an institution in Virginia and also between that institution and any person employed or offered employment by that institution in Virginia.

§ 7.2. Limitation to council's regulatory responsibilities.

Nothing in these regulations imply, nor does the council assume, responsibility for ensuring that the institutions approved by the council to operate in Virginia are in compliance with either the regulations of other state agencies or the laws and regulations of any other jurisdiction.

§ 7.3. New authorizations and approvals required for certain institutions.

A. This section shall apply only to those institutions that received the following authorizations or approvals from the council prior to the effective date of these regulations:

1. An in-state institution that was authorized to enroll students in degree courses but has not enrolled any students prior to the effective date of these regulations.

2. An in-state institution that has been granted provisional approval to confer degrees for a term that expires on or after the effective date of these regulations.

3. An out-of-state institution that was authorized to enroll students in degree courses or was granted conditional or full approval to offer programs of study or degree programs at a Virginia site.

B. An institution specified in paragraph 1 of subsection A of this section must receive a new authorization to enroll students in accordance with these regulations.

1. No later than 90 days after the effective date of these regulations, the institution must request that the council, in accordance with subsection A of § 6.6 of these regulations, authorize the institution to enroll students in courses for degree credit.

2. The institution's request for the new authorization to enroll students shall include the items specified in subparagraphs a and b of paragraph 1 of subsection B of § 5.2 of these regulations.

C. An institution specified in paragraph 2 of subsection A of this section must receive any extension of that provisional approval in accordance with these regulations.

1. No later than 60 days before the expiration date of the existing term of provisional approval, the institution must request that the council, in accordance with subsection A or B of § 6.7 of these regulations, grant the institution an extension of provisional approval.

2. The institution's request for an extension of provisional approval shall include evidence that it complies with all the requirements in subsection A of § 4.2 of these regulations.

3. The term of any extension of provisional approval that may be granted to the institution will be determined by the institution's accreditation status at the time of the council action.

a. If the institution is unaccredited, the term of the extension shall be for three years. A further extension of provisional approval for a term of five years will be granted by the council only if the institution has achieved Candidate for Accreditation status with an appropriate accrediting agency and has reasonable expectations of gaining full accreditation before the end of the additional five-year term of provisional approval.

b. If the institution has achieved Candidate for Accreditation status with an appropriate accrediting body, the term of the extension shall be for five years.

D. An institution specified in paragraph 3 of subsection A of this section must receive a new authorization to enroll students in degree courses or new approval to offer programs of study or degree programs at a Virginia site.

1. An institution that received either an authorization or an approval from the council prior to [~~July~~ August] 1, 1982, must submit an application, in accordance with § 5.8 of these regulations, no later than 90 days after the effective date of these regulations.

2. An institution that received either an authorization or an approval from the council on or after [~~July~~ August] 1, 1982, must submit an application, in accordance with § 5.8 of these regulations, no later than 60 days prior to the expiration of a term equal to five years from the date when the existing authorization or approval was granted.

E. Failure of an institution specified in subsection A of this section to comply with the applicable requirements of this section shall result in the revocation of the institution's authorization or approval except for good cause shown.

§ 7.4. Receipt of applications, correspondence, and other materials.

A. All applications, forms, letters, or other materials relating to, or required by, these regulations should be sent to Council of Higher Education, ATTN: Institutional Approval Coordinator, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219, or to any member of the council staff at that address who is authorized to receive those materials.

B. The mailing of items specified in subsection A of this section shall not constitute receipt of them by the council unless sent by registered or certified mail, return receipt requested.

PART VIII.
CRIMINAL PROSECUTION FOR VIOLATION; CIVIL ENFORCEMENT.

§ 8.1. Criminal prosecution for violation.

A. Any person, firm, association, institution of higher education, trust, or other entity which violates any provision of § 23-272 of the Code [of Virginia] or which, without the approval of the council as provided in these regulations, offers or confers degrees, diplomas, certificates, programs, or courses of study shall be guilty of a Class 1 misdemeanor (§ 23-273 of the Code of Virginia).

B. Each degree, diploma, certificate, program, or course of study offered or conferred in violation of these regulations or each violation of the provisions of § 23-272 of the Code [of Virginia] shall constitute a separate offense.

C. It shall be the duty of the attorney for the Commonwealth of the city or county in which a violation occurs or has occurred to prosecute the violation (§ 23-273 of the Code of Virginia).

§ 8.2. Civil enforcement.

Upon the determination of the council that any institution of higher education, or its agents or representatives, is in violation of this chapter or these regulations, the council may institute a proceeding in equity to enjoin the violation. It shall not be necessary for the council to allege or prove an inadequate remedy at law in that proceeding. In the civil proceeding, the council may also sue for and recover a monetary penalty if no criminal prosecution is instituted as provided by § 8.1 of these regulations.

MARINE RESOURCES COMMISSION

NOTE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: **VR 450-01-0034. Pertaining to the Taking of Striped Bass.**

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: June 1, 1987

Preamble:

This regulation establishes a closed season, minimum size limits, creel limits, and gear restrictions for the taking or possession of striped bass in Virginia.

The purpose of this regulation is to provide sufficient protection for the Chesapeake Bay stocks of striped bass to ensure that 95% of the females of the 1982 and subsequent year classes have an opportunity to reproduce at least once. These changes comply with the recommendations of the Interstate Fishery Management Plan for Striped Bass.

VR 450-01-0034. Pertaining to the Taking of Striped Bass.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 ~~, 28.1-25~~ and 28.1-50 of the Code of Virginia.

B. This regulation repeals regulation VR 450-01-0029, Pertaining to the Taking of Striped Bass, and regulation VR 450-01-0032, Pertaining to the Potomac River Tributaries *and amends previous regulation VR 450-01-0034, which was promulgated and made effective on October 1, 1986* .

C. The effective date of this regulation is ~~October 1, 1986~~ *June 1, 1987* .

§ 2. Purpose.

The purpose of this regulation is to provide for the immediate protection of Virginia's striped bass stocks and to reduce harvest pressure on the 1982 year class and

subsequent year classes of striped bass.

§ 3. Definitions.

A. Striped bass - any fish of the species Morone saxatilis including any hybrid striped bass.

B. Spawning rivers - the James, Pamunkey, Mattaponi and Rappahannock Rivers including all their tributaries.

C. Spawning reaches - sections within the spawning rivers as follows:

1. James River: From a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point;

2. Pamunkey River: From the Route 33 bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore;

3. Mattaponi River: From the Route 33 bridge at West Point upstream to the Route 360 bridge at Aylett;

4. Rappahannock River: From the Route 360 bridge at Tappahannock upstream to the Route 3 bridge at Fredericksburg.

§ 4. Closed areas, seasons, and gear limitations.

A. During the period December 1 to May 31, inclusive, a person may not take, catch, possess, transport, process, sell or offer for sale any striped bass.

B. During the period April 1 to May 31, inclusive, a person may not set or fish any anchored or staked gill net within the spawning reaches. Drift (float) gill nets may be set or fished within the spawning reaches during the closed season, but the fisherman must remain with such net while that net is in the fishing position.

§ 5. Minimum size limits.

A. During the open season, June 1 to November 30, inclusive, it shall be unlawful for any person to take, catch, or have in possession any striped bass less than 24 inches in length, except as provided in paragraph B, below.

B. During the open season, June 1 to November 30, inclusive, it shall be unlawful for any person to take, catch, or retain possession of any striped bass from the Territorial Sea that is less than ~~30~~ *33* inches in length.

C. Length is measured in a straight line from tip of nose to tip of tail.

§ 6. Creel limit.

A possession limit of five striped bass per person per day is imposed on all hook-and-line fishermen taking striped bass from the tidal waters of Virginia during the open season, June 1 to November 30, inclusive.

§ 7. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * * * * * *

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia) for the purposes of promulgating regulations. However, they are required by § 9-6.14:22B to publish the full text of the final regulations.

Title of Regulation: **VR 450-01-0043. Pertaining to the Taking of Black Drum.**

Statutory Authority: §§ 28.1-23 and 28.1-23.2 of the Code of Virginia.

Effective Date: May 5, 1987

Preamble:

This regulation establishes a minimum size limit for black drum and imposes mandatory reporting of commercial harvest information by harvester and buyer.

VR 450-01-0043. Pertaining to the Taking of Black Drum.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-23.2 of the Code of Virginia.

B. No prior regulations pertain to the taking of black drum.

C. The effective date of this regulation is May 5, 1987.

§ 2. Definitions.

A. Black Drum: Any fish of the species Pogonias cromis.

B. Commercial Harvest: Any black drum taken from the tidal waters of Virginia by any harvesting method, including rod and reel, and sold to a licensed seafood buyer.

§ 3. Purpose.

The purpose of this regulation is to provide for the

collection of management information for the black drum commercial fishery. Additionally, a minimum size limit is imposed to provide protection of black drum until they reach sexual maturity.

§ 4. Minimum size limit.

A. It shall be unlawful for any person to take, catch, or have in possession any black drum less than 16 inches in total length.

B. Length shall be measured in a straight line from the tip of the nose to the tip of the tail.

§ 5. Commercial harvest permits required.

A. It shall be unlawful for any person to take or catch and sell black drum without first having obtained a Black Drum Harvesting and Selling Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee and a copy kept in the possession of the permittee while fishing and selling black drum.

B. It shall be unlawful for any person, firm, or corporation to buy any black drum from the harvester without first having obtained a Black Drum Buying Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee and a copy kept in possession of the permittee while buying black drum.

C. Any person, firm or corporation that has black drum in possession with the intent to sell must either be a permitted harvester or buyer, or must be able to demonstrate that those fish were imported from out of the state or purchased from a permitted buyer or seller.

§ 6. Mandatory reporting of commercial harvest.

A. Commercial harvesters and buyers of black drum shall report daily harvest information on forms to be provided by the commission. Such information shall include, but is not limited to, the number of fish, their weight, location of harvest, method of capture and the buyer's and seller's permit identification number. Such reports shall be completed in full and shall be submitted to the commission on a weekly basis.

B. Buyers of black drum imported from out of state shall also report the amount of black drum imported on the forms provided by the commission.

C. Marine Resources Commission personnel may also collect biological information from black drum accumulated at the place of business of commercial buyers. Such sampling shall be done with the cooperation of the buyers and in a manner which will not inhibit normal business operations.

§ 7. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor. In addition, those in violation shall forfeit their Black Drum Harvesting or Buying Permit and its privileges.

/s/ William S. Pruitt
Commissioner

* * * * * * * * *

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia) for the purposes of promulgating regulations. However, they are required by § 9-6.14:22.B to publish the full text of the final regulations.

Title of Regulation: **VR 450-01-0044. Pertaining to the Taking of Shellfish from Condemned Areas.**

Statutory Authority: §§ 28.1-23 and 28.1-179 of the Code of Virginia.

Effective Date: May 6, 1987

Preamble:

This regulation establishes time of day restrictions for the harvesting of shellfish from condemned grounds.

VR 450-01-0044. Pertaining to the Taking of Shellfish from Condemned Areas.

§ 1. Authority and effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-179 of the Code of Virginia.

B. The effective date of this regulation is May 6, 1987.

§ 2. Purpose.

The purpose of this regulation is to conserve Virginia's shellfish resources and to protect public health.

§ 3. Harvesting restrictions.

As required under § 28.1-179 of the Code of Virginia, the commissioner shall issue special permits to applicants to take and catch shellfish from condemned areas. Such harvesting shall occur under the following conditions:

A. Each boat used for harvesting condemned shellfish shall not leave the dock with the gear used for harvesting on board until one hour before sunrise and shall return to the dock before sunset. When said boat is used for other purposes between the hours of sunset and one hour before sunrise only patent tongs may remain on the boat, provided the hoist line shall be disconnected and the bolt removed, separating and disassembling the patent tong

gear during said period of time.

B. Shellfish shall be taken and caught from condemned areas only during the lawful season, Monday through Friday, and only between the hours of sunrise and 5 p.m.

C. The culling board of each boat used for harvesting of condemned shellfish shall be clean before sunrise and by 5 p.m. The presence of shellfish on the culling board before sunrise and after 5 p.m. shall be prima facie evidence of a violation of this regulation.

§ 4. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provisions of this regulation shall be guilty of a Class 1 misdemeanor. The commission further establishes as a policy that in the event any person is convicted in court of violation of Code § 28.1-179, of any part of this regulation, or when in the commissioner's judgment, it will be to the best interest of the industry, the commissioner may revoke the special permit. Any person having said permit revoked may demand a hearing before the commission at the next scheduled meeting of the commission.

/s/ William S. Pruitt
Commissioner

* * * * * * * *

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia) for the purposes of promulgating regulations. However, they are required by § 9-6.14:22.B to publish the full text of the final regulations.

Title of Regulation: **VR 450-01-8707. Unloading Points for Relayed Shellfish.**

Statutory Authority: § 28.1-179(8) of the Code of Virginia.

Effective Date: May 6, 1987

Preamble:

The following Order establishes locations where shellfish taken from condemned areas may be unloaded.

VR 450-01-8707. Unloading Points for Relayed Shellfish.

§ 1. Authority and effective date.

A. This Order is promulgated pursuant to authority contained in § 28.1-179(8) of the Code of Virginia.

The effective date of this Order is May 6, 1987.

§ 2. Designated points.

Clams and oysters taken from condemned areas may be unloaded ashore at the following points:

Martin and Richardson Seafood Company
Plant Number 2
817 Jefferson Avenue
Newport News, Virginia 23607

State owned docked located at the end of State Route 1101 in the County of Gloucester, Perrin, Virginia

/s/ William S. Pruitt
Commissioner

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1.C.4.a of the Code of Virginia, which excludes regulations which are necessary to conform to changes in this Code where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 460-01-0078.0000. Provider Exclusion and Suspension: State Plan for Medical Assistance.**

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

Effective Date: August 1, 1987

Summary:

This amendment technically corrects the State Plan for Medical Assistance to show the department's authority to exclude providers from Medicaid participation, by virtue of the Code of Virginia, and to update a recodified federal regulatory citation. This amendment makes no change to current policies or procedures and is, therefore, a technical amendment.

VR 460-01-00078.0000. Provider Exclusion and Suspension: State Plan for Medical Assistance.

§ 4.30. Exclusion of Providers and Suspension of Practitioners and Other Individuals.

(a) All requirements of 42 CFR Part 455, Subpart C are met.

X The agency under the authority of state law, imposes broader sanctions.

(b) Citation 42 CFR 1002.200; AT-79-5448; FR 3742.

* * * * * * * *

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1.C.3 of the Code of Virginia, which excludes regulations which consist only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 460-03-2.2121. More Restrictive Criteria: State Plan for Medical Assistance.**

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

Effective Date: July 1, 1987

Summary:

This technical amendment to the State Plan for Medical Assistance adds already existing language to another section in the plan to improve the items' cross referencing, and effects no changes in operating policies or procedures. The language being added to VR 460-03-2.2121 (Attachment 2.2-A Supplement 2) adds two more criteria for restrictive categorical eligibility. This language already existed in VR 460-03-2.615 (Attachment 2.6-A Supplement 5) and therefore, is an already existing policy. The items being added are concerned wth a recipient's interest in an undivided estate and contiguous property.

VR 460-03-2.2121. More Restrictive Criteria: State Plan for Medical Assistance.

§ 1. More restrictive categorical eligibility criteria:

1. Presumptively eligible SSI recipients are not covered.

2. Presumptively disabled or blind SSI recipients are not covered.

3. Conditionally eligible SSI recipients are not covered.

4. Property in the form of an interest in an undivided estate is to be regarded as an asset unless it is considered unsaleable for reasons other than being an undivided estate. An heir can initiate a court action to partition. However, if such an action would not result in the applicant/recipient securing title to property having value substantially in excess of the cost of the court action, the property would not be regarded as an asset.

5. Ownership of a dwelling occupied by the applicant as his home does not affect eligibility. A home means the house and lot. In rural areas, one acre is regarded as the equivalent of a lot. Additional land contiguous to the home site, valued at an amount up to a maximum of $5,000 is also exempted as the home site. The additional value of land contiguous to the home site is not exempted unless it meets the income-producing requirements in § 201.2 of Supplement 5 to Attachment 2.6-A below, or the exceptions to ownership of other real property precluding eligibility.

(See Attachment 2.6A for more restrictive financial eligibility criteria.)

* * * * * * * *

Title of Regulation: **Medicaid Eligibility for Certain Aliens: State Plan for Medical Assistance.**

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

Effective Date: July 1, 1987

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C.4(c) of the Code of Virginia, which excludes regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Summary:

The purpose of this amendment is to keep the State Plan for Medical Assistance in compliance with federal statutory requirements as amended by the Immigration and Nationality Act.

The Immigration Reform and Control Act, P.L. 99-603 (§ 201) was passed by Congress to establish conditions under which aliens residing in the United States illegally could apply for temporary residency. This Act included an amnesty provision for aliens who had continuously resided in the United States since 1982 and who met certain qualifications. The Act also prohibited aliens granted temporary residence status under the amnesty provisions from receiving public assistance for a period of five years. There were exceptions made to this prohibition for Medicaid eligibility for:

1. Cuban-Haitian entrants (as defined in paragraph (1) or (2)(A) of § 501(e) of Public Law 96-422, as in effect on April 1, 1983,

2. Aged, blind and disabled individuals (as defined in § 1614(a)(1) of the Social Security Act),

3. Individuals under age 18, and

4. Pregnant women.

Cuban Haitian entrants, aged, blind and disabled individuals, individuals who are under age 18 and pregnant women are eligible for full Medicaid benefits if all Medicaid financial and categorical requirements are met. In the case of all other aliens admitted to temporary resident status under subsection (a) of § 201 of the Immigration Reform and Control Act, Medicaid benefits are restricted to emergency services as defined for purposes of § 1916(a)(2)(D) of the Social Security Act. Emergency services for aliens are defined in Attachment 3.1 A and B, p. 15.

Medicaid Eligibility for Certain Aliens: State Plan for Medical Assistance.

VR 460-01-21.000

Citation

1902(a)(10)(E) and clause (VIII) of the matter following (E), and 1905(p)(3) of the Act, P.L. 99-509 (Section 9403)

3.1 (a)(3) Medicare cost sharing for qualified Medicare beneficiaries described in section 1905(p) of the Act is provided only as indicated in item 3.5 of this plan.

Citation

Sec. 245A(h) of the Immigration and Nationality Act, P.L. 99-603 (Section 201)

(4) Limited Coverage for Certain Aliens

(i) Aliens granted lawful temporary resident status under section 245A of the Immigration and Nationality Act who meet the financial and categorical eligibility requirements under the approved State Medicaid plan are provided the services covered under the plan if they–

(A) Are aged, blind, or disabled individuals as defined in section 1614(a)(1) of the Act;

(B) Are children under 18 years of age; or

(C) Are Cuban or Haitain entrants as defined in section 501(e)(1) and (s)(A) of P.L. 96-422 in effect on April 1, 1983.

(ii) Except for emergency services (including pregnancy-related services), as described in § 447.53(b), aliens granted lawful temporary resident status under section 245A of the Immigration and Nationality Act who are not identified in items 3.1(a)(4)(i)(1) through (3) above who meet the financial and categorical eligibility requirements under the approved State plan are provided services under the plan no earlier than five years from the date the alien is granted lawful temporary resident status.

VR 460-01-21.1000

Citation

1902(a) and 1903(v) of the Act, P.L. 99-509 (Section 9406)

3.1 (a)(4) (Continued)

(iii) Aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law who meet the eligibility conditions under the State's approved Medicaid plan, except for the requirement for receipt of AFDC, SSI, or a State supplementary payment are provided Medicaid only for care and services necessary for the treatment of an emergency medical condition as defined in section 1903(v)(3) of the Act.

Citation

Part 440, Subpart B and 1902(a) and 1902(a)(10), 1903(v) and 1915(g) of the Act, P.L. 99-272 (Secs. 9501 and 9505), P.L. 99-509 (Secs. 9401(c), 9406, and 9408) Sec. 245A of the Immigration and Nationality Act, P.L. 99-603 (Section 201)

(5) Except for those items or services for which sections 1902(a), (a)(10), 1903(v), and 1915(g) of the Act, 42 CFR 440.250, and section 245A of the Immigration and Nationality Act permit exceptions:

(i) Services made available to the categorically needy are equal in amount, duration, and scope for each categorically needy person.

(ii) The amount, duration, and scope of services made available to the categorically needy are equal to or greater than those made available to the medically needy.

☐ Yes

☐ Not applicable. The medically needy are not covered.

VR 460-02-2.6102

Condition or Requirement

b. For the medically needy, meets the non-financial eligibility conditions of 42 CFR Part 435.

Citation

1905(p) of the Act, P.L. 99-509 (Section 9403)

Condition or Requirement

c. For qualified Medicare beneficiaries with incomes up to the Federal nonfarm poverty line covered under section 1902(a)(10)(E) of the Act, meets the non-financial criteria of section 1905(p) of the Act.

Citation

435.402

Condition or Requirement

3. Is residing in the United States and–

a. Is a citizen;

Citation

Sec. 245A of the Immigration and Nationality Act, P.L. 99-603 (Section 201)

Condition or Requirement

b. Is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. An alien who has been granted (and maintains) temporary lawful residence status under Section 245A(a) of the Immigration and Nationality Act is considered to be permanently residing in the United States under color of law; or

Citation

1902(a) and 1903(v) of the Act. P.L. 99-509 (Section 9407) Sec. 245A(h)(3)(B) of the Immigration and Nationality Act, P.L. 99-603 (Section 201)

Condition or Requirement

c. Is an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, or an alien who has been granted (and maintains) temporary lawful residence status under section 245A of the Immigration and Nationality Act, but is not one of the excepted groups in section 245A(h)(3) of P.L. 99-603.

Citation

435.403 and 1902(b) of the Act, P.L. 99-272 (Section 9529) and P.L. 99-509 (Section 9405)

Condition or Requirement

4. Is a resident of the State, regardless of whether or not the individual maintains the residence permanently or maintains it at a fixed address.

–State has interstate residency agreement with the following States:

COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 3 AG
RICHMOND, VIRGINIA 23208
(804) 786-3591

June 10, 1987

Ray T. Sorrell, Director
Medical Assistance Services
Suite 1300
600 East Broad Street
Richmond, Virginia 23219

Re: Medicaid Eligibility for Certain Aliens

Dear Mr. Sorrell:

This will acknowledge receipt of the above-referenced regulation from the Department of Medical Assistance Services.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **Medicaid Eligibility for Protected SSI Disabled Children: State Plan for Medical Assistance.**

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

Effective Date: July 1, 1987

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1.C.4(c) of the Code of Virginia, which excludes regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than 30 days prior to the effective date thereof. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Summary:

The purpose of this amendment is to keep the State Plan for Medical Assistance in compliance with federal statutory requirements as amended by the Employment Opportunities for Disabled Americans Act (P.L. 99-643). This requirement protects the Medicaid eligibility of disabled children who:

1. Has reached the age of 18 years and receives SSI payments on the basis of blindness or a disability which began before he reached the age of 22 years;

2. On or after July 1, 1987, becomes entitled to Social Security Title II child's benefits on the basis of such disability, or receives an increase in Title II disabled child's benefits;

3. Becomes ineligible for SSI on or after July 1, 1987 because of the receipt of, or increase in, Title II disabled child's benefits;

4. Has resources within the current Medicaid resource limit, and

5. Has income which, in the absence of the Title II disabled child's benefit or the increase in such benefit, is within the current SSI income limit.

Individuals who qualify for Title II disabled child's benefits are mentally retarded, developmentally disabled, or severely physically handicapped. These individuals are receiving benefits based on the earnings of their parents and began receiving them before their 22nd birthday. Prior to July 1, 1987, individuals who lost eligibility for SSI because they began to receive these Title II benefits, or received a cost of living increase in the benefits, also lost eligibility for Medicaid as categorically needy. Once eligibility as categorically needy was lost, the individual had to meet a spenddown in order to reestablish eligibility for Medicaid as medically needy. Congress wanted to assure that these individuals who lost their SSI would keep Medicaid eligibility without having to incur a spenddown.

Medicaid Eligibility for Protected SSI Disabled Children: State Plan for Medical Assistance.

VR 460-02-2.2106.

Groups Covered

e. Have earnings that are not sufficient to provide for himself or herself a reasonable equivalent of the Medicaid, SSI (including any Federally administered SSP), or public funded attendant care services that would be available if he or she did have such earnings.

– Not applicable with respect to individuals receiving only SSP because the State either does not make SSP payments or does not provide Medicaid to SSP-only recipients.

Citation(s)

1619(b)(8) of the Act, P.L. 99-643 (Section 7)

Groups Covered

– The State applies more restrictive eligibility requirements for Medicaid than under SSI and under 42 CFR 435.121. Individuals who qualify for benefits under section 1619(a) of the Act or individuals described above who meet the eligibility requirements for SSI benefits under section 1619(b)(1) of the Act and who met the State's more restrictive requirements in the month before the month they qualified for SSI under section 1619(a) or met the requirements of section 1619(b)(1) of the Act are covered. Eligibility for these individuals continues as long as they continue to qualify for benefits under section 1619(a) of the Act or meet the SSI requirements under section 1619(b)(1) of the Act.

Citation(s)

1634(c) of the Act, P.L. 99-643 (Section 6)

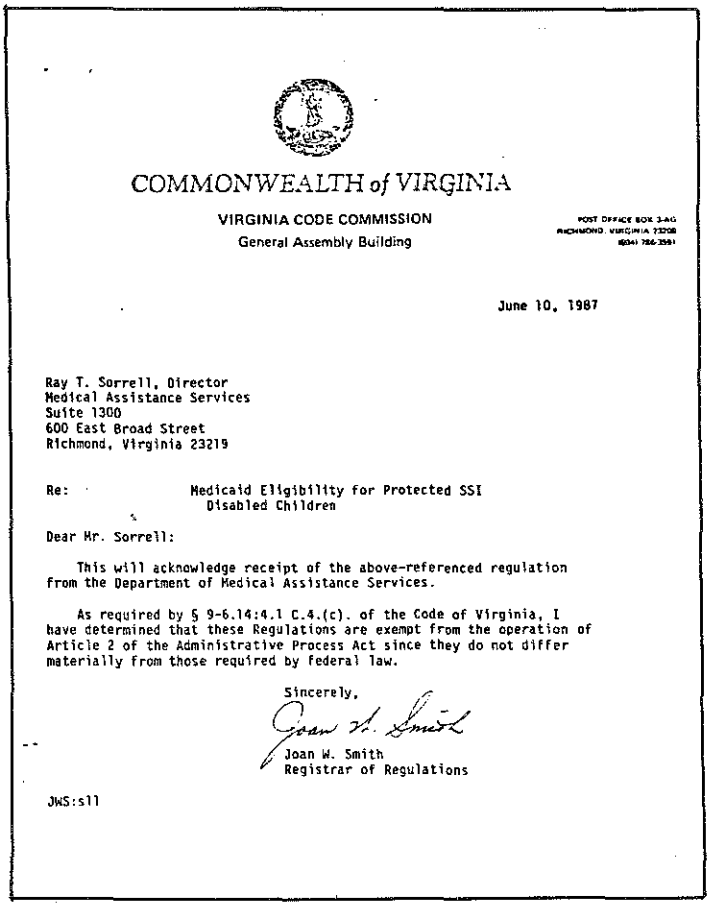
Groups Covered

11. Blind or disabled individuals who—

a. Are at least 18 years of age;

b. Lose SSI eligibility because they become entitled to OASDI child's benefits under section 202(d) of

the Act or an increase in these benefits based on their disability. Medicaid eligibility for these individuals continues for as long as they would be eligible for SSI, absence their OASDI eligibility.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 3-AG
RICHMOND, VIRGINIA 23208
(804) 786-3591

June 10, 1987

Ray T. Sorrell, Director
Medical Assistance Services
Suite 1300
600 East Broad Street
Richmond, Virginia 23219

Re: Medicaid Eligibility for Protected SSI Disabled Children

Dear Mr. Sorrell:

This will acknowledge receipt of the above-referenced regulation from the Department of Medical Assistance Services.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **Medicaid Eligibility for Employed Disabled Individuals: State Plan for Medical Assistance.**

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

Effective Date: July 1, 1987

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1.C.4(c) of the Code of Virginia, which excludes regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than 30 days prior to the effective date thereof. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Summary:

The purpose of this amendment is to keep the State Plan for Medical Assistance in compliance with federal statutory requirements and places language to reflect the mandatory provisions of federal law regarding the adoption of a new mandatory categorically needy group, "Qualified Severely Impaired Blind, and Disabled Individuals." These individuals are those who on July 1, 1987, were receiving a payment under Supplemental Security Income (SSI), a state supplementation payment under § 1616 of the Social Security Act, of special 1619(a) benefits and were eligible for Medicaid, or who, for the month of June, 1987, were considered to be receiving SSI under § 1619(b) of the Act and were eligible for Medicaid. These individuals shall:

1. Continue to meet the criteria for blindness or have the disabling physical or mental impairment under which the individual was found to be disabled;

2. Except for earnings, continue to meet all nondisability-related requirements for eligibility for SSI benefits;

3. Have unearned income in amounts that would not cause them to be ineligible for a payment under § 1611(b) of the Act;

4. Be seriously inhibited by the lack of Medicaid coverage in their ability to continue to work or obtain employment; and

5. Have earnings that are not sufficient to provide for himself a reasonable equivalent of the Medicaid, SSI (including any federally administered SSP), or public

funded attendant care services that would be available if he did not have such earnings.

This amendment was designed to make permanent a pilot program that had been passed by Congress several years ago to address the concern that severely disabled individuals were prevented from returning to the work force because any earnings would reduce the benefits to which the individual was entitled. Often severely disabled individuals were able to return to work only because they had Medicaid benefits to supplement the earnings of their employment. The loss of these benefits removed the medical support system that enabled them to be employed. Because of the prospect of the loss of benefits, many disabled individuals had no incentive to participate in rehabilitation programs designed to return them to employment.

Under the pilot program, many severely disabled individuals were able to be employed to some degree. Their earnings were desregarded in determining Medicaid eligibility until the earnings reached a level which could underwrite the cost of their medical care. Because of the success of the pilot program, Congress decided to make the special eligibility program permanent.

In addition to the establishment of the new mandatory categorically needy group of "Qualified Severely Impaired Individuals," The Employment Opportunities for Disabled Americans Act requires:

1. Continuation of the disregard of earned income in determining eligibility so long as the disabled individual continues to be eligible for Supplemental Security Income (SSI) under § 1619(a) and (b) of the Social Security Act.

2. Disregard of SSI payments made under § 1611(e)(1)(E) of the Social Security Act for institutionalized persons.

3. Determination of Medicaid eligibility for individuals eligible for SSI benefits without applying any of the more restrictive eligibility criteria applied to the aged, blind and disabled under § 1902(f) of the Social Security Act.

Medicaid Eligibility for Employed Disabled Individuals: State Plan for Medical Assistance.

VR 460-03-2.2105

Citation(s)

435.120 50 FR 46763

Groups Covered

9. Aged, Blind and Disabled Individuals Receiving Cash Assistance

– a. Individuals receiving SSI.

This includes beneficiaries' eligible spouses and persons receiving SSI benefits pending a final determination of blindness or disability or pending disposal of excess resources under an agreement with the Social Security Administration; and beginning January 1, 1981 persons receiving SSI under section 1619(a) of the Act or considered to be receiving SSI under section 1619(b) of the Act.

Citation(s)

201(d) of the Social Security Amendments of 1980, as amended, P.L. 99-643 (Section 2)

Groups Covered

– Aged
– Blind
– Disabled

Citation(s)

435.121

Groups Covered

-X- b. Individuals who meet more restrictive requirements for Medicaid than the SSI requirements. (This includes persons who qualify for benefits under section 1619(a) of the Act or who meet the eligibility requirements for SSI benefits under section 1619(b)(1) of the Act and who meet the State's more restrictive requirements for Medicaid in the month before the month they qualified for SSI under section 1619(a) or met the requirements under section 1619(b)(1) of the Act. Medicaid eligibility for these individuals continues as long as they continue to meet the SSI eligibility standards under section 1619(b) of the Act.)

Citation(s)

1619(b)(3) of the Act, P.L. 99-643 (Section 7)

Groups Covered

– Aged
– Blind
– Disabled

VR 460-02-2.6105

Condition or Requirement

3. For families and children, each family member.

AFDC level $.....
Medically needy level $.....

Other as follows $.....

4. Amounts for incurred medical expenses not subject to payment by a third party.

a. Health insurance premiums, deductibles and co-insurance charges

b. Necessary medical or remedial care not covered under the Medicaid plan (Reasonable limits on amounts are described in Supplement 3 to ATTACHMENT 2.6-A.)

5. An amount for maintenance of a single individual's home for not longer than 6 months, if a physician has certified he or she is likely to return home within that period.

– Yes. Amount for maintenance of home $.....

– No.

Citation

1902(1) of the Act, P.L. 99-643 (Section 3(b))

Condition or Requirement

6. SSI benefits paid under section 1611(e)(1)(D) of the Act to blind or disabled individuals during the initial 2 months in which the individuals receive care in a hospital, SNF, or ICF if the individuals are allowed to retain the benefits under agreement with the facility.

Citation

435.711; 435.721; 435.831

Condition or Requirement

C. Financial Eligibility - Categorically and Medically Needy and Qualified Medicare Beneficiaries

1. Income disregards - Categorically and Medically Needy and Qualified Medicare Beneficiaries

VR 460-03-2.2106

Groups Covered

The more restrictive categorical eligibility criteria are described below:

(Financial criteria are described in ATTACHMENT 2.6-A).

Citation(s)

1902(a)(10)(A)(i)(II) and 1905 (q) of the Act, P.L. 99-509 (Section 9404)

Groups Covered

10. Qualified severely impaired blind and disabled individuals under age 65 – (a) who, for the month preceding the first month of eligibility under the requirements of section 1905(q)(2) of the Act, received SSI, a State supplemental payment under section 1616 of the Act or under section 212 of P.L. 93-66 or benefits under section 212 of P.L. 93-66 or benefits under section 1619(a) of the Act and were eligible for Medicaid; or (b) who, for the month of June 1987, were considered to be receiving SSI under section 1619(b) of the Act and were eligible for Medicaid. These individuals must–

a. Continue to meet the criteria for blindness or have the disabling physical or mental impairment under which the individual was found to be disabled;

b. Except for earnings, continue to meet all nondisability-related requirements for eligibility for SSI benefits;

c. Have unearned income in amounts that would not cause them to be ineligible for a payment under section 1611(b) of the Act;

d. Be seriously inhibited by the lack of Medicaid coverage in their ability to continue to work or obtain employment; and

e. Have earnings that are not sufficient to provide for himself or herself a reasonable equivalent of the Medicaid, SSI (including any Federally administered SSP), or public funded attendant care services that would be available if he or she did have such earnings.

– Not applicable with respect to individuals receiving only SSP because the State either does not make SSP payments or does not provide Medicaid to SSP-only recipients.

Citation(s)

1619(b)(8) of the Act, P.L. 99-643 (Section 7)

Groups Covered

– The State applies more restrictive eligibility requirements for Medicaid than under SSI and under 42 CFR 435.121. Individuals who qualify for benefits under section 1619(a) of the Act or individuals described above who meet the eligibility requirements for SSI benefits under section 1619(b)(1) of the Act and who meet the State's more restrictive requirements in the month before the month they qualified for SSI under section 16199a) or met the requirements of section 1619(b)(1) of the Act are covered. Eligibility for these individuals continues as

long as they continue to qualify for benefits under section 1619(a) of the Act or meet the SSI requirements under section 1619(b)(1) of the Act.

Citation(s)

16349c) of the Act, P.L. 99-643 (Section 6)

Groups Covered

11. Blind or disabled individuals who--

a. Are at least 18 years of age;

b. Lose SSI eligibility because they become entitled to OASDI child's benefits under section 202(d) of the Act or an increase in these benefits based on their disability. Medicaid eligibility for these individuals continues for as long as they would be eligible for SSI, absence their OASDI eligibility.

COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 3 AG
RICHMOND, VIRGINIA 23208
(804) 786-3591

June 10, 1987

Ray T. Sorrell, Director
Medical Assistance Services
Suite 1300
600 East Broad Street
Richmond, Virginia 23219

Re: Medicaid Eligibility for Employed Disabled Individuals

Dear Mr. Sorrell:

This will acknowledge receipt of the above-referenced regulation from the Department of Medical Assistance Services.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * * *

Title of Regulation: **Technical Amendment (HCFA PM 87-4): State Plan for Medical Assistance.**

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

Effective Date: July 1, 1987

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1.C.4(c) of the Code of Virginia, which excludes regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than 30 days prior to the effective date thereof. The Department of Medical Assistance will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Due to the length, the State Plan for Medical Assistance will not be published, however, a summary has been provided. The regulation may be viewed at the office of the Registrar of Regulations or the Department of Medical Assistance Services.

Summary:

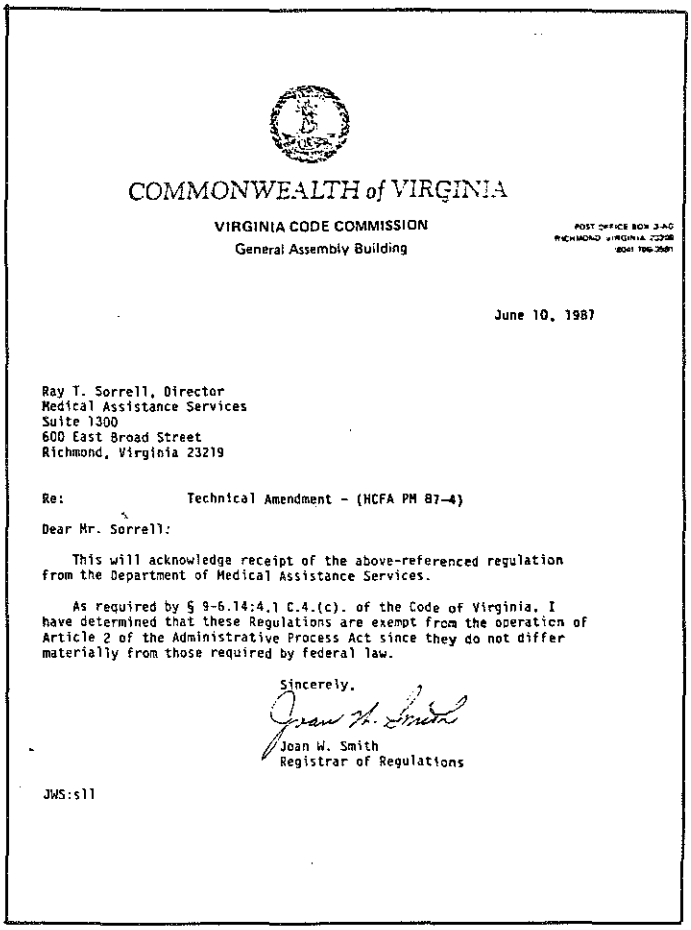
Section 32.1-324.C of the Code of Virginia vests the Director of the Department of Medical Assistance Services with all the authority of the board when it is not in session, subject to the rules and regulations as may be prescribed by the board. The Code § 32.1-325 A authorizes the board to administer and amend the State Plan for Medical Assistance with the approval of the Governor.

Recently implemented federal changes to the Social Security Act are requiring this plan updating action. As the Social Security Act is modified, so too the preprinted plan pages must be brought up to date to conform to the latest federal statutory changes. This plan action is necessary to incorporate into the Commonwealth's Plan for Medical Assistance the latest preprinted plan pages as issued by the Health Care Financing Administration (HCFA). The HCFA requires this perfunctory filing action of all the states.

Periodically, in response to federal statutory changes, the HCFA issues new preprinted pages to the states and requires them to be filed, as plan amending actions, for official inclusion into the states' respective State Plans.

This is just such an action and makes no changes to operating policy or procedures nor impacts recipients or providers.

The department will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this regulation.



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POST OFFICE BOX 3-AG
RICHMOND, VIRGINIA 23208
(804) 786-3591

June 10, 1987

Ray T. Sorrell, Director
Medical Assistance Services
Suite 1300
600 East Broad Street
Richmond, Virginia 23219

Re: Technical Amendment - (HCFA PM 87-4)

Dear Mr. Sorrell:

This will acknowledge receipt of the above-referenced regulation from the Department of Medical Assistance Services.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1.C.3 of the Code of Virginia, which excluded regulations which consist only of changes in style or form or corrections of technical errors. The Department of Mines, Minerals and Energy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.**

Statutory Authority: § 45.1-230 of the Code of Virginia.

Effective Date: July 22, 1987

Summary:

This amendment is an addition of the words "or personal check" to regulation VR 480-03-19.801.12, which is part of the regulatory program for coal surface mining in Virginia. The change will allow coal mine operators to use personal checks to pay for participation in a voluntary bonding program for coal mines, and it will make this regulation consistent with others in the program.

This change is a matter of housekeeping and will not substantially alter the operation of the program. The new language will be adopted as a technical correction.

VR 480-03-19.801.12. Entrance Fee and Bond.

A. An applicant filing a permit application for coal surface mining operations and electing to participate in the Pool Bond Fund shall prior to permit issuance pay into the Pool Bond Fund, as an entrance fee, a sum equal to $1,000 for the applicable permit application. The fee shall be made payable to the Treasurer of Virginia and shall be in the form of cash, cashier's check, [~~or~~ certified check , *or personal check*].

B. An applicant electing to participate in the Pool Bond Fund shall, in accordance with § 45.1-241 of the Code of Virginia, furnish a bond as provided by §§ 480-03-19.800.12, 480-03-19.800.14 and 480-03-19.800.16:

1. For underground mining operations, in the amount of $1,000 per acre covered by the permit application. In no event shall the total bond be less than $10,000.

2. For all other coal surface mining operations, in the amount of $1,500 per acre covered by the permit application and in no event shall the total bond be less than $25,000.

3. For combination mining operations at the following rate:

a. Combined underground mining operation and preparation plant/associated facility in the amount of $1,000 per acre covered by the permit application. In no event shall the total bond be less than $10,000.

b. Combined surface and underground mining operations prorated in the amount of $1,500 for each acre to be surface mined; and $1,000 per acre covered by the underground mining portion of the permit. In no event shall the total bond be less than $10,000.

c. Combined surface mining operation and preparation plant/associated facility in the amount of $1,500 per acre covered by the permit application. In no event shall the total bond be less than $25,000.

4. For areas permitted exclusively for refuse disposal, in the amount of $1,500 per acre covered by the permit application, provided that the refuse material originates from a coal processing plant participating in the Pool Bond Fund. In no event shall the total bond be less than $25,000.

C. The director may accept the bond of an applicant of an underground mining operation without separate surety, as provided by § 480-03-19.801.13, upon a showing by such applicant of a net worth, total assets minus total liabilities (certified by an independent certified public accountant), equivalent to $1 million. Such net worth shall be, during the existence of the permit, certified annually by an independent certified public accountant and the certification submitted on the anniversary date of the permit.

D. The director may accept the bond of an applicant of a surface mining operation or associated facility without separate surety, upon a showing by the applicant of those conditions set forth in § 480-03-19.801.13(b).

E. The bond liability shall extend to cover subsidence and mine drainage in accordance with § 480-03-19.800.14(c).

F. The amount of the performance bond liability applicable to a permit shall be adjusted by the division as the acreage in the permit area is revised. The bond adjustments are not subject to the bond release procedures of § 480-03-19.801.17.

VIRGINIA STATE BOARD OF NURSING

Title of Regulation: **VR 495-01-1. Board of Nursing Regulations.**

Statutory Authority: § 54-367.11 of the Code of Virginia.

Effective Date: July 22, 1987

Summary:

The Board of Nursing Regulations state the criteria for the establishment of and continuing approval of nursing education programs; requirements for licensure; disciplinary provisions and fees for licensing registered nurses and licensed practical nurses. The regulations are the result of the comprehensive review of the existing regulations completed in 1984 pursuant to Executive Order 52 (84) of Governor Charles S. Robb.

This review resulted in proposals to delete some existing regulations, amend or relocate other existing regulations and add some new regulations.

Minor changes in several areas were made for clarity and a decision was made to continue the prior regulations related to faculty qualifications.

Preamble:

These regulations state the requirements for nursing education programs and the licensing of registered nurses and practical nurses in the Commonwealth of Virginia. The regulations have been adopted by the Virginia State Board of Nursing under the authority of Title 54, Chapter 13.1 Nurses., §§ 54-367.1 through 54-367.36 of the Code of Virginia.

The board believes that each practitioner of nursing is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of nursing.

The registered nurse shall be responsible and accountable for making decisions that are based upon educational preparation and experience in nursing. The registered nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself or others who are under his supervision.

The licensed practical nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself based upon educational preparation and experience.

VR 495-01-1. Board of Nursing Regulations.

PART I.
GENERAL PROVISIONS.

Authority: §§ 54-367.11, 54-367.12, 54-367.27 and 54-367.29 of the Code of Virginia.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the

context clearly indicates otherwise:

"Approval," as used in these regulations, is synonymous with accreditation and means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

"Associate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, State Council of Higher Education or an Act of the General Assembly.

"Baccalaureate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate degree with a major in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, the State Council of Higher Education or an Act of the General Assembly.

"Board" means the State Board of Nursing.

"Conditional approval" means a time-limited status which results when an approved nursing education program has failed to maintain requirements as set forth in § 2.2 of these regulations.

"Cooperating agency" means an agency or institution that enters into a written agreement to provide learning experiences for a nursing education program.

"Diploma nursing program" means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

"Nursing education program" means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree, diploma or certificate.

"Practical nursing program" means a nursing education program preparing for practical nurse licensure, offered by a Virginia school, that leads to a diploma or certificate in practical nursing, provided the school is authorized by the appropriate governmental agency.

"Program director" means a registered [~~professional~~] nurse who has been designated by the controlling authority to administer the nursing education program.

"Provisional approval" means the initial status granted to a nursing education program which shall continue until the first class has graduated and the board has taken final action on the application for approval.

"Recommendation" means a guide to actions that will assist an institution to improve and develop its nursing education program.

"Requirement" means a mandatory condition that a nursing education program must meet to be approved.

§ 1.2. Delegation of authority.

A. The executive director of the board shall issue a certificate of registration to each person who meets the requirements for initial licensure under §§ 54-367.13, 54-367.14, 54-367.19 and 54-367.20 of the Code of Virginia. Such certificates of registration shall bear the signature of the president of the board, the executive director and the director of the Department of Health Regulatory Boards.

B. The executive director shall issue license to each applicant who qualifies for such license under § 54-367.25 of the Code of Virginia. Such licenses shall bear the name of the executive director.

C. The executive director shall be delegated the authority to execute all notices, orders and official documents of the board unless the board directs otherwise.

§ 1.3. Fees.

Fees required in connection with the licensing of applicants by the board are:

1. Application for R.N. Licensure $45

2. Application for L.P.N. Licensure $35

3. Biennial Licensure Renewal $28

4. Reinstatement Lapsed License $50

5. Duplicate License $10

6. Verification of License $10

7. Transcript of Examination Scores $5

8. Transcript of Applicant/Licensee Records $10

9. Returned Check Charge $15

§ 1.4. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Nursing (board) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.

2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulation.

3. Final regulation adopted.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all above-listed information. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

B. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. Public comment period.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

D. Petitions to the board.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

E. Publication in the Virginia Register of Regulations.

At any meeting of the board or any subcommittee or advisory committee, where the formulation or adoption of regulation occurs, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

F. Advisory committee.

The board, in cooperation with the Council on Health Regulatory Boards, may appoint advisory committees as they deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

PART II.
NURSING EDUCATION PROGRAMS.

Authority: §§ 54-367.11, 54-367.27, 54-367.28 and 54-367.29 of the Code of Virginia.

§ 2.1. Establishing a nursing education program.

Phase I.

A. An institution wishing to establish a nursing education program shall:

1. Submit to the board, at least 15 months in advance of expected opening date, a statement of intent to establish a nursing education program;

2. Submit to the board, along with the statement of intent, a feasibility study to include the following information:

a. Studies documenting the need for the program;

b. Purpose and type of program;

c. Availability of qualified faculty;

d. Budgeted faculty positions;

e. Availability of clinical facilities for the program;

f. Availability of academic facilities for the program;

g. Evidence of financial resources for the planning, implementation and continuation of the program;

h. Anticipated student population; and

i. Tentative time schedule for planning and initiating the program.

3. Respond to the board's request for additional information.

B. The board, after review and consideration, shall either approve or disapprove Phase I.

1. If Phase I is approved, the institution may apply for provisional approval of the nursing education program as set forth in these regulations.

2. If Phase I is disapproved, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

Phase II.

C. The application for provisional approval shall be complete when the following conditions are met:

1. A program director has been appointed and there are sufficient faculty to initiate the program (§ 2.2.C of these regulations);

2. A tentative written curriculum plan developed in accordance with § 2.2.F of these regulations has been submitted; and

3. A site visit has been conducted by a representative of the board.

D. The board, after review and consideration, shall either grant or deny provisional approval.

1. If provisional approval is granted, the program director shall submit bi-monthly progress reports to the board which shall include information as required by the board.

2. If provisional approval is denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

E. Following graduation of the first class, the institution shall apply for approval of the nursing education program.

Phase III.

F. The application for approval shall be complete when a self-evaluation report of compliance with § 2.2 of these regulations has been submitted and a survey visit has been made by a representative of the board.

G. The board will review and consider the self-evaluation and the survey reports at the next regularly scheduled meeting.

H. The board shall either grant or deny approval. If denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

§ 2.2. Requirements for approval.

A. Organization and administration.

1. The institution shall be authorized to conduct a nursing education program by charter or articles of incorporation of the controlling institution; by resolution of its board of control; or by the institution's own charter or articles of incorporation.

2. Universities, colleges, community or junior colleges, proprietary schools and public schools offering nursing education programs shall be accredited by the appropriate state agencies and the Southern Association of Colleges and Schools.

3. Hospitals conducting a nursing education program shall be accredited by the Joint Commission on Accreditation of Hospitals.

4. Any agency or institution that is utilized by a nursing education program shall be one that is authorized to conduct business in the Commonwealth of Virginia, or in the state in which the agency or institution is located.

5. The authority and responsibility for the operation of the nursing education program shall be vested in a program director who is duly licensed to practice professional nursing in Virginia and who is responsible to the controlling board, either directly or through appropriate administrative channels.

6. A written organizational plan shall indicate the lines of authority and communication of the nursing education program to the controlling body; to other departments within the controlling institution; to the cooperating agencies; and to the advisory committee, if one exists.

7. Funds shall be allocated by the controlling agency to carry out the stated purposes of the program. The program director of the nursing education program shall be responsible for the budget recommendations and administration, consistent with the established policies of the controlling agency.

B. Philosophy and objectives.

Clearly written statements of philosophy and objectives shall be:

1. Formulated and accepted by the faculty;

2. Directed toward achieving realistic goals;

3. Directed toward the meaning of education, nursing and the learning process;

4. Descriptive of the practitioner to be prepared; and

5. The basis for planning, implementing and evaluating the total program.

C. Faculty.

1. Qualifications.

a. Every member of a nursing faculty, including the program director, shall hold a current license to practice as a registered nurse in Virginia.

b. Every member of a [nursing] faculty responsible for teaching students in a cooperating agency

located outside the jurisdictional limits of Virginia should hold a current license to practice nursing in that jurisdiction as well.

c. The program director and each member of the nursing faculty shall maintain professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects and professional writing.

d. For baccalaureate degree programs:

(1) The program director shall hold a doctoral degree. [~~*If the doctoral degree is not in nursing, the program director shall hold a graduate degree with a major in nursing.*~~]

(2) Every member of the nursing faculty shall hold a graduate degree [~~*with a major in nursing*~~ . *Faculty members without a graduate degree with a major in nursing shall have a baccaluareate degree with a major in nursing.*]

(3) At least one faculty member in each clinical area shall have [~~*graduate*~~ *master's*] *preparation* [~~*and clinical experience*~~] *in* [~~*the nursing*~~ *that clinical*] *specialty.*

e. For associate degree and diploma programs:

(1) The program director shall hold a graduate degree [, *preferably*] *with a major in nursing.*

(2) [~~*Every member*~~ *The majority of the members*] *of the nursing faculty shall hold a graduate degree,* [~~*with the majority holding a graduate degree*~~ *preferably*] *with a major in nursing.* [~~*Faculty members without a nursing graduate degree shall have a baccalaureate degree with a major in nursing.*~~]

(3) [~~*At least one faculty member in each clinical area shall have graduate preparation and clinical experience in the nursing specialty*~~ *Other members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing*].

f. For practical nursing programs.

(1) The program director shall hold a baccalaureate degree [, *preferably*] *with a major in nursing.*

(2) The majority of the [*members of the*] *nursing faculty shall hold* [*a*] *baccalaureate* [~~*degrees*~~ *degree, preferably*] *with a major in nursing.*

g. [~~*Program directors and faculty members who do not meet the above qualifications on the effective date of these regulations shall be exempted from the provisions of subparagraphs d, e, and f of this subsection insofar as they apply to such individuals in their present employment and position.*~~ *Exceptions to provisions of subparagraphs d, e, and f of this subsection shall be by board approval. Any exception made to these provisions will be based on the nursing faculty member's progress towards meeting the requirements of the regulations during each year for which the exception is requested.*]

[~~*h. Individuals appointed to positions after the effective date of these regulations who are NOT in compliance with subparagraphs d, e, or f of this subsection shall be required to comply by September 1, 1989.*~~]

2. Number.

a. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and such number shall be reasonably proportionate to:

(1) Number of students enrolled;

(2) Frequency of admissions;

(3) Education and experience of faculty members;

(4) Number and location of clinical facilities; and

(5) Total responsibilities of the faculty.

b. When students are giving direct care to patients, the maximum ratio of students to faculty in clinical areas shall be 10 students to one faculty member.

3. Conditions of employment.

a. Qualifications and responsibilities for faculty positions shall be defined in writing.

b. Faculty assignments shall allow time for class and laboratory preparation; teaching; program revision; improvement of teaching methods; academic advisement and counseling of students; participation in faculty organizations and committees; attendance at professional meetings; and participation in continuing education activities.

4. Functions.

The principal functions of the faculty shall be to:

a. Develop, implement and evaluate the philosophy and objectives of the nursing education program;

b. Participate in designing, implementing, teaching, and evaluating and revising the curriculum;

c. Develop and evaluate student admission, progression, retention and graduation policies within

the framework of the controlling institution;

d. Participate in academic advisement and counseling of students; and

e. Provide opportunities for student evaluation of teaching and program effectiveness.

5. Organization.

a. The nursing faculty shall hold regular meetings for the purpose of developing, implementing and evaluating the nursing education program. Written rules shall govern the conduct of meetings.

b. All members of the faculty shall participate in the regular faculty meetings.

c. Committees shall be established to implement the functions of the faculty.

d. Minutes of faculty and committee meetings, including actions taken, shall be recorded and available for reference.

e. There shall be provision for student participation.

D. Students.

1. Admission, promotion and graduation.

a. Requirements for admission to the nursing education program shall not be less than the statutory requirements that will permit the graduate to be admitted to the appropriate licensing examination.

(EXPLANATORY NOTE: Reference subdivision 2 of subsection a of § 54-367.13 of the Code of Virginia: The equivalent of a four-year high school course of study is considered to be:

(1) A General Educational Development (GED) certificate for high school equivalence; or

(2) Satisfactory completion of the college courses required by the nursing education program.)

b. Students shall be selected on the basis of established criteria and without regard to age, race, creed, sex or national origin.

c. Requirements for admission, readmission, advanced standing, progression, retention, dismissal and graduation shall be available to the students in written form.

E. Records.

1. School records.

A system of records shall be maintained and be made available to the board representative and shall include:

a. Data relating to accreditation by any agency or body,

b. Course outlines,

c. Minutes of faculty and committee meetings,

d. Reports of standardized tests,

e. Survey reports.

2. Student records.

a. A file shall be maintained for each student. Each file shall be available to the board representative and shall include:

(1) The student's application,

(2) High school transcript or copy of high school equivalence certificate,

(3) Current record of achievement.

b. A final transcript shall be retained in the permanent file of the institution.

c. Provision shall be made for the protection of student and graduate records against loss, destruction and unauthorized use.

3. School bulletin or catalogue.

Current information about the nursing education program shall be published periodically and distributed to students, applicants for admission and the board. Such information shall include:

a. Description of the program.

b. Philosophy and objectives of the controlling institution and of the nursing program.

c. Admission and graduation requirements.

d. Fees.

e. Expenses.

f. Financial aid.

g. Tuition refund policy.

h. Education facilities.

i. Living accommodations.

j. Student activities and services.

k. Curriculum plan.

l. Course descriptions.

m. Faculty-staff roster.

n. School calender.

F. Curriculum.

1. Curriculum shall reflect the philosophy and objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing.

2. The ratio between nursing and non-nursing credit shall be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing.

3. Learning experiences shall be selected to fulfill curriculum objectives.

4. Curriculum shall be evaluated by the faculty with provisions for student participation.

5. Nursing education programs preparing for practical nursing licensure shall include:

a. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;

b. Basic concepts of the nursing process;

c. Basic concepts of anatomy, physiology, chemistry, physics and microbiology;

d. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;

e. Ethics, nursing history and trends, vocational and legal aspects of nursing; and

f. Basic concepts of pharmacology, nutrition and diet therapy.

6. Nursing education programs preparing for registered nurse licensure shall include:

a. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness [throughout the life cycle] for individuals [, ~~and~~] groups [~~throughout the life cycle~~ and communities];

b. Concepts of the nursing process;

c. Concepts of anatomy, physiology, chemistry, microbiology and physics;

d. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;

e. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

f. Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing; and

g. Concepts of leadership, management and patient education.

G. Resources, facilities and services.

1. Periodic evaluations of resources, facilities and services shall be conducted by the administration, faculty and students.

2. Secretarial and other support services shall be provided.

3. Classrooms, conference rooms, laboratories and offices shall be available to meet the objectives of the nursing education program and the needs of the students, faculty, administration and staff.

4. The library shall have holdings that are current, pertinent and accessible to students and faculty, and sufficient in number to meet the needs of the students and faculty.

5. Written agreements with cooperating agencies shall be developed, maintained and periodically reviewed. The agreement shall:

a. Ensure full control of student education by the faculty of the nursing education program, including the selection and supervision of learning experiences.

b. Provide that an instructor shall be present on the clinical unit(s) to which students are assigned for direct patient care.

c. Provide for cooperative planning with designated agency personnel.

6. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives.

7. Cooperating agencies shall be approved by the appropriate accreditation, evaluation or licensing bodies, if such exist.

H. Program changes requiring board of nursing approval.

The following proposed changes require board approval prior to their implementation:

1. Proposed changes in the nursing education program's philosophy and objectives that result in program revision.

2. Proposed changes in the curriculum that result in alteration of the length of the nursing education program.

3. Proposed additions, deletions or major revisions of courses.

I. Procedure for approval of program change.

1. When a program change is contemplated, the program director shall inform the board or board representative.

2. When a program change is requested, a plan shall be submitted to the board including:

a. Proposed change,

b. Rationale for the change,

c. Relationship of the proposed change to the present program.

3. Twelve copies of these materials shall be submitted to the board at least three weeks prior to the board meeting at which the request will be considered.

§ 2.3. Procedure for maintaining approval.

A. The program director of each nursing education program shall submit an annual report to the board.

B. Each nursing education program shall be reevaluated at least every eight years and shall require:

1. A comprehensive self-evaluation report based on § 2.2 of these regulations, and

2. A survey visit by a representative(s) of the board on dates mutually acceptable to the institution and the board.

C. The self-evaluation and survey visit reports shall be presented to the board for consideration and action at a regularly scheduled board meeting. The reports and the action taken by the board shall be sent to the appropriate administrative officers of the institution. In addition, a copy shall be forwarded to the executive officer of the state agency or agencies having program approval authority or coordinating responsibilities for the governing institutions.

D. Interim visits shall be made to the institution by board representatives at any time within the eight-year period either by request or as deemed necessary by the board.

E. A nursing education program shall continue to be approved provided the requirements set forth in § 2.2 of these regulations are attained and maintained.

F. If the board determines that a nursing education program is not maintaining the requirements of § 2.2 of these regulations, the program shall be placed on conditional approval and the governing institution shall be given a reasonable period of time to correct the identified deficiencies. The institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

G. If the governing institution fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.) Sections 2.4. B and C of these regulations shall apply to any nursing education program whose approval has been withdrawn.

§ 2.4. Closing of an approved nursing education program.

A. Voluntary closing.

When the governing institution considers the closing of a nursing education program, it shall notify the board in writing, stating the reason, plan and date of intended closing. The governing institution shall choose one of the following closing procedures:

1. The program shall continue until the last class enrolled is graduated.

a. The program shall continue to meet the standards for approval until all of the enrolled students have graduated.

b. The date of closure is the date on the degree, diploma or certificate of the last graduate.

c. The governing institution shall notify the board of the closing date.

2. The program shall close after the governing institution has assisted in the transfer of students to other approved programs.

a. The program shall continue to meet the standards required for approval until all students are transferred.

b. A list of the names of students who have been transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

c. The date on which the last student was

transferred shall be the closing date of the program.

B. Closing as a result of denial or withdrawal or approval.

When the board denies or withdraws approval of a program, the governing institution shall comply with the following procedures:

1. The program shall close after the institution has made a reasonable effort to assist in the transfer of students to other approved programs. A time frame for the transfer process shall be established by the board.

2. A list of the names of students who have transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

3. The date on which the last student was transferred shall be the closing date of the program.

C. Custody of records.

Provision shall be made for custody of records as follows:

1. If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The institution shall inform the board of the arrangements made to safeguard the records.

2. If the governing institution ceases to exist, the academic transcript of each student and graduate shall be transferred by the institution to the board for safekeeping.

PART III.
LICENSURE.

Authority: §§ 54-367.11, 54-367.13, 54-367.14, 57-367.19, 54-367.20, 54-367.25, 54-367.35 and 54-367.36 of the Code of Virginia.

§ 3.1. Licensure by examination.

A. [~~The licensing examinations of the National Council of State Boards of Nursing constitute the board examinations for registered nurse licensure and practical nurse licensure~~ The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice a year].

B. The minimum passing score on the examination for registered nurse licensure [and practical nurse licensure] shall be [~~the scaled score of 1600~~ determined by the board].

[~~C. The minimum passing score on the examination for practical nurse licensure shall be the scaled score of 350.~~]

[~~D. The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice each year on the dates established for all jurisdictions by the National Council of State Boards of Nursing.~~]

[~~E.~~ C.] If a candidate does not take the examination when scheduled, the application shall be retained on file as required for audit.

[~~F.~~ D] Any applicant suspected of giving or receiving unauthorized assistance during the writing of the examination shall be noticed for a hearing before the board to determine whether the license shall be issued.

[~~G.~~ E.] The board shall not release examination scores to any individual or agency without written authorization from the applicant or licensee.

[~~H.~~ F.] An applicant for the licensing examination shall:

1. File the required application and fee no less than 60 days prior to the scheduled date of the examination.

2. Arrange for the board to receive the final certified transcript from the nursing education program at least 15 days prior to the examination date [or as soon thereafter as possible. The transcript must be received prior to the reporting of the examination results to candidates.]

[G. All program directors shall submit a list of the names of those studens who are expected to complete the requirements for graduation 15 days prior to the examination date.]

[~~I.~~ H.] Practice of nursing pending receipt of examination results.

1. Graduates of approved nursing education programs may practice nursing in Virginia pending the results of the first [~~National Council~~ licensing examination] given by a board of nursing following their graduation, provided they have filed an application for licensure in Virginia. Candidates taking the examination in Virginia shall file the application for licensure by examination. Candidates taking the examination in other jurisdictions shall file the application for licensure by endorsement.

2. Candidates who practice nursing as provided in § 3.1.I.1 of these regulations shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N. Applicant" shall not be used by applicants who do not

take or who have failed the first examination for which they are eligible.

[~~J.~~ I.] Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for reexamination shall file the required application and fee no less than 60 days prior to the scheduled date of the examination.

3. Applicants who have failed the licensing examination in another U.S. jurisdiction and who meet the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

§ 3.2. Licensure by endorsement.

A. A graduate of an approved nursing education program who has been licensed by examination in another U.S. jurisdiction and whose license is in good standing shall be eligible for licensure by endorsement in Virginia, provided the qualifications for licensure were equivalent to those in effect in Virginia at the time the applicant was initially licensed.

B. An applicant for licensure by endorsement shall submit the required application and fee and submit the required form to the appropriate credentialing agency in the state of original licensure for verification of licensure. Applicants will be notified by the board after 30 days, if the completed verification form has not been received.

C. If the application is not completed within one year of the initial filing date, the application shall be retained on file by the board as required for audit.

§ 3.3. Licensure of applicants from other countries.

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in § 3.3. B and C of these regulations.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and

2. Submit the required application and fee for licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;

2. Provide evidence of secondary education to meet the statutory requirements;

3. Request that the credentialing agency, in the country where licensed, submit the verification of licensure form directly to the board office; and

4. Submit the required application and fee for licensure by examination.

§ 3.4. Renewal of licenses.

A. Licensees born in even-numbered years shall renew their licenses by the last day of the birth month in even-numbered years. Licensees born in odd-numbered years shall renew their licenses by the last day of the birth month in odd-numbered years.

B. No less than 30 days prior to the last day of the licensee's birth month, an application for renewal of license shall be mailed by the board to the last known address of each licensee, who is currently licensed.

C. The licensee shall complete the application and return it with the required fee.

D. Failure to receive the application for renewal shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

E. The license shall automatically lapse if the licensee fails to renew by the last day of the birth month.

F. Any person practicing nursing during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54-367.35 of the Code of Virginia.

§ 3.5. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may request evidence that the nurse is prepared to resume practice in a competent manner.

§ 3.6. Replacement of lost license.

A. The licensee shall report in writing the loss of the original certificate of registration or the current license.

B. A duplicate license for the current renewal period shall be issued by the board upon receipt of the required form and fee.

§ 3.7. Evidence of change of name.

A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.

PART IV.
DISCIPLINARY PROVISIONS.

Authority: §§ 54-367.11, 54-367.32, 54-367.35 of the Code of Virginia.

§ 4.1. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54-367.32 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

A. Fraud or deceit shall mean, but shall not be limited to:

1. Filing false credentials;

2. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or

3. Giving or receiving assistance in writing the licensing examination.

B. Unprofessional conduct shall mean, but shall not be limited to:

1. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 13.1, or as provided by Chapter 12, § 54-274, of the Code of Virginia;

2. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;

3. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

4. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;

5. Falsifying or otherwise altering patient or employer records; or

6. Abusing, neglecting or abandoning patients or clients.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-22-02. Standards and Regulations for Licensed Homes for Adults.**

Statutory Authority: §§ 63.1-174 and 63.1-182.1 of the Code of Virginia.

Effective Date: July 23, 1987

Summary:

The purpose of the revised Standards and Regulations for Licensed Homes for Adults is to ensure adequate health and safety protection for residents in licensed homes for adults and to provide regulatory support for statutory requirements. Emphasis has been placed on clarity and ease of comprehension.

The revised standards address the following issues:

1. The relaxation of tuberculosis screening requirements

2. The addition of the definition of respite care

3. Regulations to address the provisions of § 63.1-174.1 of the Code of Virginia dealing with semi-mobile residents

4. Requirements regarding the responsibility of reporting elder abuse

5. Procedures for fire drills

6. Distribution of medication.

Under the current definitions and exemptions in the Code of Virginia, any facility operated for the purpose of the maintenance and care of four or more adults who are aged, infirm, or disabled must be licensed as a home for adults.

In 1980 when the existing standards were implemented, 315 homes for adults were licensed statewide; as of April 30, 1987, 400 homes were licensed, a growth of nearly 27%. Of these, 83% were private for profit, 15% were private not-for-profit, and 2.0% were publicly operated. One hundred ninety homes, or 47%, had a licensed capacity of 19 or fewer.

VR 615-22-02. Standards and Regulations for Licensed Homes for Adults.

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PART I.
INTRODUCTION.

Article 1.
Definitions.

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

"Active assisted range of motion" means that, by instruction, example, and actual support of the limb when necessary, the resident is helped to move each joint through the full range of motion available. No force is used at any time; the resident is simply assisted in holding up the weight of the limb. Its purpose is to prevent contractures and limitations of movement.

"Active range of motion" means that, by instruction and example, the resident moves each joint through the full range of movement possible without assistance. Its purpose is to prevent contractures and limitations of movement.

"Administrator" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the facility, including compliance with all Standards and Regulations for Licensed Homes for Adults.

"Administer medication" means to ~~open~~ a [*~~give either~~ the open a*] container of medicine ~~, to remove~~ *or* [*to remove*] the prescribed dosage ~~and to give it~~ [*and to give it*] to the resident for whom it is prescribed [*~~or intended~~*].

Section 54-524.65 of the Code of Virginia states that only people authorized by state law may administer drugs. People authorized to administer medicine include licensed physicians, registered nurses, licensed practical nurses, pharmacists, physicians' assistants, and other individuals who meet the requirements of the law. In addition to these persons designated in law, a physician may choose to designate, in writing, a person who does not meet the requirements of the law to be his or her authorized agent. This permits the person to administer medicine legally to that physician's designated patients, in accordance with such a physician's instructions.

* *"Ambulatory"* means the condition of a person who is ~~physically and mentally capable of making an exit from a building in an emergency including the ascent and descent of stairs, without the assistance of another person or without being dependent on the use of any device, such as, but not limited to, a wheelchair, walker or leg prosthesis~~ *either independently mobile or semi-mobile as defined below* . ~~The determination of whether a person is ambulatory shall be based on information contained in the medical report. (See § 5.7.2.b.5)~~

"Assisted exit" means that in order to exit a building within three minutes in an emergency the resident must receive repeated verbal prompts or commands or be physically touched, or moved by another person or object.

"Bedfast" means the condition of a person, as certified by a physician, who is confined or restricted to bed for a prolonged or indefinite period of time. Persons for whom a physician has prescribed bedrest because of a short term illness (e.g. cold, flu, virus, etc.) are not considered to be bedfast. No person who is bedfast shall be admitted for care. Residents who become bedfast may remain in care providing the provisions of §§ 3.8 and 5.14 of these standards and regulations are met.

"Day-care center for adults" means a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults, which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the State Department of Mental Health and Mental Retardation, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage (§ 63.1-172C of the Code of Virginia). Day-care centers for adults are subject to licensure by a different set of standards.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee of the Virginia Department of Social Services, acting as the authorized agent in carrying out the duties specified in the Virginia Code.

"Director" means the Director of the Virginia Department of Social Services, also known as the Commissioner of Social Services.

"Discharge" means a planned, facility-initiated termination of services for a resident which results in a change of address for the resident.

~~*"Distribute"* means to give a container of medicine to a resident for whom it is prescribed so that he may take his own medicine from the container.~~ [*"Distribute" means to give a container of medicine to a resident for whom it is prescribed so that he may take his own medicine from the container.*]

"Emergency" means a situation where the resident's behavior is unmanageable to the degree an immediate danger is presented to the safety of the resident or others or a situation or condition which presents a clear and present danger to resident health and safety.

"Essential activities of daily living" means eating, walking, ascent and descent of stairs, dressing, all aspects of personal hygiene and grooming, administering medication which would normally be self-administered, getting in and out of bed, management of personal affairs, control of visitors, use of telephone, arranging for transportation, reading, writing, etc.

"Health care providers" means physicans, dentists, pharmacists, home health care agencies, hospitals, nursing homes, clinics, ambulance services, health care supplies, etc.

"Homes for adults" means any place, establishment, or institution, public or private, including any day-care center for adults, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled, except (i) a facility or portion of a facility licensed by the State Board of Health or the State Department of Mental Health and Mental Retardation, but including any portion of such facility not so licensed, and (ii) the home or residence of any individual who cares for or maintains only persons related to him by blood or marriage Included in this definition are any 2 or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of 4 or more aged, infirm or disabled adults. (§ 63.1-172A of the Code of Virginia)

"Human subject research" means "any medical or psychological research which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subject's or subjects' needs but does not include (i) the conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from a human subject in the course of standard medical practice, (ii) epidemiological investigations, or (iii) medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated or to improve the quality of the subject's life." (§ 37.1-234 of the Code of Virginia)

"Independent living environment" means one in which the resident or residents perform all essential activities of daily living for themselves without requiring the assistance of any staff member in the home for adults.

"Independent living status" means that the resident is assessed as capable of performing all essential activities of daily - living for himself without requiring the assistance of any staff member in the home for adults. (If the policy of a facility dictates that medications are administered or distributed centrally without regard for the residents' capacity this shall not be considered in determining independent status.)

* *"Independently mobile" means the condition of a person who is mentally and physically capable of making an unassisted exit from the home in an emergency. The ability to ascend and descend stairs (if present in any necessary exit path) is an essential part of this condition. The determination of whether a person is independently mobile shall be based on information contained in the medical report. (See § 5.7.2.b(5))*

"Household members" means any person domiciled in a home for adults other than residents or staff.

"Legal guardian" means an individual who has legal control and management of the person, or the property, or of both the person and the property of the resident. A legal guardian is appointed by a court. A legal guardian of the person is appointed to see that the resident has proper care and supervision in keeping with his needs. A legal guardian of the property is appointed to manage the

financial affairs in the best interest of the resident.

"Licensee" means any person, association, partnership or corporation to whom the license is issued.

"Maintenance and care" means protection, general supervision and oversight of the physical and mental well-being of the aged, infirm or disabled individual (§ 63.1-172B of the Code of Virginia). This includes assistance with the activities of daily living which the recipient has difficulty performing.

"Mechanical restraint" means any device other than the body used to restrict the free movement of a resident (e.g., supportive vests) and applied in such a way that the resident cannot release himself.

* *"Nonambulatory"* means the condition of a person who, because of physical or mental impairment, ~~must be led or carried by another person, or is dependent on the use of a device, such as, but not limited to, a walker, wheelchair or leg prosthesis to make an exit from a building in an emergency~~ *requires an assisted exit from the building in an emergency* . The determination of whether a person is nonambulatory shall be based on information contained in the medical report. (See § 5.7.2.b.5) *, or shall be determined by the demonstrated inability of a semi-mobile person to exit the building in three minutes where applicable (See §§ 3.9.C ad 5.7.2.b.(6)).* Persons who are nonambulatory may be accepted for care and residents who become nonambulatory may remain in care providing the provisions of § 3.9 of these standards and regulations are met.

"Nursing and convalescent care" means care given because of prolonged illness or defect, or during recovery from injury or disease, which includes any and all of the nursing procedures commonly employed in waiting on the sick such as administration of medicines, preparation of special diets, giving of bedside care, application of dressings and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

"Payee" means an individual other than the legal guardian who has been designated to receive and administer funds belonging to a resident in a home for adults. A payee is not a legal guardian unless so appointed by the court.

"Physical restraint" means holding a resident's body with one's own body in such a way that the resident is unable to move freely.

"Post-hospitalized person" means any aged, infirm or disabled adult who is being discharged from a state program for the mentally ill or mentally retarded and for whom direct placement is sought in a home for adults by the state facility, local welfare/social services department, local community mental health and mental retardation services board, family, legal guardian, or any other responsible party.

"Relocation" means a planned, facility or resident-initiated housing reassignment of a resident, either temporary or permanent, within the licensed home for adults.

"Resident" means any aged, infirm, or disabled adult residing in a home for adults for the purpose of receiving maintenance and care.

"Respite care" means services provided for maintenance and care of aged, infirm or disabled adults for temporary periods of time, regulatory or intermittently. Homes offering this type of care are subject to these standards and regulations.

"Responsibility person/party" means any family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person/party may or may not be related to the resident. A responsible person/party is not a legal guardian unless so appointed by the court.

* *"Semi-mobile" means the condition of a person who is:*

1. Mentally and physically capable in an emergency of always exiting within three minutes from any area of the home available to semi-mobile residents with the help of a wheelchair, walker, cane, prosthetic device, or with the aid of a single verbal command;

and

2. Able to ascend and descend stairs (if present in any necessary exit path from areas available to semi-mobile residents.)

The determination of whether a person is semi-mobile shall be based upon information contained in the medical report and upon timed observation of the resident's ability to exit a building within three minutes where applicable. (See §§ 3.9.C and 5.7.2.b.(6))

"Sponsor" means an individual, association, partnership or corporation having responsibility for planning and operating a facility subject to licensure. The licensee is the sponsor of a home for adults. The sponsor may not, in all cases, be the owner of the physical plant (buildings) and/or real estate in or on which the home for adults is located. In these instances the term "sponsor" as defined here and used in these standards and regulations is considered to be the person, partnership, association or corporation who owns the enterprise less the physical plant and/or real estate.

"Transfer" means to be released from one caregiving facility to be admitted to another caregiving facility.

"Withdrawal" means a planned resident or resident

representative-initiated termination of services which results in a change of address for the resident.

*As used in these standards and regulations these are not medical definitions. They are related to the placement of aged, infirm, or disabled adults in appropriate buildings with regard to fire safety and their ability to evacuate buildings in an emergency.

Article 2.
Legal Base.

§ 1.2. Chapter 9, Title 63.1, of the Code of Virginia sets forth the responsibility of the Department of Social Services for the licensure of homes for adults, including the responsiblity of the State Board of Social Services for the development of regulations containing minimum standards and requirements.

It is a misdemeanor to operate a home for adults without a license or to serve more residents than the maximum number stipulated on the license. (§ 63.1-182 of the Code of Virginia)

PART II.
MANAGEMENT AND PERSONNEL.

Article 1.
The Licensee.

§ 2.1. The licensee shall be responsible for complying with all standards and regulations for Licensed Homes for Adults and terms of the license issued by the department.

§ 2.2. The licensee shall meet the following requirements:

1. The licensee shall give evidence of financial responsibility.

2. The licensee shall be of good character and reputation.

3. The licensee shall be able to protect the physical and mental well-being of residents.

4. The licensee shall keep such records and make such reports as required by these standards and regulations for Licensed Homes for Adults. Such records and reports may be inspected at any reasonable time in order to determine compliance with these standards and regulations.

5. The licensee shall meet the qualifications of the administrator if he assumes those duties.

§ 2.3. A home for adults sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

Article 2.
The Administrator.

§ 2.4. Each home shall have an administrator. This does not prohibit the administrator from serving more than one facility.

§ 2.5. Qualification of administrator.

A. The administrator shall be at least 18 years of age.

B. He shall be able to read, to write, and to understand these standards and regulations.

C. He shall be able to perform the duties and to assume the responsibilities required by these standards and regulations.

D. Any person who assumes the duties of the administrator after January 1, 1980, shall be a high school graduate or shall have a General Education Development Certificate (G.E.D.), or shall have completed one full year of successful experience in caring for adults in a group care facility, such as a home for adults, a nursing home, a hospital or a day-care center for adults.

E. He shall meet the requirements stipulated for all staff in § 2.10.

§ 2.6. Duties of the administrator.

It shall be the duty of the administrator:

1. To oversee the day-to-day operation of the home, which shall include, but not be limited to, responsibility for:

a. Services to residents;

b. Maintenance of buildings and grounds;

c. Record keeping;

d. Employment, training and supervision of personnel.

2. To protect the safety and physical, mental and emotional health of residents.

3. To be familiar with and to assure compliance with these standards and regulations.

4. To post the current license at all times at a place in the building that is conspicuous to the public.

§ 2.7. Either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week.

§ 2.8. In the absence of the administrator or the designated assistant, a responsible adult who is able to

read and write shall be delegated the duties of the administrator, so that service to residents shall not be interrupted. This person shall be capable of protecting the physical and mental well-being of the residents. He shall not be a resident.

Article 3.
Personnel.

§ 2.9. Staffing.

A. There shall be enough staff on duty at all times to assure compliance with these standards and regulations. This number shall be determined by:

1. The number of residents;

2. The physical and mental conditions of the residents;

3. The services to be provided;

4. The size and layout of the building(s); and

5. The capabilities and training of the employees.

B. There shall be sufficient staff on the premises at all times to implement the emergency fire plan including evacuation of those residents who are nonambulatory if such evacuation is included in the plan. (See § 9.4)

C. A responsible adult, other than a resident, shall be in each building at all times that residents are present and shall be responsible for their care and supervision.

D. In homes licensed to care for 20 or more residents under one roof, there shall be at least one staff member awake and on duty under that roof during the night hours.

E. In homes licensed to care for 20 or more residents under one roof, the provisions of either 1 or 2, below shall be met.

1. Staff shall make rounds at least once each hour to monitor for emergencies. These rounds shall begin when the majority of the residents have gone to bed each evening and shall terminate when the majority of the residents have arisen each morning.

a. A written log shall be maintained showing the date and time rounds were made and the signature of the person who made rounds.

b. Logs for the past three months shall be retained.

c. These logs shall be subject to inspection by the department.

OR

2. There shall be a signaling device or intercom or a telephone which may be activated by the resident from his room or from a connecting bathroom which shall terminate at the staff station and which shall permit staff to determine the origin of the signal. (See § 7.4)

F. If emergency ambulance service is not available within 15 minutes travel time or if there is not a physician, registered nurse, or licensed practical nurse available within 15 minutes travel time, there shall be at least one staff member on the premises at all times who has certification in first aid which has been issued within the past three years by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program.

G. There shall be at least one staff member on the premises at all times who has certification in cardiovascular pulmonary resuscitation (CPR) issued within the current year by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department or a similarly approved program. The CPR certificate must be renewed annually.

§ 2.10. Qualifications of all staff, including the administrator.

All staff members shall be:

1. Of good character;

2. Physically and mentally capable of carrying out assigned responsibilities;

3. Considerate and tolerant of aged and disabled persons;

4. Clean and well-groomed; and

5. Able and willing to accept supervision and training.

§ 2.11. Training and orientation.

A. All employees shall be made aware of:

1. The purpose of the facility;

2. The services provided;

3. The daily routines; and

4. Required compliance with standards and regulations for Licensed Homes for Adults as it relates to their duties and responsibilities.

B. All personnel shall be trained in the relevant laws, standards and regulations, and the home's policies and procedures sufficiently to implement the following:

1. Emergency plans for the facility; (See § 9.4)

2. Techniques of complying with fire and disaster

plans including evacuating residents when applicable;

3. Use of the first-aid kit, and knowledge of its location;

4. Confidential treatment of personal information;

5. Observance of the rights and responsibilities of residents;

6. Procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents to the appropriate local department of social services;

(NOTE: Section 63.1-55.3 of the Code of Virginia requires anyone providing full- or part-time care to adults for pay on a regular basis to report suspected adult abuse, neglect, or exploitation.)

~~6.~~ 7. Specific duties and requirements of their positions.

C. All personnel who have primary responsibilities for resident care shall be trained to have general knowledge in the care of aged, infirm or disabled adults with due consideration for their individual capabilities and their needs.

D. The home shall provide training opportunities at least annually for employees with primary responsibility for resident care.

1. These training opportunities shall be provided through in-service training programs or institutes, workshops, classes, or conferences related to the care of aged, infirm or disabled adults.

2. A notation of this training shall be made in the employee's record, as required by § 5.26.10 of these standards and regulations.

E. Training required for staff in homes that accept/have in care residents with special needs.

1. Aggressive residents.

a. The licensee/administrator of a facility which admits residents with a medical history of aggressive behavior or of dangerously agitated states shall first provide or obtain training in methods of dealing with aggressive residents for direct care staff involved in the care of such residents.

(NOTE: Homes for adults having valid licenses on the date these standards become effective and having such residents in care shall have one year from the effective date for direct care staff to comply with this standard.)

b. This training shall include, at a minimum, information, demonstration, and practical experience in the prevention of aggressive behavior, self-protection, and the proper application of restraints.

2. Bedfast residents/supportively restrained residents.

a. The licensee/administrator of a facility which has bedfast residents in care or who admits or has in care residents who are supportively restrained shall first provide or obtain for direct care staff involved in the care of such residents appropriate training in caring for their health needs.

(NOTE: Licenses medical personnel, e.g., R.N.'s, L.P.N.'s, are not required to take this training as their academic background deals with this level or care.

b. This training shall include, at a minimum, information, demonstration and experience in the prevention and recognition of decubiti, in active and active assisted range of motion to prevent joint contractures, and the proper techniques for applying and monitoring supportive restraints.

~~(NOTE: Homes for adults having valid licenses on the date these standards become effective and having such residents in care shall have one year from the effective date for direct care staff to comply with this standard.)~~

3. The training described in § 2.11.E.1 and 2 shall meet the following criteria:

a. It shall be provided by a qualified health professional.

b. A written description of the content of this training, a notation of the person(s)/agency/organization or institution providing the training and the name(s) of staff receiving the training shall be maintained by the facility.

(NOTE: If the training is provided by the department, only a listing of staff trained and the date of training is required.

4. Should a resident become aggressive or need suppportive restraints or become bedfast while in the facility the training described in § 2.11.E.1 and/or 2 shall be obtained within 30 days.

5. Refresher training and/or the review of written materials/techniques with all direct care staff shall be provided at least annually or more often as needed.

a. The refresher training and/or review of written materials/techniques shall encompass the techniques described in § 2.11E.1 and/or § 2.11.E.2. above.

b. A record of the refresher training and/or review

of written materials and a description of the content of the training shall be maintained by the facility.

§ 2.12. Any resident who performs any staff duties shall meet the personnel and health requirements for that position.

§ 2.13. Relief staff.

A. A current file of names, addresses and telephone numbers of persons available for duty in the absence of regular personnel shall be maintained;

OR

B. There shall be evidence of access to a nurse's aide register.

§ 2.14. Volunteers.

A. Any volunteers used shall:

1. Have qualifications appropriate to the services they render;

2. Be subject to laws and regulations governing confidential treatment of personal information.

B. Duties and responsibilities of all volunteers shall be clearly differentiated from those of persons regularly filling staff positions.

C. At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.

PART III.
ADMISSION AND DISCHARGE POLICIES.

Article 1.
Admission Policies.

§ 3.1. All residents shall be 18 years of age or older.

§ 3.2. No person shall be admitted until identifying information has been obtained as set forth in these standards. (See § 5.6)

§ 3.3. No person shall be admitted unless he has had a physical examination by a licensed physician within 30 days prior to the date of acceptance for admission. The report of such examination shall be on file at the home for adults and shall contain the information required by these standards. (See § 5.7)

§ 3.4. No person who is known to have tuberculosis in a communicable form shall be admitted.

§ 3.5. No person who is in need of nursing or convalescent care shall be admitted.

§ 3.6. No person whose physician has stated in writing that he is incapable of self-administration of medicine shall be admitted or remain in care unless:

1. The physician has signed a statement authorizing an agent at the home to administer medicine; or

2. There is a licensed doctor, registered nurse, licensed practical nurse or physician's assistant available to the home to administer medicine.

§ 3.7. No person who is bedfast shall be admitted for care.

§ 3.8. No resident who becomes bedfast shall remain in the home unless all of the following requirements are met:

1. The physician signs a written statement that:

a. Nursing and convalescent care are not needed, including the basis for this decision in terms of diagnosis and prognosis;

(NOTE: A nursing or convalescent home license is required if a facility provides nursing and/or convalescent care to two or more nonrelated persons.) (§ 32-298(2) of the Code of Virginia)

b. The needs of the resident can be met in the home for adults; and

2. Complete medical records are kept, including physicians' progress reports obtained at intervals of not more than 90 days (See § 5.14). The reports shall contain the same information required in the written statement described in § 3.8.1.

3. The physician's progress report shall be based on the resident having been seen and examined by a licensed physician, physician's assistant or nurse practitioner at intervals of not more than 90 days. If the examination is performed by a physician's assistant or nurse practitioner the results shall be reviewed by a licensed physician who shall evaluate and sign the required statement.

4. There shall be qualified staff on duty 24 hours a day to meet the needs of the bedfast resident.

5. The facility meets the applicable provisions of § 9.6 of these standards and regulations relating to the housing of nonambulatory residents.

§ 3.9. Admission and retention of nonambulatory *and semi-mobile* residents ~~(See Appendix A)~~ .

A. Nonambulatory persons, as defined by these standards, may be admitted to a home for adults when all of the provisons of the following sections of these standards and regulations are met:

1. Section 3.10, which addresses meeting the needs of the resident;

2. Section 5.7.2.a. and b, which address information required in the admissions physical examination;

3. Section 6.18, which addresses building requirements to accommodate nonambulatory residents; and

4. Section 9.6, which addresses housing of nonambulatory residents.

B. Residents who become nonambulatory, as defined by these standards, may remain in care if the provisions of § 3.9.A, 1, 3, and 4 above, are met, as well as the additional provisions of § 5.7.3 and § 5.11 of these standards and regulations. These additional sections address medical information which is required (See § 5.7.3) or may be required (See § 5.11) on a recurring basis.

C. Semi-mobile residents shall be admitted to or retained in the home only when the following conditions are met:

1. In buildings with a licensed capacity greater than twenty, all building code requirements and standards and regulations governing housing for nonambulatory residents shall be met.

2. In buildings with a licensed capacity of twenty or fewer:

a. The resident is permanently assigned to a bedroom that is on the first floor and no more than 50 feet from an exit that is at ground level or ramped.

b. Prior to admission, and during each required fire drill, the resident exhibits the ability to exit the building within three minutes from any area available to semi-mobile residents. This includes the ability to ascend and descend stairs if any are present in an exit path from areas normally to be used by the resident. (See § 5.7.b.(5) and (6))

c. The record of the physical examination contains a statement that the prospective resident is potentially capable of exiting a building within three minutes without adverse medical consequence. (See § 5.7.b (5))

§ 3.10. Only those persons whose needs can be met in a home for adults may be admitted for care.

§ 3.11. At the time of admission, there shall be a written agreement signed by the resident/applicant for admission and/or the legal guardian, or personal representative and by the licensee or administrator. This agreement shall meet the requirements specified in § 5.17 of these standards and regulations.

§ 3.12. Admission of post-hospitalized persons.

The following standards shall apply when a home for adults accepts persons from a state program for the mentally ill or mentally retarded. (These standards do not apply to persons who were accepted for care in homes for adults prior to January 1, 1980.)

A. The home shall enter into a written agreement with the local community mental health and mental retardation services board, a state mental health clinic in those areas not served by such a board, or similar facility or agency within the private sector to make services available to post-hospitalized residents. This agreement shall be a one time agreement which shall cover all post-hospitalized residents who may need and/or desire such services.

(NOTE: The direct clinical services of the local community mental health and mental retardation services board and/or the state mental health clinics are to be provided at no cost to the home for adults. Residents may be charged on a sliding scale based on their ability to pay.)

B. Services to be included in the agreement shall include at least the following:

1. Diagnostic, evaluation and referral services in order to identify and meet the needs of the resident;

2. Outpatient mental health and mental retardation services, including but not limited to recommended aftercare/follow-along services;

3. Services and support to meet emergency mental health needs of a resident.

C. A copy of this agreement shall remain on file in the home and shall be available for inspection by the department.

D. Prior to accepting a post-hospitalized person, the home shall obtain a summary of the aftercare/follow-along service recommendations which pertain to the post-hospitalized person.

(NOTE: This information will be provided by the state facility from which the person is being discharged as part of the admissions physical examination required by § 5.7.1 of these standards and regulations. The state facility will complete this physical examination and will report the results on a form provided by the department.)

E. A copy of this summary of the aftercare/follow-along service recommendations shall be filed in the resident's record, as part of the admissions physical examination report, if he is accepted for care.

F. The home shall request and obtain written progress reports on any post-hospitalized resident receiving services from the local community mental health and mental retardation services board, state mental health clinic or a treatment facility or agency in the private sector,

providing release of this information is approved by the resident.

1. These progress reports shall be obtained at least every six months until it is stated in a report that aftercare/follow-along services are no longer needed.

2. This report shall contain at minimum:

a. A statement that continued aftercare/follow-along services are/are not needed;

b. Recommendation, if any, for continued after-care/follow-along services;

c. A statement that the resident's needs can continue to be met in a home for adults;

d. A statement of any recommended services to be provided by the home for adults.

3. Copies of these progress reports shall be filed in the resident's record and shall be available for inspection by the department.

G. Post-hospitalized persons shall not be accepted for care or remain in care when the home for adults is unable or unwilling to assist the resident in obtaining the services recommended in order to meet the resident's needs.

(NOTE: The resident has the option to refuse recommended aftercare/follow-along services.)

Article 2.
Discharge Policies.

§ 3.13. Under nonemergency conditions, the licensee or administrator shall notify the resident and/or his representative of the planned relocation, transfer, or discharge at least 14 calendar days prior to the actual transfer discharge date.

§ 3.14. Under emergency conditions, the licensee, administrator, or staff designee shall transfer or discharge the resident as appropriate for health and safety reasons.

A. The resident and/or his representative shall be informed as rapidly as possible, but within 24 hours of the move, of the reasons therefor.

(See § 4.31 for requirements regarding notification of concerned parties in case of illness and injury.)

B. The written statement required by § 3.16 shall be provided within 14 calendar days of the date of emergency transfer or discharge.

§ 3.15. The licensee or administrator shall transfer or discharge a resident from the facility when:

1. The needs of the resident cannot continue to be met for any one or more of the following reasons:

a. the resident needs nursing or convalescent care;

or

b. Sufficient qualified staff are not available to provide necessary services, such as, meet dietary needs, administer medication or provide necessary care and supervision;

or

c. Approved space is not available for nonambulatory residents;

or

d. The resident is physically or verbally abusive to other residents;

or

e. The resident is habitually disruptive and/or creates unsafe conditions;

or

f. Any [semi-mobile] resident in a home not licensed for nonambulatory residents is unable, at any time or for any reason, to make a three minute exit from any area of the building available to residents, or who at any time impedes others from making a three minute exit in an emergency or drill.

2. The resident requests that other living arrangements be made.

§ 3.16. When a resident is transferred or discharged, the licensee and/or administrator shall provide to the resident or his representative a dated signed statement which contains the following information:

1. The date on which the resident and/or his representative was notified of the planned transfer or discharge and the name of the representative who was notified.

2. The reason(s) for the transfer or discharge.

3. The actions taken by facility staff to assist the resident in making an orderly transfer or discharge.

4. The date of the transfer or discharge from the facility and the resident's destination.

(NOTE: Any transfer lasting less than 10 calendar days shall be considered temporary and § 3.16 shall not apply. Other documentation and notification

requirements (See § 4.31), shall be observed.

(NOTE: Primary responsibility for transporting the resident and his possessions rests with the resident and/or his representative.

§ 3.17. A copy of the written statement required by § 3.16 shall be retained in the resident's record.

§ 3.18. The facility shall adopt a written policy regarding the number of calendar days notice is required when a resident wishes to withdraw from the facility and notice of this policy shall be incorporated into the residents agreement.

§ 3.19. The resident insofar as he is able, and/or his representative shall participate in plans for relocation, transfer, discharge or withdrawal.

§ 3.20. The licensee or administrator shall provide assistance to the resident and/or his representative in planning and in preparing the resident for relocation, transfer, discharge, or withdrawal. Such preparation shall include discussing with the resident and/or his representative why the relocation, transfer or discharge is necessary and where the resident is being moved.

§ 3.21. When the resident is being transferred or discharged to another facility, the procedures regarding records as set forth in these standards shall be followed. (See § 5.5 B and § 5.8)

PART IV.
SERVICES.

Article 1.
Resident Rights.

§ 4.1. Any resident of a home for adults is entitled to the rights and has the responsibilities as provided for in § 63.1-182.1 of the Code of Virginia (Rights and Resposibilities of Residents in Homes for Adults, and as provided for in these standards and regulations.

§ 4.2. The licensee, and/or administrator shall establish and implement written policies and procedures to be followed by the home in implementing the requirements of § 63.1-182.1 of the Code of Virginia.

These policies and procedures shall be available and accessible to residents, relatives, agencies and the general public.

§ 4.3. The resident is assumed to be able to fully understand and exercise the rights and responsibilities as provided for in § 63.1-182.1 of the Code of Virginia, and these standards and regulations unless a physician determines otherwise.

§ 4.4. If a physician determines that a resident is unable to understand and exercise his rights and responsibilities, his reasons for making such a determination shall be documented in the record.

A. The licensee/administrator shall then require that a responsible person, (See Definition § 1.1) of the resident's choice when possible, be made aware of the rights and responsibilities of the resident and involve him in the decisions which affect the resident in matters relating to the provisions of § 63.1-182.1 of the Code of Virginia.

B. The name of this individual shall be documented in the resident's record.

§ 4.5. The resident shall be encouraged and informed of appropriate means as necessary to exercise his rights as a resident and a citizen throughout the period of his stay at the home.

§ 4.6. The resident has the right to voice and/or file grievances with the home and to make recommendations for changes in the policies and services of the home. The resident shall be protected by the licensee and/or administrator from any form of coercion, discrimination, threats, or reprisal for having voiced or filed such grievances.

§ 4.7. The licensee and/or administrator shall establish and implement the procedure(s) the home will follow when a resident files a grievance with the home. The resident shall be notified of this procedure(s) and shall provide dated written acknowledgement of having been so notified.

§ 4.8. The licensee and/or administrator may not establish any rules or policies related to resident conduct and behavior which would abridge the rights of residents, unless such restrictions are clearly in the interest of resident safety and well-being and are reasonable in nature.

§ 4.9. Each home shall make available in an easily accessible place a copy of the rights and responsibilities of residents of homes for adults, as provided for in § 63.1-182.1 of the Code of Virginia.

A. The copy of the resident rights and responsibilities shall contain the following:

1. The name, title, address and telephone number of the licensing supervisor in the regional office of the Virginia Department of Social Services whose office has issued the facility's license,

and

2. The toll-free number of the Virginia Long-Term Care Ombudsman Program and any substate (local) ombudsman program serving the area.

3. The names, titles, addresses and telephone numbers in § 4.9.A.1 and 2, above, shall be posted in a

conspicuous place available to residents and the general public.

B. The home shall utilize one of the following methods in making this copy available to the resident:

1. Post in a conspicuous place in the home a copy of § 63.1-182.1 of the Code of Virginia, "Rights and Responsibilities of Residents of Homes for Adults";

or

2. Provide to each resident and/or his representative a personal copy of § 63.1-182.1 of the Code of Virginia, and post a written notice in a conspicuous place in the home advising how an additional copy may be obtained.

§ 4.10. *Research and experimentation.*

A. Residents have the right to refuse to participate in human subject research or experimentation or to participate in any research in which their identity can be determined (See Definition, § 1.1)

~~§ 4.11.~~ *B.* The licensee and/or administrator may release statistical information about the residents of the home without the resident's permission only when names have been deleted and the information has been organized so that individual identities cannot be determined.

~~§ 4.12.~~ *C.* The licensee and/or administrator shall allow residents to be observed only when the resident and/or his legal guardian have been notified of such observation and its purpose and have given consent.

~~§ 4.13.~~ *D.* The licensee and/or administrator shall verify that any human subject experimentation or research involving residents is conducted in accordance with applicable state and federal laws and complies with recognized professional human subject experimentation standards.

(NOTE: The licensee/administrator has the option of denying research groups access to the facility.)

§ 4.11. No resident, for reason of mobility status, shall be denied access to the use of living areas equivalent to those available to all residents.

§ 4.12. (Vacant)

§ 4.13. (Vacant)

Article 2.
Personal Care and Supervision.

§ 4.14. The resident shall be assisted to maintain his highest level of independence by being consistently encouraged to function at his highest mental, emotional, physical and social potential.

§ 4.15. Utilizing the resident's health and personal information outlined in §§ 5.6 and 5.7, the licensee and/or administrator shall assess the service needs of prospective residents for the purpose of determining whether the home can meet these needs.

(NOTE: Model checklist assessments detailing basic service needs will be supplied by the department upon request.)

§ 4.16. The completed assessment will be filed in the resident's record upon admission.

§ 4.17. The licensee/administrator or designee shall develop individual service plans to meet the resident's service needs as identified.

(NOTE: Service plans are not required for those residents who are assessed as capable of maintaining themselves in an independent living status.)

A. The plans shall be completed within 45 days after admission and shall include the following:

1. Description of identified need,

2. Notation of actions to be taken to meet identified need and person(s) responsible.

B. The master service plan shall be filed in the resident's record; extracts from the plan may be filed in locations specifically indentified for their retention; e.g. dietary plan in kitchen.

§ 4.18. Assessments and service plans shall be reevaluated continuously as the condition of the resident changes. Formal reassessment and/or plan review shall be documented in the resident's record at least annually.

~~(NOTE: Homes for Adults having valid licenses on the effective date of these standards shall have one year from the effective date to comply with §§ 4.15 through 4.20 for residents already in care.~~)

§ 4.19. The resident shall be encouraged to participate in plans for his care.

§ 4.20. Facility staff shall at all times speak to and treat the resident with courtesy, respect and consideration and as a person of worth, sensitivity and dignity.

§ 4.21. The resident shall be accorded respect for ordinary privacy in every aspect of daily living, including but not limited to the following:

1. In the resident's room/bedroom or portion thereof, the resident is permitted to have guest(s) from outside the home or other residents.

2. Each resident shall be permitted to close the door of his room at any time, including during visits with

other persons.

3. Employees of the home may not enter a resident's room/bedroom without making their presence known by such means as knocking on the door and/or otherwise announcing their presence and requesting permission to enter the room, except in an emergency situation and in accordance with safety and oversight requirements as found in the Licensing Standards for Homes for Adults.

4. In a room/bedroom which is occupied by two or more residents, the licensee and/or administrator shall take care to ensure that visiting in such rooms does not unduly interfere with the privacy rights of other occupants of the room.

§ 4.22. The resident shall be allowed privacy for social or business interviews, as well as for visits with persons of his own choice.

§ 4.23. If it is their choice, residents who are married to each other shall be allowed to share a room, space permitting. When space does not permit those residents to share a room, this fact shall be included in the written agreements required by § 5.16 of these standards and regulations.

§ 4.24. Protection from abuse, neglect and exploitation.

A. The resident shall be protected from any form of mental, emotional, physical, sexual and economic abuse or exploitation.

B. The resident shall not be confined in a room with a door secured in such a manner that he cannot open it.

C. The resident shall be protected from any acts of a threatening, degrading and/or demeaning nature.

D. The known needs of the resident shall not be neglected or ignored by the personnel of the home.

§ 4.25. Special supervision and assistance shall be given to those residents who are unable to keep themselves neat and clean. Assistance with personal hygiene shall include care of the body, mouth, teeth/dentures, fingernails, toenails, hair, beard and moustache. Provision shall be made for baths to be taken at least weekly and more often, if needed or desired.

§ 4.26. Residents shall be assisted with the tasks of daily living which they have difficulty performing and shall be accorded ordinary privacy when given assistance in caring for their intimate personal needs.

§ 4.27. Resident's clothing shall be kept clean and in good repair.

Article 3.
Health Care.

§ 4.28. The following standards apply when the resident is in need of health care services (such as mental health counseling, or care of teeth, feet, eyes, ears, etc.).

A. The resident shall be assisted in making appropriate arrangements for the needed care. When mental health care is needed and/or desired by the resident, this assistance shall include securing the services of the local community mental health and mental retardation services board, state mental health clinic or similar facility or agent in the private sector.

B. When the resident is unable to participate in making appropriate arrangements, the resident's family, legal guardian, the cooperating social agency or personal physician shall be notified of the need.

§ 4.29. No medication or diet which has been prescribed by a physician shall be started, changed or discontinued by the facility without an order by the physician. The resident's record shall contain such written order or a notation of the physician's verbal order.

§ 4.30. When the resident suffers serious accident, illness, or medical condition, medical attention shall be secured immediately.

§ 4.31. The next of kin, or other designated person, and any responsible social agency shall be notified within 24 hours of any serious illness, or accident, or medical condition. A notation shall be made in the resident's record of such notice. In addition, this notation must contain a description of the efforts made by the home to involve the resident in making plans for a medical evaluation and treatment.

§ 4.32. If a resident becomes disturbed and unmanageable, the attending physician, next of kin, and/or the responsible party shall be notified promptly.

§ 4.33. Physical or mechanical restraint.

The resident shall be free of any physical or mechanical restraint except in an emergency situation as defined in these standards and regulations or as medically necessary and authorized for the purpose of providing support to a physically weakened resident.

(NOTE: Physical or mechanical restraints shall not be used as a method of behavior management except in an emergency. (See Definition § 1.1)

A. Physical support restraint.

When any type of mechanical restraint is used for support of a physically weakened resident, a physician's written order is required and the following standards must apply:

1. A copy of the physician's written order shall be placed in the resident's records;

2. Additional supervision shall be provided to meet the physical and emotional needs of the resident who is restrained;

3. Each resident restrained for the purpose of providing physical support shall be provided the opportunity for care and exercise whenever necessary and at least once every two hour period the restraint is used. Facility staff shall assist any resident who needs assistance with exercising limbs and changing positions and monitor blood circulation. The care and exercise period shall last for a period of not less than three minutes and shall be noted in the resident's record;

4. Complete medical records shall be kept to include physician's progress reports obtained at intervals of not more than 90 days; (See § 5.14)

5. The physician's progress reports shall be based on the resident being seen and examined by a licensed physician, physician's assistant or nurse practitioner at intervals of not more than 90 days.

a. These reports shall provide the information required by § 5.14 of these standards and regulations.

b. If the examination is performed by a physician's assistant or nurse practitioner, the results shall be reviewed by a licensed physician who shall evaluate and sign the required statement.

B. Emergency restraint.

The following standards apply each time any type of physical or mechanical restraint is used to control a resident's behavior in an emergency situation (See Definitions of "Emergency" § 1.1).

1. The physician shall be notified immediately.

2. If the physician orders, as part of a treatment program, continued use of restraints for a temporary period, oral orders shall be confirmed in writing.

3. A copy of the written order shall be placed in the resident's record.

4. The resident who is in emergency restraint shall be within sight and sound of staff at all times.

5. Additional supervision shall be provided to meet the physical and emotional needs of the resident who is restrained to include monitoring the resident as needed but at least every 30 minutes to determine the condition of the resident, the proper application of the restraint, and whether there is continuing need for the restraint.

6. The legal guardian, next of kin and/or any responsible social agency shall be notified immediately of the use of such restraints and the response to treatment.

7. Documentation of requirements regarding use of emergency restraints.

a. A notation shall be made in the resident's record showing the date(s) and the reason restraints were used, the time restraints were initially applied who was notified and when and how the notice was given.

b. A notation shall be made in the resident's record of the time and date of each monitoring check (§ 4.32.B.5).

8. If a resident does not respond within two hours to the treatment prescribed by the attending physician and continues to need emergency restraint the resident shall be transferred to a medical facility or monitored in the facility by a mental health crisis team unitl his condition has stabilized to the point that the attending physician documents that restraints are not necessary.

9. If the resident does not respond promptly to the treatment prescribed by the attending physician, and emergency restraint is prescribed for more than two hours a day, for seven days in a row, the resident shall be removed from the home.

§ 4.34. An employee who has received the training required in § 2.11.E shall be on duty in the facility whenever a resident is physically or mechanically restrained.

~~(NOTE: Homes for Adults having valid licenses on the effective date of these standards shall have one year from the effective date to comply with § 4.34 for residents already in care.~~

§ 4.35. Full bedside rails, for any resident, shall be used only on the written order of the attending physician.

§ 4.36. Should a medical condition arise while the resident is in the home, the resident has the right to refuse recommended medical treatment. The licensee/administrator must then evaluate and document whether he can continue to meet the needs of the resident.

(NOTE: This standard shall not be constured to permit the resident to refuse life saving measures in a life threatening situation.

§ 4.37. The resident has the right to select health care providers who are reasonably available in the community and whose services can be purchased by the resident.

§ 4.38. Residents shall be afforded ordinary privacy when

they receive medical examination or health related consultation at the home.

Article 4.
Medication.

§ 4.39. No prescription drugs shall be kept in the facility unless they have been legally dispensed and labeled by a licensed pharmacist or unless they are stocked in bulk in a licensed pharmacy located on the premises.

§ 4.40. A medicine cabinet, container or compartment shall be ~~provided~~ *used* for *storage of* medications presecribed for residents.

A. It shall be locked.

B. When in use, it shall be illuminated by 100 footcandles of light as measured by a light meter in order to read container labels, but shall remain darkened when closed.

C. It shall not be located in the kitchen, but in an area free of dampness or abnormal temperatures.

§ 4.41. A resident may be permitted to keep his own medication in a secure place in his room, if the physician's report has indicated that the resident is capable of self-administering medication. This does not prohibit the facility from storing and ~~distributing or~~ [*distributing or*] administering all medication provided the provisions of §§ 4.42 and 4.43 are met.

~~§ 4.42. Distribution of medication.~~

~~Drugs from a locked medicine cabinet shall be distributed to the residents for whom they are prescribed by a responsible person who is capable of reading the prescription labels. It is not necessary for a physician to designate who may distribute medication.~~

[*§ 4.42. Distribution of medication.*

Drugs from a locked medicine cabinet shall be distributed to the residents for whom they are prescribed by a responsible person who is capable of reading the prescription labels. It is not necessary for a physician to designate who may distribute medication.]

§ ~~4.43.~~ [~~§4.42.~~ *§ 4.43.*] Administration of medication.

A. Drugs shall be administered to those residents whose physicians have stated in writing that they are incapable of self-administration of medications, provided the applicable portions of subsections B, C, and D, below are met.

B. Only those persons authorized by state law to administer drugs shall be permitted to do so. This may include licensed doctors, registered nurses, licensed practical nurses, physician's assistants, or other individuals who have met the state requirements to perform these functions.

C. An agent authorized in writing by the physician may administer drugs in accordance with such physician's instructions pertaining to dosage, frequency and manner of administration when the drugs administered would be normally self-administered by a resident, as provided by § 54-524.65 of the Code of Virginia.

D. If a staff member is the authorized agent of a physician, such written authorizations shall be retained by the licensee.

[~~*E. Medications stored centrally shall be either in locked storage or under immediate staff control at all times.*~~

~~*§ 4.43. Record of administration of medication.*~~

~~*A written record shall be kept of all medication administered to residents by facility staff or volunteers. This record shall be retained for one year and shall include:*~~

~~*1. Name of resident;*~~

~~*2. Medication name, prescription number, and dosage;*~~

~~*3. Date and time administered;*~~

~~*4. Name or identifying initials or person administering; and*~~

~~*5. Any unusual reaction or side effect that occurs.*~~]

Article 5.
Food Service.

§ 4.44. Catering or contract food service.

A. Catering service or contract food service, if used, shall be approved by the state and/or local health department.

B. Persons who are employed by a food service contractor or catering service and who are working on the premises of the home for adults shall meet the health requirements for the home for adults' employees as specified in these standards and regulations and the specific health requirements for food handlers in that locality.

C. Catered food or food prepared and provided on the premises by a contractor shall meet the dietary requirements set forth in these standards.

§ 4.45. Observance of religious dietary practices.

A. The residents' religious dietary practices shall be respected.

B. Religious dietary laws (or practices) of the administrator or licensee shall not be imposed upon residents unless mutually agreed upon in the admission agreement between administrator or licensee and resident.

§ 4.46. Time interval between meals.

A. Time between the evening meal and breakfast the following morning shall not exceed 15 hours.

B. There shall be at least four hours between breakfast and lunch and at least four hours between lunch and supper.

§ 4.47. A minimum of three meals shall be provided each day.

§ 4.48. Bedtime snacks shall be made available and shall be listed on the daily menu. Vending machines shall not be used as the only source for bedtime snacks.

§ 4.49. Menus for meals and snacks.

A. Food preferences of residents shall be considered when menus are planned.

B. Menus for meals and snacks shall be planned for at least two weeks in advance. At all times the menu for the following week shall be available.

C. Menus for the current week shall be dated and posted.

D. Any menu substitutions or additions shall be recorded.

E. A record shall be kept of the menus served for three months. They shall be subject to inspection by the department.

F. Minimum daily menu:

1. Unless otherwise ordered in writing by the attending physician, the daily menu, including snacks, for each resident shall provide, at least, the following:

Five-six ozs. of protein food (meat, poultry, fish, eggs, cheese, dry beans, etc.);

Two cups of milk or milk substitute (such as cheese, buttermilk, pudding, yogurt, etc.);

Four servings (1/2 to 3/4 cup each) of fruits or vegetables; (one serving each day shall be a vitamin C source and a dark green or yellow vegetable shall be served at least three times each week).

Four or more servings of whole grain or enriched breads (one slice per serving), and/or cereals (1/2 to 3/4 cups per serving).

2. Other foods may be added.

3. Extra servings shall be provided, if requested.

4. At least one meal each day shall include a hot main dish.

§ 4.50. When a diet is prescribed for a resident by the attending physician, it shall be prepared and served according to the physician's orders.

§ 4.51. There shall be at least a seven day supply of staple foods on hand to meet individual daily dietary requirements of residents in case of emergencies.

§ 4.52. All meals shall be served in the dining area as designated by the facility. Under special circumstances, such as illness or incapacity, meals may be served in a resident's room, provided a sturdy table is used.

§ 4.53. Personnel shall be available to help any resident who may need assistance in reaching the dining room or when eating.

§ 4.54. Table coverings and napkins shall be clean at all times.

Article 6.
Resident Activities. ~~(See Appendix B)~~

§ 4.55. There shall be at least one scheduled activity available to the residents for no less than one hour each day. This activity shall be of a social, recreational, religious, or diversional nature. Community resourses may be used to provide this activity.

§ 4.56. Activities shall be planned for at least one week in advance.

§ 4.57. These activities shall be varied and shall be planned in consideration of the abilities, physical conditions, needs and interests of the residents.

§ 4.58. The week's schedule of activities shall be written and posted in advance in a conspicuous place. Residents shall be informed of the activities program.

§ 4.59. A record shall be kept of the activity schedules for the past three months. They shall be available for inspection by the department.

§ 4.60. Resident participation in activities.

A. Residents shall be encouraged but not forced to participate in the program of activities.

B. At his discretion, the resident shall be permitted to meet with and participate in activities provided by social, religious and community groups, unless restrictions are imposed by the resident's physician.

C. Any restrictions imposed by a physician shall be documented in the resident's record and such restrictions shall be based solely on reasons of medical necessity.

Article 7.
Visitation.

§ 4.61. Visiting in the home.

A. Daily visits to residents in the home shall be permitted.

B. If visiting hours are restricted, daily visiting hours shall be posted in a place conspicuous to the public.

§ 4.62 Visiting outside the home.

Residents shall not be prohibited from making reasonable visits away from the home except when there is a written order of the legal guardian to the contrary.

Article 8.
Mail.

§ 4.63. Incoming and outgoing mail shall not be censored.

§ 4.64. Incoming mail shall be delivered promptly.

§ 4.65. Mail shall not be opened by staff except upon request of the resident or written request of the legal guardian.

Article 9.
Transportation.

§ 4.66. The resident shall be assisted in making arrangements for transportation.

PART V.
RECORDS.

Article 1.
General Requirements.

§ 5.1. Any forms used for record keeping shall contain at a minimum the information specified in these standards and regulations. Model forms, which may be copied, will be supplied by the department upon request.

§ 5.2. If any form such as medical, information, etc., developed by the department is not used, the substitute form shall be approved by the department.

§ 5.3. Records shall be kept in a locked area.

§ 5.4. The licensee shall have the responsibility for assuring that all records are treated confidentially and that information shall be made available only when needed for care of the resident.

(EXCEPTION: All records shall be made available for inspection by the department's representative.)

Article 2.
Resident Records.

§ 5.5. When a resident is admitted to the home, a permanent individual record shall be established.

A. The record shall be kept current.

B. The complete record shall be retained until two years after the resident leaves the home.

§ 5.6. Personal and social data to be maintained in the record:

1. Name;

2. Address;

a. Address from which resident was received;

b. Last home address, if different and known;

3. Date of admission;

4. Social Security number;

5. Birthdate (If unknown, estimated age);

6. Birthplace, if known;

7. Marital status, if known;

8. Name, address and telephone number of legal guardian, committee, personal representative, or other person responsible;

9. Name, address and telephone number of next of kin, if known (two preferred);

10. Name, address and telephone number of personal physician, if known;

11. Name, address and telephone number of clerygman and place of worship, if applicable;

12. Name, address and telephone number of local welfare department and/or any other agency, if applicable (the name of caseworker, if known);

13. Previous occupation, if available;

14. Special interests and hobbies, if known;

15. Date of discharge from the home for adults and destination. In the event discharge was made under emergency conditions the name of the responsible party who was notified and the date of the notification.

§ 5.7. Health information to be maintained:

1. Prior to admission, the report of a physician examination, including screening for tuberculosis, shall be submitted to the home as required in § 3.3.

2. Form and content of the physical examination report by § 3.3.

a. The report shall contain the following information:

(1) The date of the physical examination;

(2) Any diagnoses or significant problems; and

(3) Any recommendations for care including medication, diet and therapy.

b. Each report shall include separate statements that:

(1) The individual is free of tuberculosis in a communicable form, including the type(s) of ~~tuberculin test~~ *tests* used and the results;

(2) The individual does not need nursing or convalescent care (i.e., intermediate or skilled nursing care routinely provided in a facility subject to licensure by the State Department of Health);

(3) The individual is not bedfast;

(4) The person's needs can be met in a home for adults which is not a medical facility;

(5) ~~The individual is or is not considered to be physically and mentally capable of making an exit from the building in an emergency, including the ascent or descent of stairs, without assistance of another person or without being dependent on use of any device such as, but not limited to, a wheelchair, walker or leg prosthesis;~~ *The individual is considered to be independently mobile, potentially semi-mobile, or nonambulatory. (See Definitions, § 1.1)*

(6) The individual is or is not capable of administering his own medicine.

(7) If the facility is licensed only for ambulatory residents the preadmission medical examination form shall contain a statement that:

a. The prospective resident does not have a medical condition which would preclude making an attempt to make a three minute exit.

b. Clarifies whether the prospective resident is independently mobile or semi-mobile as defined in these regulations.

c. Each report shall be signed by the licensed physician, the physician's designee, or an official of a local department of health.

d. When the individual is a post-hospitalized person, the report of physical examination shall include a summary of the individual's aftercare/follow-along service needs. (See § 3.12D and E)

3. Subsequent evaluation for tuberculosis.

~~a. A resident who has a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain chest x-rays on an annual basis for two years.~~

~~(1) The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.~~

~~(2) The statements shall be signed by a licensed physician, the physician's designee, or an official of a health department.~~

~~(3) The statements shall be filed in the individual's record.~~

~~(4) Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.~~

~~b. Additional screening is not required for an individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test.~~

~~c.~~ Any ~~individual~~ *resident* who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms, within 30 days of exposure/development, shall receive an evaluation in accord with § 5.7.2.b.(1) ~~and 5.7.3.a~~ .

§ 5.8. When a resident moves to another care-giving facility, the administrator shall provide to the receiving facility such information related to the resident as is necessary to ensure continuity of care and services to the resident. Original information pertaining to the resident shall be maintained by the home from which the resident was transferred/discharged. The home shall maintain a listing of all information shared with the receiving facility.

§ 5.9. Consent for release of information.

A. The resident or his legal guardian has the right to release information from the resident's record to person(s) or agencies outside the facility.

B. The licensee is responsible for making available to residents a form which residents may use to grant their written permission to release information to a person or

agency outside the facility.

(NOTE: A model form, which may be copied, may be obtained from the department.)

§ 5.10. Only under the following circumstances is a facility permitted to release information from the resident's records and/or information regarding the resident's personal affairs without the written permission of the resident or his legal guardian:

1. When records have been properly subpoenaed;

2. When the resident is in need of emergency medical care and is unable or unwilling to grant permission to release information and/or his legal guardian is not available to grant permission;

3. As provided in ~~Standard~~ § 5.8 *of these regulations* .

4. To representatives of the department.

5. As otherwise required by law.

§ 5.11. The department, at any time, may request a report of a current psychiatric or physical examination, giving the diagnosed and/or evaluation, for the purpose of determining whether the resident's need may continue to be met in a home for adults. When requested, this report shall be provided and shall be in the form specified by the department.

§ 5.12. Copies of the written progress reports regarding post-hospitalized residents, required by § 3.12 F of these standards and regulations, shall be retained in the resident's records.

§ 5.13. Any physician's notes and progress reports in the possession of the home shall be retained in the resident's record.

§ 5.14. A statement signed by a physician shall be in the record of the resident who is remaining in the home after becoming bedfast or who is physically restrained for nonemergency situations as described in § 4.32 A. This statement shall be obtained as intervals of not more than 90 days and shall state that:

1. The resident is not in need of nursing or convalescent care; (The basis for this decision shall be recorded in terms of the diagnosis and prognosis.)

2. The resident's needs can be met in the facility; and

3. Continuing restraint in an emergency, is not necessary.

§ 5.15. A notation of the notification of any serious illness, accident or use of restraint shall be made in the record within 24 hours. (See §§ 4.31 and 4.32.A.8.a concerning notification of next of kin.)

Article 3.
Agreements.

§ 5.16. Copies of all agreements between the home and the resident or official acknowledgement of required notifications, signed by all parties involved, shall be retained in the resident's record. Copies shall be provided the resident and any responsible party.

§ 5.17. At the time of admission, these agreements/acknowledgements of notification shall include the following:

1. Financial arrangement for care.

The resident financial agreement shall specify the following understanding and agreements regarding financial arrangements for care and services:

a. The amount to be paid, including charges for specific services, the frequency of payment, and any rules relating to nonpayment;

b. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

c. If the ownership of any personal property, real estate, money or financial investments is to be transferred to the home at the time of admission or at some future date, it shall be stipulated in the agreement.

2. Description of general services available to all residents.

3. Listing of specific charges for services to be made to the individual resident signing the agreement.

3. Requirements or rules to be imposed regarding resident conduct and signed acknowledgement that they have been reviewed by the resident/responsible party.

5. Acknowledgement that the resident has reviewed a copy of § 63.1-182.1 of the Code of Virginia, Rights and Responsibilities of Residents in Homes for Adults, and that the provisions of this statute have been explained to him.

6. Acknowledgement that the resident and/or his representative have reviewed and had explained to him the home's policies and procedures for implementing § 63.1-182.1 of the Code of Virginia, including the grievance policy (§ 4.7) and relocation policy.

§ 5.18. Section 63.1-182.1 of the Code of Virginia, Rights and Responsibilities of Residents in Homes for Adults shall be reviewed with all resident annually. Written acknowledgement of such review shall be placed in each

resident's record.

§ 5.19. A new agreement shall be signed or the original agreement shall be updated and signed by the resident, the guardian, committee or personal representative and by the licensee or administrator when there are changes in financial arrangements, services or requirements governing the residents conduct. If the original agreement provides for specific changes in financial arrangements, services or requirements, this standard does not apply.

§ 5.20. The resident shall have the right to manage all of his financial affairs and funds, unless a committee or guardian has been appointed for the resident.

§ 5.21. Delegation of financial management responsiblity.

If the resident delegates the management of personal financial affairs to the home, the following Standards apply:

1. Such delegation shall be in writing, with all properties listed in detail. This shall include all monies, stocks, bonds, securities, personal property, real estate, and any other anticipated income. A copy of the delegation shall be placed in the resident's record and a copy shall be given to the resident or responsible party.

2. A quarterly accounting shall be made to the resident, with a copy being retained in the record.

3. Upon termination of care, an accounting of such funds and assets shall be made to the resident or responsible party.

§ 5.22. Resident accounts.

A. A statement or itemized receipt of the resident's account shall be provided to the resident monthly and a copy placed in his record.

EXCEPTION: See § 5.21 for situations where responsiblity for management of the resident's financial affairs has been delegated to the home, which requires a quarterly accounting only.

B. The monthly statement or itemized receipt shall itemize any charges made and any payments received during the previous 30 days or during the previous calendar month and shall show the balance due or any credits for overpayments on the resident's account.

§ 5.23. Safeguarding resident funds.

If any personal funds are held by the home for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained.

A. Such funds and such accounting shall be made available to the resident and/or the responsible party upon request.

B. Such funds shall be returned to the resident or the responsible party upon termination of care.

§ 5.24. There shall be a written agreement between the home and any resident who performs staff duties (See § 2.12).

A. The agreement shall not be a condition for admission or continued residence.

B. The resident shall enter into such an agreement voluntarily.

C. The agreement shall specify duties, hours of work, and compensation.

Article 4.
Employee Records.

§ 5.25. A record shall be established for each staff member. It shall not be destroyed until two years after employment is terminated.

§ 5.26. Personal and social data to be recorded:

1. Name;

2. Birthdate;

3. Current address and telephone number;

4. Position and date employed;

5. Last previous employment;

6. For persons employed after November 9, 1975, copies of at least two references or notations of verbal references reflecting the the date of the reference, the source and the content;

7. Previous experience and/or training;

8. Social Security number;

9. Name and telephone number of person to contact in an emergency;

10. Notations of formal training received following employment;

11. Date and reason for termination of employment.

§ 5.27. Health information *required by these standards* shall be maintained *at the facility* for the license and/or administrator, each staff member, and each household member who comes in contact with residents or handles food.

~~1.~~ *A.* Initial tuberculosis examination and report:

~~a.~~ *1.* Within 30 days ~~prior~~ *before* or *30 days* after employment or contact with ~~program participants~~ *residents* , each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.

(EXCEPTION: When a staff person terminates work at one licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the second facility.)

~~b.~~ *2.* Each individual shall submit a statement that he is free of tuberculosis in a communicable form ; ~~including the type(s) of test(s) used and the result(s)~~ . *This statement shall be maintained at the facility and shall include the following:*

a. The type(s) of test(s) used and the test result(s);

b. The date of the statement; and

c. ~~The statement shall be signed by a~~ *The signature of the* licensed physician, the physician's designee, or an official of a local health department.

~~d. The statement shall be filed in the individual's record.~~

~~2.~~ *B.* Subsequent evaluations.

~~a. An individual who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain a chest x-ray on an annual basis for the following two years.~~

~~(1) The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.~~

~~(2) The statements shall be signed by a licensed physician, the physician's designee, or an official of a local health department.~~

~~(3) The statements shall be filed in the individual's record.~~

~~(4) Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.~~

~~b. Additional screening is not required for an individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test.~~

~~c.~~ Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory/symptoms shall, within 30 days of exposure/development, receive an evaluation in accord with § 5.27. ~~1.~~ *A*

§ 5.28. At the request of the administrator of the facility or the Department of Social Services, a report of examination by a licensed physician shall be obtained when there are indications that the safety of residents in care may be jeopardized by the physical or mental health of a specified individual.

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

(a) Shall be removed immediately from contact with residents and food served to residents; and

(b) Shall not be allowed contact with resident or food served to residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

PART VI.
BUILDING AND GROUNDS.

Article 1.
Buildings.

§ 6.1. Buildings subject to state and/or local building code shall meet these codes. A Certificate of Occupancy shall be obtained as evidence of compliance with the applicable code(s).

§ 6.2. Before construction begins or contracts are awarded for any new construction, remodeling, or alterations, plans shall be submitted to the department, to the local building official, to the local health department and/or to the Office of the State Fire Marshal, and/or local fire department where applicable, for review and recommendations.

§ 6.3. No mobile home shall be used as a home for adults or as a part of a home for adults.

§ 6.4. Buildings shall present no safety hazards.

§ 6.5. All rooms shall be well ventilated.

§ 6.6. Doors.

A. All doors shall open and close readily and effectively.

B. Any doorway that is used for ventilation shall be effectively screened.

C. Screen doors shall open outward.

§ 6.7. Any window that is used for ventilation shall be

effectively screened and shall open and close readily.

§ 6.8. Rooms extending below ground level shall not be used for residents unless they are dry and well ventilated. Bedrooms below ground level shall have required window space and ceiling height.

§ 6.9. Heat.

A. Heat shall be supplied from a central heating plant or by an approved electrical heating system.

B. Provided their installation or operation has been approved by the state or local fire authorities, space heaters, such as but not limited to, wood burning stoves, coal burning stoves, and oil heaters, and/or portable heating units either vented or unvented, may be used only to provide or supplement heat in the event of a power failure or similar emergency.

C. When outside temperatures are below 65°F a temperature of at least 72°F shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours, when residents are asleep, a temperature of at least 68°F shall be maintained. This standard applies unless otherwise mandated by federal or state authorities.

§ 6.10. There shall be hot and cold running water from an approved source.

§ 6.11. Cooling devices (fan or air conditioners).

A. Cooling devices shall be made available in those areas of buildings used by residents when inside temperatures exceed 85°F.

B. Any electric fans shall be screened and placed for the protection of the residents.

C. Cooling devices shall be placed to minimize drafts.

§ 6.12. Lighting.

A. Artificial lighting shall be by electricity.

B. All areas shall be well lighted for safety.

C. Night lights shall be provided in halls.

D. The following footcandles of light as registered on a light meter shall be provided for general illuminations in the areas specified:

1. Sitting area 30;
2. Bathrooms 30;
3. Dining area 30;
4. Stairways 30;
5. Resident's rooms 30;
6. Halls 20;
7. Reading areas 30.

E. Areas used for crafts or handwork shall be illuminated by 100 footcandles of light as measured by a light meter.

F. Emergency lighting.

1. Flashlights or battery lanterns shall be available at all times, with one light for each employee directly responsible for resident care who is on duty between 6 p.m. and 6 a.m.

2. There shall be one operable flashlight or battery lantern available for each bedroom used by residents and for the living and dining area unless there is a provision for emergency lighting in the adjoining hallways.

3. In homes not subject to the Uniform Statewide Building Code, but where there are 25 or more residents housed under one roof, there shall be provisions for emergency lighting or corridors and stairways leading to required exits by an independent standby system consistent with the Uniform Statewide Building Code.

4. Open flame lighting is prohibited.

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

§ 6.13. Each room shall have walls, ceiling, and floors or carpeting that may be cleaned satisfactorily.

§ 6.14. All inside and outside steps, stairways and ramps shall have nonslip surfaces.

§ 6.15. Handrails shall be provided on all stairways, ramps, elevators, and at changes of floor level.

§ 6.16. Safeguards that are acceptable under existing fire and building codes shall be provided in hazardous areas that may include, but shall not be limited to, windows, doors, porches and changes in floor level.

§ 6.17. Elevators, where used, shall be kept in good running condition and shall be inspected at least annually. The signed and dated certificate of inspection issued by the local housing authority, by the insurance company, or by the elevator company shall be evidence of such inspection.

§ 6.18. *Housing for nonambulatory and semi-mobile residents.*

A. In homes where nonambulatory residents are housed:

1. Ramp(s) shall be provided at ground level;

2. Doorways shall permit passage of wheelchairs, if used.

B. In homes not licensed for nonambulatory residents but where semi-mobile residents are housed:

1. Two first floor exits shall be at ground level or ramped.

2. Doorways in areas commonly used by semi-mobile residents shall permit passage of wheelchairs or walkers, if used.

§ 6.19. There shall be enclosed walkways between residents' rooms and dining and sitting areas which are adequately lighted, heated, and ventilated. This requirement shall not apply to existing buildings of homes that had licenses in effect on January 1, 1980, unless such buildings are remodeled after that date or there is a change of sponsorship of the licensed home.

§ 6.20. Sitting room - dining room - recreation area.

Space other than sleeping areas must be provided that the residents may use for sitting, for visiting with each other and/or with guests, for social and recreational activities, and for dining. These rooms may be used interchangeably.

§ 6.21. Sleeping areas.

Resident sleeping quarters shall provide:

1. For not less than 450 cubic feet of air space per resident;

2. For not less than 80 square feet of floor area in bedrooms accommodating one resident;

3. For not less than 60 square feet of floor area per person in rooms accommodating two or more residents;

4. For ceilings at least 7 1/2 feet in height;

5. Window area:

a. There shall be at least eight square feet of window area in a room housing one person;

b. There shall be at least six square feet of window area per person in rooms occupied by two or more persons.

6. For occupancy by no more than four residents in a room:

(EXCEPTION: A home that had a valid license on January 1, 1980, permitting care of more than four residents in specific room(s), will be deemed to be in compliance with this standard; however, the home may not exceed the maximum number of four residents in any other room in the facility. This exception will not be applicable if the home is remodeled or if there is a change of sponsorship.)

7. For at least three feet of space between sides and ends of beds that are placed in the same room;

8. That no bedroom shall be used as a corridor to any other room;

9. That all beds shall be placed only in bedrooms;

10. That household members and staff shall not share bedrooms with residents.

§ 6.22. Toilet, handwashing and bathing facilities.

A. In determining the number of toilets, washbasins, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or live-in staff, they shall be counted in determining the required number of fixtures. In a home with a valid license on January 1, 1980, only residents shall be counted in making the determination unless such home is subsequently remodeled or there is a change of sponsorship.

1. On each floor where there are residents' bedrooms, there shall be at least:

a. One toilet for seven persons;

b. One washbasin for each seven persons;

c. One bathtub or shower for each 10 persons;

d Toilets, washbasins and bathtubs or showers in separate rooms for men and women where more than seven persons live on a floor.

2. On floors used by residents where there are no residents' bedrooms there shall be:

a. At least one toilet;

b. At least one washbasin;

c. Toilets and washbasins in separate rooms for men and women in homes where there are 10 or more residents.

B. Bathrooms shall provide for visual privacy for such activities as bathing, toileting, and dressing.

C. There shall be ventilation to the outside in order to eliminate foul odors.

D. There shall be ample supply of hot and cold water. (Precautionary measures shall be taken to prevent scalding in basins, tubs and showers.)

E. The following sturdy safeguards shall be provided:

1. Handrails by bathtubs;

2. Grab bars by toilets;

3. Handrails and stools by stall showers.

(EXCEPTION: The use of handrails, grab bars and stools shall be optional in facilities used for independent living.)

Article 2.
Grounds.

§ 6.23. Grounds shall be free of hazards.

§ 6.24. Grounds shall be readily accessible in all seasons from the home and from the roadway.

§ 6.25. Grounds shall be properly maintained, to include freedom from trash and litter, mowing of grass, removal of snow and ice, etc.

PART VII.
FURNISHINGS, EQUIPMENT AND SUPPLIES.

Article 1.
Telephone.

§ 7.1. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency.

§ 7.2. The resident shall have reasonable access to a telephone on the premises.

§ 7.3. Privacy shall be provided for residents to use a telephone.

Article 2.
Signaling Devices.

§ 7.4. All homes for adults shall have a signaling device that is audible or visible at the staff station and is easily accessible to the resident in his bedroom or in a connecting bathroom.

§ 7.5. In homes licensed to care for 20 or more residents under one roof:

A. The signaling device shall be one which terminates at the staff station and permits staff to determine the origin of the signal.

or

B. If the device does not terminate at the staff station so as to permit staff to determine the origin of the signal, staff shall make rounds at intervals of at least once an hour as specified in § 2.9.E.1.

Article 3.
First Aid and Emergency Supplies.

§ 7.6. First aid emergency supplies shall be on hand. These supplies shall include but shall not be limited to scissors, tweezers, gauze and adhesive tape. These supplies shall be located in a designated place within the home.

§ 7.7. In those homes where ambulance service is not available within 15 minutes there shall be a complete first aid kit, containing those items specified in the Standard First Aid and Personal Safety Manual that is available from all chapters of the American Red Cross. (See § 2.9 F)

Article 4.
Living and Sleeping Areas.

§ 7.8. Sitting rooms and/or recreation areas shall be equipped with:

1. Comfortable chairs (e.g. overstuffed, straight-backed, and rockers);

2. Tables;

3. Lamps;

4. Television (if not available in other areas of the facility);

5. Radio (if not available in other areas of the facility);

6. Current newpaper and magazines;

7. Books;

8. Games;

9. Materials appropriate for the implementation of the planned activity program.

§ 7.9. Dining areas shall have a sufficient number of sturdy dining tables and chairs to serve all residents, either all at one time or in shifts.

§ 7.10. Bedrooms shall contain the following items:

1. A separate bed with comfortable mattress, springs and pillow for each resident;

(EXCEPTION: Provisions for a double bed for a married couple shall be optional.)

2. A table or its equivalent accessible to each bed;

3. An operable bed lamp or bedside light accessible to each resident;

4. A chair for each resident;

5. Drawer space for clothing and other personal items. If more than one resident occupies a room, ample drawer space shall be assigned to each individual;

6. At least one mirror.

§ 7.11. Adequate and accessible closet or wardrobe space shall be provided for each resident.

§ 7.12. Prior to or at the time of admission, the resident and/or his representative shall be informed of the home's policy regarding bringing resident possessions into the home.

§ 7.13. The resident shall be encouraged to furnish or decorate his room as space and safety considerations permit and in accordance with these standards and regulations.

§ 7.14. The home shall have sufficient bed and bath linens in good repair so that residents always have clean

1. Sheets;

2. Pillowcases;

3. Blankets;

4. Bedspreads;

5. Towels;

6. Washcloths;

7. Waterproof mattress covers when needed.

§ 7.15. The home shall have an adequate supply of toilet tissue and soap. Toilet tissue shall be accessible to each commode.

§ 7.16. At least one moveable thermometer shall be available in each building for measuring temperatures in individuals rooms that do not have a fixed thermostat which shows the temperature in the room.

§ 7.17. Where there is an outdoor area accessible to residents, such as a porch or lawn, it shall be equipped with furniture in season.

§ 7.18. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

§ 7.19. When any portion of a home for adults is subject to inspection by the State Health Department, the home shall be in compliance with those regulations. as evidenced by a report from the State Health Department.

PART VIII.
HOUSEKEEPING AND MAINTENANCE.

§ 8.1. The interior and exterior of all buildings shall be maintained in good repair.

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

§ 8.3. All buildings shall be well ventilated and free from foul, stale and musty odors.

§ 8.4. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.

A. Covered, vermin-proof, watertight containers shall be used.

B. Containers shall be emptied and cleaned at least once a week.

§ 8.5. Buildings shall be kept free of flies, roaches, rats and other vermin. The grounds shall be kept free of their breeding places.

§ 8.6. All sewage shall be disposed of in a public sewer system or in an approved sewage disposal system which meets state and/or local health requirements.

§ 8.7. All furnishings and equipment, including plumbing fixtures, shall be kept clean and in good repair.

§ 8.8. Bed and bath linens shall be changed at least every seven days and more often if needed.

§ 8.9. Laundering.

A. Table and kitchen linens shall be laundered seperately from other washable goods.

B. A sanitizing agent shall be used when bed, bath, table and kitchen linens are washed.

PART IX.
FIRE AND EMERGENCY PROTECTION.

§ 9.1. Virginia Public Building Safety Code and Uniform Statewide Building Code.

A. When any building of a home for adults is subject to inspection by the Office of the State Fire Marshal, it shall meet the requirements of the Virginia Public Building Safety Code.

B. When any building of a home for adults is subject to inspection by building officials, it shall meet the requirements of the Uniform Statewide Building Code.

§ 9.2. A home for adults shall comply with any local fire ordinance.

§ 9.3. A home for adults shall be free from fire hazards and shall provide adequate protection as determined by at least an annual inspection by the local fire department, a

volunteer fire department, or a fire authority recognized by the department. The report of the inspection shall be made on a form provided by the department.

§ 9.4. Emergency plans.

A. A detailed emergency plan shall be prepared for each home for adults. The plan shall consist of the following:

1. Written procedures to be followed in the event of a fire or similar emergency. The local fire department or fire prevention bureau shall be consulted in preparing such a plan, if possible;

2. A drawing of each floor of each building, showing alternative exits for use in an emergency, location of telephones, fire alarm boxes and fire extinguishers, if any.

3. Written procedures to meet other emergencies, including severe weather, loss of utilities, missing persons, severe injury.

B. The emergency fire plan required by this standard shall be prominently displayed on each floor of each building used by residents.

C. The telephone number for the fire department, rescue squad or ambulance, and police shall be posted by each telephone shown on the emergency/fire plan.

(NOTE: In homes for adults where all outgoing telephones calls must be placed through a central switchboard located on the premises, this information may be posted by the switchboard rather than by each telephone, providing this switchboard is manned 24 hours each day.)

D. The licensee and/or administrator and all staff members shall be fully informed of the fire plan for the home, including their duties, and the location and operation of fire extinguishers and fire alarm boxes, if available. They shall know the telephone procedure for calling the fire department.

E. The emergency plan required by § 9.4 A of these standards and regulations shall be discussed at orientation for new staff, for new residents, and for volunteers.

§ 9.5. Fire drills.

A. At least one fire drill shall be held each month for the staff on duty and those residents able to participate. During a three-month period:

1. At least one fire drill shall be held between the hours of 7 a.m. and 3 p.m.;

2. At least one fire drill shall be held between the hours of 3 p.m. and 11 p.m.;

3. At least one fire drill shall be held between the hours of 11 p.m. and 7 a.m.

B. ~~If residents have gone to bed for the night, these Standards do not require that they participate in drills held for night staff members. Signals for such drills may be in code in order not to alarm residents.~~ *Homes not licensed for nonambulatory residents shall require all residents to participate in all required drills.*

C. Additional fire drills may be held at the discretion of the administrator , *fire official, or licensing specialist, and must be held in homes not licensed for nonambulatory residents when there is any reason to question whether all residents can evacuate the building within three minutes. (See also § 3.15.1.f)*

D. The required drills *(§§ 3.9.C.2, 9.5.A.1-3 and 9.5.C)* shall be planned and each required drill shall be ~~announced in advance~~ *unannounced* .

E. ~~Immediately prior to each required fire drill,~~ The fire plan shall be reviewed *quarterly* with all staff ~~present~~ and with all ~~participating~~ residents.

F. Immediately following each required fire drill, there shall be an evaluation of the drill by the staff in order to determine the effectiveness of the fire plan.

G. A record of required fire drills shall be kept in the home for one year. Such record shall include the date, the hour, the number of staff participating, the number of residents; and the time required to evacuate the building if such evacuation is required by the emergency plan.

H. In homes not licensed for nonambulatory residents, all residents must evacuate the building or meet the requirements of the approved fire plan within three minutes on each drill required by § 3.9.C.2, § 9.5.A.1-3 and § 9.5.C.

I. In homes not licensed for nonambulatory residents, if the building is not evacuated or the requirements of the approved fire plan met within three minutes, the administrator/licensee shall attach to the fire drill report the following:

1. Names of residents unable to evacuate the building within three minutes and reasons therefor.

2. Facility's plan for rapidly reestablishing ability to evacuate the building within three minutes. The plan must include the discharge of all residents who are unable to exit the building within three minutes or who impede others' exit. (See § 5.15.1.f)

J. In homes not licensed for nonambulatory residents, all fire drills shall be timed with an instrument which indicates seconds; the three minute timed interval begins when the first signal is given.

K. Fire drills shall include, as a minimum:

1. Sounding of fire alarms;

2. Practice in building evacuation procedures;

3. Practice in alerting fire fighting authorities;

4. Simulated use of fire fighting equipment;

5. Practice in fire containment procedures; and

6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 9.6. Housing of *semi-mobile and* nonambulatory residents.

A. In building or portions of building subject to Virginia Fire Safety Regulations, all residents must be ~~ambulatory~~ *independently mobile* if occupancy is restricted to ambulatory persons under the Virginia Public Building Safety Code *unless the licensed capacity of the building is twenty or fewer and all regulations regarding housing of semi-mobile residents are met .*

B. In buildings subject to the Uniform Statewide Building Code, all residents must be ~~ambulatory~~ *independently mobile* unless the building or portions of the building have been approved in the I-2 Classification *or unless the licensed capacity of the building is twenty or fewer and all regulations regarding housing of semi-mobile residents are met .*

[~~*§ 9.7. Each room used by residents, excluding bathrooms and closets, shall contain a properly installed and functional smoke detector or the facility shall have an approved smoke detection system.*~~

~~*(NOTE: Homes for Adults having valid licenses on July 1, 1987, shall have until July 1, 1988, to comply with this standard.)*~~

~~*§ 9.8. All licensed homes for adults shall meet one of the following requirements:*~~

~~*A. Approval as I-2 use group classification of the Uniform Statewide Building Code.*~~

~~*B. Approval for nonambulatory residents according to the Virginia Public Buildings Safety Regulations.*~~

~~*C. Installation of a operational sprinkler system meeting at a minimum, the requirements of the National Fire Protection Association, Standard 13, for Installation of Sprinkler Systems, 1985 Edition.*~~

~~*(NOTE: Homes for Adults having valid licenses on July 1, 1987, shall have until July 1, 1990, to comply with this requirement.)*~~]

PART X.

ADDITIONAL REQUIREMENT WITH RESPECT TO PUBLIC HOMES.

§ 10.1. If the home is operated by a political subdivision of the state or by two or more such subdivisions, copies of applicable ordinances and operating policies shall be filed with the department.

~~APPENDIX A.~~
~~TO~~
~~STANDARDS AND REGULATIONS FOR LICENSED HOMES FOR ADULTS.~~
~~NONAMBULATORY RESIDENTS IN HOMES FOR ADULTS.~~

~~INTRODUCTION.~~

~~The purpose of the Appendix is to provide a summary of the Standards and Regulations which pertain to the acceptance and care of persons who are nonambulatory in Licensed Homes for Adults. This Appendix does not contain any additional standards and regulations. It simply summarizes the requirements found in these Standards and Regulations, which must be met if nonambulatory persons are to reside in homes for adults.~~

~~WHEN IS A PERSON NONAMBULATORY?~~

~~The definition of a nonambulatory person is found in Part I, Article 1, Definitions of these Standards. Simply stated, a person is considered to be nonambulatory if he must be led or carried by another person or is dependent on a device such as, but not limited to, a leg prosthesis, walker or wheelchair in order to make an exit from a building in an emergency.~~

~~HOW IS A PERSON DETERMINED TO BE NONAMBULATORY?~~

~~This determination will be based on the medical report which is required at the time a person applies for admission to the home (see § 5.7) and the medical report which may be requested on any resident at any time. (See § 5.11)~~

~~CAN A PERSON WHO IS NONAMBULATORY RESIDE IN A HOME FOR ADULTS?~~

~~The definition of "nonambulatory", Part I, Article 1, Definitions and the admission policy in § 3.0 address this point. This section identifies the specific requirements which must be met if nonambulatory persons are accepted into care or remain in care in a licensed home for adults. These specific requirements (Standards) are listed and summarized below. If a facility meets these requirements, nonambulatory residents may reside in the facility.~~

~~A. Section 3.10 requires that the home be able to meet the needs of each resident who is admitted for care. The home, therefore, must be able to meet all needs of any nonambulatory person who is admitted for care.~~

B. Section 5.7 identifies the medical information which must be obtained on each person prior to that person being accepted into care. This information must be obtained by means of a physical examination by a licensed physician and within the time period specified in § 3.3. Section 5.7 also requires that ten specific areas be addressed as part of the physical examination required for admission. These ten areas, as they appear in § 5.7 are reprinted below. This information, particularly Item 5.7.b.5, provides the basis for determining whether or not a person is nonambulatory:

1. The date of the physical examination;

2. Any diagnosis or significant problems;

3. Any recommendations for care, including medication, diet and therapy;

4. Separate statements that:

a. The individual has no evidence of communicable disease;

b. Nursing and/or convalescent care is not needed;

c. The individual is not bedfast;

d. The individual is or is not considered to be physically and mentally capable of making an exit from the building in an emergency, including the ascent and descent of stairs, without assistance of another person or without being dependent on the use of any device such as but not limited to, a wheelchair, walker or leg prosthesis;

e. The person's needs can or cannot be met in a home for adults including assistance with all activities of daily living which the person can perform only with difficulty;

f. The individual is or is not capable of administering his own medicine.

C. Section 5.12 provides that a medical report can be requested on any resident by the department any time there is reason to believe the condition of the resident has changed and a physical examination is needed to determine the extent of change. Therefore, if there is reason to believe that the resident is no longer ambulatory, the department can require a physical examination. This report would then be used as the basis for determining whether or not a resident is nonambulatory.

D. Section 6.18 is part of the Building and Grounds Section. It requires that homes in which nonambulatory residents are housed have doorways which permit passage of wheelchairs if wheelchairs are used, and have ramps, at ground level.

E. Section 9.6 is part of the fire and emergency protection requirements. It contains the Standards which address the housing of nonambulatory residents and is reprinted below:

§ 9.6. Housing of Nonambulatory Residents.

A. In buildings or portions of buildings subject to Virginia Public Building Safety Regulations, all residents must be ambulatory if occupancy is restricted to ambulatory persons under the Virginia Public Building Safety Regulations.

B. In buildings subject to the Uniform Statewide Building Code, all residents must be ambulatory unless the building or portions of the building have been approved in the I-2 Classification.

Two types of buildings are addressed in these Standards; those subject to Virginia Public Building Safety Regulations (paragraph A); those subject to the Uniform Statewide Building Code (paragraph B). All homes for adults will fall into one of these types of buildings and therefore, must meet the applicable Standard(s) contained in § 9.6 befor nonambulatory residents may be accepted or remain in care.

IS A PERSON WHO IS BEDFAST NONAMBULATORY?

A person who is bedfast, as defined in Part I, Article 1, Definitions of the Standards and Regulations, would be considered nonambulatory. However, a nonambulatory person would not always be bedfast.

Section 3.7 prohibits admission of a person who is bedfast to a home for adults. Part I, Article 1, Definitions identifies the Standards which must be met for a resident who becomes bedfast to remain in care. Specifically, a resident who becomes bedfast may not remain in the home for adults unless the provisions §§ 3.8 and 5.14 of the Standards and Regulations are met.

APPENDIX B.
TO
STANDARDS AND REGULATIONS FOR LICENSED HOME FOR ADULTS.

RESIDENT ACTIVITIES.

INTRODUCTION.

This Appendix describes the requirements of the Standards and Regulations contained in Part IV, Article 6, Resident Activities. These Standards do not require the employment of an activities director. Facilities should not have to provide an elaborate or complex program to meet these requirements. The purpose of the Standards is simply to insure that residents are not left without anything to do or without anything to occupy their time. This Appendix does not contain any additional Standards and Regulations. It does provide some additional

explanation of the Resident Activities Program which is required in Licensed Homes for Adults.

WHAT KINDS OF ACTIVITIES MUST THE PROGRAM INCLUDE?

Section 4.54 requires that the Activities Program include activities which fall into one or more of four broad types. These are social, recreational, religious and diversional. A brief discussion of each type of activity, with some examples of each, follows:

A. Social Activities - Social activities encourage interests and friendships, help minimize self-consciousness and promote and increase self-confidence. They involve other people and group efforts and encourage each resident to interact with other people. Typical examples include dancing, bingo, group singing, birthday parties, community groups such as senior citizens, groups outings to parks, museums, etc.

B. Recreational Activities - Recreational activities emphasize doing what a person likes to do. They make the resident feel good about himself and may or may not involve other people. Often recreational activities involve only the individual. These types of activities include gardening, reading, walks, individual hobbies, etc.

C. Religious Activities - Religious activities provide a means to meet the spiritual needs of the resident. These types of activities are often very important to residents of a home for adults. Typical religious activities might include planning or arranging transportation to permit attendance at local place of worship, arranging for religious services or study to be conducted in the home, with optional attendance, and informing appropriate clergy of these residents' whereabouts and condition, in order that the clergy may visit with the residents.

D. Diversional Activities - Diversional activities place emphasis on individual accomplishment rather than socialization. Activities of this type serve to take a resident's mind off worries and focus efforts on things which lead to a productive, satisfying accomplishment. Some examples of diversional activities include sewing, painting, braiding of rugs, knitting, repairing or refinishing furniture, crocheting, woodworking, etc.

The program described above, by type of activity, does not need to be costly in terms of money or additional staff. It must, however, be a planned program and based on the abilities, physical condition, needs and interests of the residents (See § 4.56). This is very important since the success of the program will depend largely on the residents' interest in the activities provided. There are a number of publications available which provide information on activities appropriate for aged, infirm, disabled adults. Two are available at no cost and provide good reference information. There are, "The Activity Coordinators Guide, A Handbook for Activities Supervisors in Long Term Care Facilities", prepared by the Department of Health, Education, and Welfare, and "The Therapeutic Recreation Activity Guide in Long Term Care Facilities", developed by the Office of Recreation Services, Commission of Outdoor Recreation. Copies of these publications may be obtained, after the effective date of these Standards and Regulations from the Regional Offices of the Department of Social Services.

HOW MANY ACTIVITIES MUST THE PROGRAM INCLUDE?

Section 4.54 requires that the home provide at least one activity each day for the residents. This Standard also requires that this daily activity be at least one hour in length.

WHAT ACTIVITIES PLANNING IS REQUIRED?

The activities program, while not intended to be elaborate, costly and complex, must be varied (See § 4.56). This requires that enough advance planning be done to insure that the minimum requirement of one activity per day for one hour each day is not limited to the same activity day after day. Activities must also be planned for one week in advance (See § 4.57). This does not prohibit the same activity from being offered each day as long as there are other activities planned and available so that activities provided are varied and consider the abilities, physical condition, needs and interests of all residents (See § 4.56).

A written schedule of activities available must be prepared and posted in advance of the period covered by the schedule in a place where all residents can see and read it. Residents must also be informed of the activities program (See § 4.57). This is required so that all residents will know what activities are available and when these activities will take place. § 4.58 requires that activities schedules for the past three months be kept for inspection by the Department of Social Services representative.

MUST EACH RESIDENT PARTICIPATE?

Each resident must be encouraged to participate in the program. No resident shall be forced to participate (See § 4.50).

CAN OUTSIDE COMMUNITY RESOURCES BE USED?

It is not intended that the home conduct the required activities program totally using its own resources if there are community resources available and willing to help. Facilities are encouraged to explore the capabilities and willingness of any available local organization to assist in the activities program. However, when community resources are used, it is the responsibility of the licensee to insure that the activity provided is of a type that meets the requirements of Part IV, Article 6.

DEPARTMENT OF WASTE MANAGEMENT

Title of Regulation: **VR 672-20-1. Financial Assurance Regulations for Solid Waste Facilities.**

Statutory Authority: § 10-266 of the Code of Virginia.

Effective Date: July 22, 1987

Summary:

These regulations establish the financial assurance requirements for privately owned or operated nonhazardous solid waste disposal facilities. The regulations specifically exempt facilities owned or operated by local, state, or federal agencies.

The regulations provide the requirements for fulfilling financial responsibility for solid waste disposal facilities owned or operated by private individuals. They include the requirements for facility closure and postclosure care, and standards for closure and postclosure. Those factors to be considered for determining the cost estimates for facility closure are set forth. A variety of financial mechanisms to include bonds and corporate guarantees are prescribed for meeting the financial assurance requirements. The liability insurance requirements for sudden and nonsudden incidents for solid waste facilities set minimum liability limits with potential variances to the insurance requirements. Alternative means of providing coverage is included. Guidelines are provided for each of the available financial mechanisms. Existing facilities are required to comply with the requirements on the effective date.

VR 672-20-1. Financial Assurance Regulations for Solid Waste Facilities.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Abandoned facility" means any inactive solid waste management facility which no longer receives solid waste on a regular basis and which has not been properly closed in accordance with plans approved by the department.

"Ash" means waste material produced from an incineration process or any combustion. Ash types include fly ash, bottom ash, and incinerator residue.

"Bottom ash" means ash or slag remaining in the combustion unit after combustion.

"Closed facility" means a solid waste management facility which has been properly terminated in accord with an approved facility closure plan on file with the Department of Waste Management and complying with all applicable regulations and requirements concerning its stabilization.

"Closure" means the act of securing and stabilizing a solid waste management facility pursuant to the requirements of these regulations.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, shopping centers, and similar commercial facilities.

"Construction/demolition/debris landfill" means a solid waste disposal area used for the controlled disposal of construction wastes, demolition wastes, [~~and~~] debris wastes, [~~wood wastes, including cardboard, brush, and tree stumps,~~] or nondecomposable inert solids which are insoluble in water.

"Construction waste" means the waste building material refuse and other largely inert solid waste resulting from construction, remodeling, and repair operations on houses, commercial buildings, pavements, and other structures. Construction waste includes lumber, wire, sheetrock, broken brick, shingles, glass, pipes, asphalt, concrete and other nonhazardous, nonsoluble unwanted or unused construction material. Paints, coatings, asbestos and any liquid, compressed gases, or semi-liquids are not construction wastes. A mixture of construction waste with any amount of other type of solid waste will cause it to be classified as other than construction waste.

"Corrective action" means all actions necessary to mitigate the public health or environmental threat from a release to the environment of pollutants from an operating or closed solid waste disposal facility and to restore the environmental conditions as required.

"Cover material" means soil or other approved material which is used to blanket solid waste in a landfill.

"Debris waste" means inert solid wastes such as brick or block, wood chips, tree stumps, or brush.

"Demolition waste" means solid waste which is largely inert, resulting from the demolition or [~~raising~~ razing] of buildings, roads, and other man-made structures. Asbestos waste is not demolition waste.

"Disposal" means the intentional discharge, deposition, injection, dumping, spilling, leaking or placement of any solid waste into or on land or water so that such solid waste or any constituent thereof may enter the environment (i.e., air, soil, surface water or groundwater) or to otherwise discard.

"Facility" means a solid waste management processing or disposal site, or resource recovery site, including any and all contiguous land structures and other appurtenances and improvements thereon used for solid waste disposal and associated activities. Facility types include sanitary landfills, construction/demolition/debris landfills, [~~inert waste landfills,~~] industrial waste landfills, resource recovery systems, transfer stations, incinerators and composting operations. A facility may consist of more than one operational unit.

"Fly ash" means ash particulate collected from air pollution attenuation devices on combustion units, such as those that burn fossil fuels or incinerate solid waste.

"Groundwater" means any water, except capillary moisture beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state.

"Hazardous waste" means a "hazardous waste" as defined by the Virginia [Hazardous] Waste Management [~~Board~~ Regulations].

"Incineration" means the controlled combustion of solid waste in an enclosed device.

"Incinerator" means a commercial furnace or other combustion unit which is an enclosed device using controlled flame combustion for solid waste with a [~~design~~ rated] capacity for greater than 20 tons of solid waste per day and is not classified as a boiler or industrial furnace for other than solid waste.

"Incinerator residue" means the resulting ash product from the incineration of solid waste.

"Industrial solid waste" means all solid waste resulting from a manufacturing and industrial processes which are not suitable for discharge to a sanitary sewer or treatment in a publicly owned sewage treatment plant. Industrial solid wastes may include: mining wastes from the extraction, [~~bentification,~~ beneficiation] and processing of ores and minerals unless those materials are returned to the mine site; fly ash; bottom ash; slag; fire gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; and asbestos.

"Industrial waste landfill" means a sanitary landfill facility for the disposal of a specific industrial waste or a waste which is a by-product of a production process.

"Infectious waste" means solid wastes which are generated by health care facilities, laboratories, and research facilities and are contaminated with pathogenic organisms and may cause infectious disease in exposed persons.

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and either public or private schools. It can include infectious waste from health care facilities and research facilities that has not been classified as a hazardous waste by the Virginia Hazardous Waste [Management] Regulations (VR 355-22-2.1).

"Landfill" means a sanitary landfill, industrial waste landfill, construction/demolition/debris landfill, or an impoundment closed in-situ as an industrial waste landfill.

"Leachate" means water or other liquid that has percolated through or originated in solid waste and contained, dissolved, suspended, or miscible containments extracted from the solid waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection containment facility for transportation to disposal in an off-site facility is septage, and leachate discharged into a wastewater collection system is industrial wastewater.

"Monitoring" means all procedures and techniques used to systematically analyze, inspect, and collect data on operational parameters of the facility or on the quality of air, groundwater, surface water, and soil.

"Monitoring wells" means a well point below the uppermost or regional groundwater table for the purpose of obtaining periodic water samples for qualitative analysis.

"Nonhazardous solid waste" means solid waste that is not classified as hazardous waste by the Virginia Hazardous Waste Management Regulations (VR 355-22-2.1).

"Operator" means the person responsible for the overall operation and site management of a solid waste management facility.

"Owner" means the person, corporation or other legal entity which legally possesses the land on which a solid waste management facility is located.

"Permit" means the written permission of the executive director to own, operate, or construct a solid waste management facility.

"Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body, or federal government agency.

"Sanitary landfill" means a land disposal site employing an engineered, constructed and controlled burial method of disposal of solid waste to minimize environmental and health nuisances and hazards. The methods include spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, confining the solid waste to the smallest practical area, and applying suitable cover material at the end of each operating day or at such more frequent intervals as may be necessary.

[*"Secure access control" means the use of fences with locking gates, entry control, operational inspection of incoming solid waste and positive limitations on unauthorized disposal. Natural barriers which prevent unauthorized access may be considered as a replacement for fence sections.*]

"Site" means the land area upon which a facility or activity is physically located or conducted.

"Solid waste" means any discarded material, garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including but not limited to solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigating return flow or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by The Atomic Energy Act of 1954, as amended (68 Stat. 923). Solid waste can include construction waste, commercial waste, debris waste, industrial waste, [*infectious waste,*] *and institutional waste except where excluded as a hazardous waste.*

"Solid waste disposal facility" means any sanitary landfill facility, construction/demolition/debris landfill facility, industrial waste landfill, resource recovery facility, incinerator and composting facility. A wastewater treatment plant is not a solid waste facility.

PART II.
GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1. Authority for regulations.

Section 10-273 of the Code of Virginia authorizes the Virginia Waste Management Board to exercise general supervision and control over solid waste management activities in this Commonwealth and promulgate regulations for financial responsibility by privately owned solid waste disposal facilities in the event of abandonment. Authority to adopt regulations is established under the Administrative Process Act (§ 9-6.14:4.1.(C)(5)) of the Code of Virginia.

§ 2.2. Purpose of regulations.

A. The purpose of these regulations is to assure that owners and operators of nonhazardous solid waste disposal facilities are financially responsible for the closure and post-closure of their facilities and can provide financial assurance for liability which may result from any sudden or nonsudden accidental occurrences.

B. These regulations establish standards and procedures for the issuance and continuation of permits to construct or operate solid waste management facilities.

§ 2.3. Petition for regulation revisions.

The [~~*Department of*~~ *Virginia*] *Waste Management* [*Board*] *will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision of these regulations.*

§ 2.4. Applicability of regulations.

A. These regulations apply to all persons who own, operate, or allow solid waste disposal facilities to be operated on their property in the Commonwealth except counties, cities, and towns or federal and state agencies.

B. Exemptions to these regulations include:

1. Composting of sewage sludge at the sewage treatment plant of generation and not involving other solid wastes.

2. Land application of wastes regulated under Virginia Sewerage Regulations or the State Water Control Board as a part of the National Pollution Discharge Elimination System (NPDES).

[~~*3. The disposal of household garbage disposed of on the site of its generation.*~~]

[~~*4.*~~ *3.*] *Solid waste generated in the normal operation of a farm and related to the production of crops, to the extent those solid wastes are managed on the site of their generation.*

[~~*5.*~~ *4.*] *Management of hazardous waste as defined and controlled by the Commonwealth of Virginia, Virginia Waste Management Board, Hazardous Waste Management Regulations (VR 355-22-2.1).*

C. Management of solid wastes which are exempted from the Virginia Hazardous Waste Management Regulations (VR 355-22-2.1) are subject to these regulations unless exempted herein.

§ 2.5. Enforcement and appeal procedures; offenses and penalties.

A. All administrative enforcement actions and appeals relative to these regulations shall be governed by the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

B. Orders.

The executive director is authorized to issue orders to require any person to comply with these regulations as stated or to require such steps he deems necessary to bring about compliance. Orders will be issued in written form through certified mail and will be issued in accord with provisions of the Administrative Process Act.

§ 2.6. Suspensions and revocations.

A. If the executive director believes that the public health or the environment is or may be threatened by a solid waste management facility and that the threat [~~is imminent~~ poses a substantial present or potential hazard to human health or environment] , he may suspend all or part of the operation of the facility for such time as he shall prescribe. The suspension shall be made by written notice to the operator. Such a suspension shall constitute an order. An administrative hearing on the suspension will be held at the request of the owner/operator. [~~A request for a hearing may, at the request of the executive director, suspend opeation of the suspension order.~~]

B. The executive director may revoke or amend any permit for cause as set in § 10-272 of the Code of Virginia. Failure to provide or maintain adequate financial assurance in accordance with these regulations shall be a basis for revocation of such facility solid waste permit and site closure.

PART III.
CLOSURE AND POST-CLOSURE FINANCIAL RESPONSIBILITY AND LIABILITY COVERAGE.

§ 3.1. General purpose and scope.

A. Permits for nonhazardous solid waste disposal facilities shall require closure, and post-closure financial assurance and liability insurance plans as prescribed in this part for the purpose of assuring that owners and operators of these facilities are financially responsible for protection of public health and the environment.

B. This part contains general provisions governing closure and post-closure care for solid waste disposal facilities. These provisions may be supplemented by more specific closure and post-closure care requirements. Together with the cost estimate provisions, these provisions form the basis of the financial assurance requirements and liability insurance limits included in this part.

§ 3.2. Closure and post-closure care requirements.

A. Notification.

1. An owner or operator intending to close a solid waste disposal facility shall notify the department of the intention to do so at least 180 days prior to the anticipated date for initiating closure. Simultaneous notice shall be made to the governing body of each host locality and adjacent property owners.

2. The owner or operator shall post one sign notifying all persons of the closing and prohibition against further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

B. Closure and post-closure standards.

1. Closure and post-closure care shall occur in accord with approved plans. A closure plan and a post-closure plan shall be submitted with the permit application. The holder of the permit shall submit a proposed modified closure plan or post-closure plan to the department for review and approval as such modifications become necessary during the life of the facility.

2. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance; and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere. The post-closure period shall continue for 10 years after the date of completing closure of the solid waste disposal facility or as the department decides is sufficient to protect human health and the environment.

C. Inspection.

1. The department shall inspect all solid waste management facilities that have been closed to determine if the closing is complete and adequate in accordance with the approved plan not more than 30 days after being notified by the owner or operator that closure has been completed. The department shall notify the owner of a closed facility in writing not more than 30 days after the inspection of its findings.

a. If the closure is not satisfactory, it shall order necessary construction or such other steps as may be appropriate to bring unsatisfactory sites into compliance with the closure requirements.

b. If the closure is satisfactory, the owner shall be advised in writing.

2. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action in accordance with regulations of the department to prevent or abate problems caused by the facility.

§ 3.3. Financial responsibility.

A. General.

1. In order to assure that the costs associated with protecting the public health and safety from the consequences of an abandonment or a failure to properly execute closure or post-closure care of a nonhazardous solid waste disposal facility are to be recovered from the owner or operator, the owner or operator of such a facility shall obtain one, or a combination of the financial responsibility instruments described in this section. Evidence of financial responsibility shall be in one or a combination of the

following forms: a surety bond; a trust fund maintained for the benefit of the Department of Waste Management; a letter of credit; a deposit of acceptable collateral with the executive director; with the financial test and corporate guarantee or such other mechanisms as the board may deem appropriate. Financial responsibility instruments for site closure shall be in the amount calculated as the cost estimate for facility closure using the procedures set forth in §§ 3.4. and 3.5 of these regulations. The selected financial responsibility instrument or instruments shall be filed with the Department of Waste Management as part of the permit application procedures and prior to the issuance of an operating permit. The director may reject the proposed evidence of financial responsibility if the mechanism(s) submitted does not adequately assure that funds will be available for closure and post-closure care. The owner shall be notified in writing within 45 days of receipt of the financial assurance mechanism(s) of the decision to accept or reject the proposed evidence.

2. To further protect the public health and safety, owners or operators of nonhazardous solid waste disposal facilities shall obtain liability coverage for sudden and nonsudden accidental occurrences using the procedures set forth in § 3.6. of these regulations.

B. Applicability.

1. The requirements for appropriate financial responsibility for solid nonhazardous waste disposal facilities as contained in these regulations shall apply to all private owners or operators of such existing and future facilities throughout the Commonwealth of Virginia; no state, local or other governmental agency is required to comply with these provisions on financial responsibility.

2. Any funds forfeited to the state pursuant to a financial responsibility plan required by these regulations shall be paid over to the county, city, or town in which the abandoned facility is located [~~if such funds are~~ to be] expended by the county, city, or town only as necessary to restore and maintain such facility in a safe condition.

§ 3.4. Cost estimates.

A. Cost estimate for facility closure.

1. In submitting a closure plan as required by these regulations, the owner or operator of a solid nonhazardous waste disposal facility shall include therein a written estimate of the cost of closing the facility. The estimated closing cost shall be jointly agreed upon by the Department of Waste Management and the owner or operator filing the permit application but in no case shall the estimated closing cost be less than:

a. One thousand dollars for each acre of a landfill ultimately to be utilized at the site for actual waste disposal purposes.

b. Five thousand dollars for each acre used for composting of solid waste and for on site storage.

c. Ten thousand dollars for each acre or fraction thereof used at an incinerator for the collection and storage of solid waste and for incinerator residue.

2. If no mutually agreed to estimate is arrived at, the estimate will be determined by the department.

3. The estimated closing cost shall be based on the work required for a third party contractor to effect proper closure at the most expensive point in the life of the facility. Those factors to be considered in estimating the closing cost shall include:

a. The size and topography of the site.

b. The daily and weekly tonnage of waste to be received at the site.

c. Availability of cover and fill material needed for site grading.

d. The type of waste to be received at the site.

e. Landfill method and sequential landfill plan.

f. The location of the site and the character of the surrounding area.

g. Requirements for surface drainage.

h. Leachate collection and treatment system.

i. Environmental quality monitoring systems.

j. Structures and other improvements to be dismantled and removed.

k. Site storage capacity for solid waste, incinerator residue, and compost material.

l. Off-site disposal requirements.

m. An appropriate forecasted average rate of inflation over the period of the life of the site.

n. Vector control requirements.

4. If the executive director has reason to believe that a previously submitted closure cost estimate is no longer adequate, he may require that the operator submit a revised estimate. The operator shall submit the revised estimate within 90 days following the receipt of a notice of the requirement by the executive director. When the revised estimates are

approved, the owner/operator shall submit revised financial assurance for the revised closure costs.

B. Cost estimate for facility post-closure.

1. In submitting a closure plan as required by these regulations, the owner or operator of a nonhazardous solid waste disposal facility shall include therein a written estimate of the cost of post-closure care, monitoring, maintenance, and corrective action for a privately owned or operated facility located in the Commonwealth of Virginia. Unless on site disposal is planned or required, an incinerator, resource recovery facility, and compost facility will not be required to include a post-closure cost estimate in its closure plan. The estimated post-closure cost shall be jointly agreed upon by the Department of Waste Management and the owner or operator filing the permit application. [If no mutually agreed to estimate is arrived at, the estimate will be determined by the department. Such costs shall be based on the work required for a third party contractor.]

2. Those factors to be considered in estimating post-closure care costs shall include:

a. The size and topography of the site.

b. The type and quantity of waste received.

c. Landfill method and sequential landfill plan.

d. The potential for significant leachate production and the possibility of contaminating water supplies.

e. Environmental quality monitoring systems.

f. Soil conditions.

g. An appropriate forecasted [~~coverage~~ average] rate of inflation over the period of the life of the site.

h. The location of the site and the character of the surrounding area.

3. Estimated costs of post-closure activities shall be determined on a case-by-case basis. If during a disposal site's active waste collection life a substantial change occurs in the operations of the facility or in the nature and development of the surrounding area, the executive director may order the filing of a revised estimate of post-closure costs by the owner or operator, which shall be submitted within 90 days following the receipt of notice of the requirement by the executive director. When the revised estimates are approved, the owner/operator shall submit revised financial assurance for the revised post-closure costs.

§ 3.5. Financial assurance for facility closure and post-closure.

A. General.

For each nonhazardous solid waste facility for which a permit is applied, a separate financial assurance mechanism shall be provided for closure and post-closure activities. Determination of the financial responsibility requirements for post-closure care shall be made by the department when the complete closure plan, closure financial responsibility mechanisms, and the permit application are evaluated.

B. Financial mechanisms.

Financial responsibility may be demonstrated by one or a combination of the following financial instruments executed in the amount calculated as the estimated closing cost in accordance with § 3.4. of these regulations. Financial instruments shall substantially comply with the language shown in the cited appendices.

1. A closure trust fund maintained by the owner or operator of a disposal site for the benefit of the Department of Waste Management (see Appendices 3.1 and 3.2).

2. A surety bond guaranteeing performance of closure, with the disposal site owner or operator as the principal and the Commonwealth of Virginia as the obligee, issued for the life of the disposal site or until closure is completed, written with a penal sum equal to the estimated closure cost amount (see Appendices 3.3 and 3.4).

3. A letter of credit from a bank or other financial insitution regulated by an agency of the Commonwealth of Virginia written in the amount of the estimated closure cost (see Appendices 3.5 and 3.6).

4. A deposit of acceptable collateral, as determined by the executive director, with the Commonwealth of Virginia with market value at least equal to the amount of the estimated closure cost (see Appendix 3.7).

5. A financial test and corporate guarantee as determined appropriate by the executive director in accordance with Appendices 3.8, 3.9, and 3.10.

6. Other individual or group mechanisms that the department may deem appropriate.

C. Multiple financial mechanisms.

1. An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism. These mechanisms are limited to trust funds, performance bonds, letters of credit, and deposits of acceptable collateral. The mechanisms must be as specified in Appendices 3.1 through 3.7 except that it is the combination of mechanisms rather

than each single mechanism, which must provide financial assurance for an amount at least equal to the closure cost estimate.

2. The executive director may [~~invoke~~ elect to] use of any or all of the mechanisms, in accordance with the requirements of Appendices 3.1 through 3.7.

D. Release of the owner or operator from the requirements of this section.

Within 60 days after receiving certification from the owner or operator that closure has been accomplished in accordance with the closure plan and the provisions of these regulations, the executive director shall verify that proper closure has occurred. Unless the executive director has reason to believe that closure has not been in accordance with the closure plan, he shall notify the owner or operator in writing that he is no longer required to maintain financial assurance for closure of the particular facility. Such notice shall release the owner or operator only from the requirements for financial assurance for closure of the facility; it does not release him from legal responsibility for meeting the closure or post-closure standards or from liability for any sudden or nonsudden accidents occurring either before, during, or after closure of the site. If no written notice of termination of financial assurance requirements or failure to properly perform closure is received by the owner or operator within 60 days after certifying proper closure, the owner or operator may petition the executive director for an immediate decision, in which case the executive director shall respond within 10 days after receipt of such petition.

E. Incapacity of institution issuing financial responsibility instruments.

An owner or operator who fulfills the requirements of § 3.5. by obtaining a letter of credit, a surety bond, or by depositing negotiable collateral will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency, or a suspension or revocation of the license or charter of the issuing institution. The owner or operator shall establish other financial assurance within 60 days of such event.

§ 3.6. Liability insurance requirements.

A. Each owner and operator of a solid waste disposal facility shall secure and maintain liability coverage for claims arising from injuries to other parties, including bodily injury or damage to property of others. This coverage shall be in the form of a financial test for liability coverage (see Appendix 3.8) an insurance policy, or other financial instrument(s) as authorized in subsection G of § 3.6. These forms of coverage shall be of the types and in not less than the amounts listed in subsections D [~~and~~ ,] E [and F] below. Each person securing a permit shall file evidence of satisfactory [~~insurance~~ liability] coverage when the department issues the permit and before any site development work begins.

B. The liability insurance shall be issued by an insurance company authorized to do business in the Commonwealth of Virginia. The liability insurance shall be subject to the insurer's policy provisions filed with and approved by the executive director.

C. A certificate or memorandum of insurance shall be furnished to the department for its approval showing specifically the coverage and limits, together with the name of the insurance company and the insurance agent. If any of the coverages set forth on these certificates or memoranda of insurance are reduced, cancelled, terminated, or nonrenewed, the permittee or, insurance company shall, not less than 30 days before the effective date of the action, furnish the department with appropriate notices of that action. Timely proof of periodic renewal shall be furnished to the department by submittal of a certificate or memorandum of insurance before the expiration date of the policy.

D. Each owner or operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility. The minimum liability limits for sudden accidental occurrences shall be for the annual aggregate of $100,000 for all landfills, incinerators, resource recovery facilities and compost facilities.

E. If the executive director determines at any time that an owner's or operator's required liability limits are not consistent with the degree and duration of present or potential risks associated with the disposal facility, the executive director may increase the operator's limit as may be necessary to protect human health and the environment. An insurance policy shall have not more than a $5,000 deductible for each occurrence. The executive director may authorize an increase in the deductible based on the owner/operator's financial ability to pay a higher deductible. The minimum coverage shall include the following expenses:

1. Coverage of premises and operations, including operations of independent contractors; and

2. Coverage for contamination or pollution.

F. An owner or operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the disposal facility. The owner or operator shall have and maintain [minimum] liability coverage for nonsudden accidental occurrences for an annual aggregate sum exclusive of legal defense cost as follows:

1. Five hundred thousand dollars for sanitary landfills and industrial landfills without a liner and leachate collection system;

2. Two hundred fifty thousand dollars for sanitary and industrial landfills with a liner and leachate collection system; and

3. One hundred thousand dollars for construction/demolition/debris landfills.

G. Any applicant [, after conducting a site risk assessment,] may request that the department evaluate the hazard(s) involved in an accidental occurrence and may request a variance from the specific insurance coverage amounts prescribed under this regulation or requirements for liability insurance where the applicant is able to demonstrate other financial responsibility satisfactory to the executive director.

1. Solid waste disposal facilities accepting construction/demolition/debris waste shall not be required to obtain liability insurance if the applicant can demonstrate that:

a. No wastes other than construction, demolition or debris wastes have been or will be accepted into the site;

b. Reasonably secure access control, either natural or man-made, eliminate the risk that unauthorized wastes will enter the site; and

c. The location and design of the site is sufficient to prevent adverse effects associated with the disposal of construction/demolition/debris wastes.

2. Any applicant may request a waiver of the requirement for liability insurance. In evaluating the request for a waiver, the director shall consider:

a. The nature of the wastes accepted in the site.

b. The security of access control.

c. The ownership of the land on which the disposal is occurring.

d. The existence of a groundwater monitoring program.

e. The compliance record of the applicant.

3. If the director finds that commercial insurance cannot be obtained in the voluntary market due to circumstances beyond the control of the permit holder or applicant or such insurance is not economically feasible to obtain, the director may allow the use of personal bonds or other mechanisms in lieu of commercial insurance.

Appendix 3.1.

GUIDELINES FOR TRUST FUND.

A. The owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section by establishing a closure trust fund which satisfies the requirements of this appendix and by attaching an originally signed duplicate of the trust agreement to the facility closure or post-closure plan submitted with the permit application. The trustee for the trust fund must be a bank or financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by the Commonwealth of Virginia.

B. The trust agreement shall be executed in the form provided for such purposes by the Executive Director. The trust agreement must contain a formal certification of the acknowledgement as indicated in Appendix 3.2.

C. Payments to the trust fund must be made annually by the owner or operator over the term of the state permit issued for such facility or over the disposal life of the facility if such facility life is shorter than the term of the state permit. Payments must be made as follows:

1. The first payment shall be made when the trust is established and shall be at least equal to the cost estimate (as determined under § 3.4.), divided by the number of years in the term of the permit or life of the facility, whichever is the shorter.

2. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be the cost estimate minus the current value of the trust fund, divided by the number of years remaining in the term of the permit, or the remaining number of years in the life of the site, whichever is the shorter.

D. The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the cost estimate at the time the fund is established. However, the value of the fund must be maintained at no less than the value would have been if annual payments were made as specified in paragraphs A and C of this Appendix.

E. If the owner or operator establishes a trust fund after having initially used one or more alternative mechanisms specified in this section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments were made as specified in paragraphs A and C of this Appendix.

F. Whenever the cost estimate changes after the pay-in period is completed, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new cost estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as

specified in this section to cover the difference. If the value of the trust fund is greater than the total amount of the cost estimate, the owner or operator may submit a written request to the Executive Director for release of the amount which is in excess of the closure cost estimate.

G. If the owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Executive Director for release of the amount which is greater than the amount required as a result of the substitution.

H. Within 60 days after receiving a request from the owner or operator for release of funds specified in paragraphs F and G of this Appendix, the Executive Director will instruct the trustee to release to the owner or operator such funds as the Executive Director specifies in writing.

I. After beginning final closure or during the period of post-closure care, an owner or operator or any other person authorized to conduct closure, may request reimbursement for closure or post-closure expenditures [~~respectfully~~ respectively] by submitting itemized bills to the Executive Director. Within 60 days after receiving bills for closure activities, the Executive Director shall instruct the trustee to make reimbursements in those amounts as the Executive Director determines that the expenditures are in accordance with the closure or post-closure plan or are otherwise justified.

J. The Executive Director shall agree to terminate the trust when:

1. The owner or operator substitutes alternate financial assurance as specified in this section; or

2. The Executive Director notifies the owner or operator that he is no longer required by this section to maintain financial assurance for the closure or post-closure of the facility.

Appendix 3.2.

WORDING OF TRUST AGREEMENT FOR A TRUST FUND.

A trust agreement for a trust fund as specified in § 3.5. B.1 of these regulations, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

TRUST AGREEMENT

Trust agreement, the "Agreement", entered into as of (date) by and between (name of the owner or operator), a (State) (corporation, partnership, association, proprietorship), the "Grantor", and (name of corporate trustee), a (State corporation) (national bank), the "Trustee".

Whereas, the Waste Management Board, Commonwealth of Virginia, has established certain regulations applicable to the Grantor, requiring that the owner or operator of a nonhazardous waste disposal facility must provide assurance that funds will be available when needed for closure or post-closure of the facility,

Whereas, the Grantor has elected to establish a trust to provide such financial assurance for the facility identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

A. The term "fiduciary" means any person who exercises any power of control, management, or disposition or renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of this trust fund, or has any authority or responsibility to do so, or who has any authority or responsibility in the administration of this trust fund.

B. The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

C. The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facility and Cost Estimates. This Agreement pertains to (insert the facility number, if any, name, address, and the closure cost estimate, or portion thereof, for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund", for the benefit of the Department of Waste Management, Commonwealth of Virginia. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule A attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund will be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee undertakes no responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments to discharge any liabilities of the Grantor established by the Commonwealth of Virginia's Department of Waste

Management.

Section 4. Payment for Closure. The Trustee will make such payments from the Fund as the Department of Waste Management, Commonwealth of Virginia will direct, in writing, to provide for the payment of the costs of closure or post-closure of the facility covered by this Agreement. The Trustee will reimburse the Grantor or other persons as specified by the Department of Waste Management, Commonwealth of Virginia, from the Fund for closure or post-closure expenditures in such amounts as the Department of Waste Management will direct, in writing. In addition, the Trustee will refund to the Grantor such amounts as the Department of Waste Management specifies in writing. Upon refund, such funds will no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the fund will consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee will invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with investment guidelines and objectives communicated in writing to the Trustee from time to time by the Grantor, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee or any other fiduciary will discharge his duties with respect to the trust fund solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of any enterprise of a like character and with like aims; except that:

A. Securities or other obligations of the Grantor, or any other owner or operator of the facility, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2(a), will not be acquired or held, unless they are securities or other obligations of the federal or a state government;

B. The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

C. The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

A. To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate subject to all of the provisions thereof, to be commingled with the assets of other trusts pariticipating herein. To the extent of the equitable share of the Fund in any such commingled trust, such commingled trust will be part of the Fund;

B. To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC § 80a-1 et seq., of one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustees may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

A. To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by private contract or at public auction. No person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other dispositions;

B. To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

C. To register any securities held in the fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United State government, or any agency or instrumentality thereof with a Federal Reserve Bank, but the books and records of the Trustee will at all times show that all such securities are part of the Fund;

D. To deposit any cash in the fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

E. To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund will be paid from the Fund. All other expenses incurred by the Trustee in connection with the admininstration of this Trust, including fees for legal services rendered to the

Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee will be paid from the Fund.

Section 10. Annual Valuation. The Trustee will annually, at the end of the month coincident with or preceding the anniversary date of establishment of the Fund, furnish the Grantor and to the Executive Director of the Department of Waste Management, Commonwealth of Virginia, a statement confirming the value of the Trust. Any securities in the Fund will be valued at market value as of no more than 30 days prior to the date of the statement. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Executive Director of the Department of Waste Management, Commonwealth of Virginia will constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee will be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee will be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. Upon the written agreement of Grantor, the Trustee, and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, the Trustee may resign or the Grantor may replace the Trustee. In either event, the Grantor will appoint a successor Trustee who will have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of the appointment by the successor trustee, the Trustee will assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee and the date on which he assumes administration of the trust will be specified in writing and sent to the Grantor, the Executive Director of the Department of Waste Management, Commonwealth of Virginia, and the present and successor trustees by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section will be paid as provided in Part IX.

Section 14. Instructions to the Trustee. All orders, requests and instructions by the Grantor to the Trustee will be in writing, signed by the grantor, trustee, a Notary Public and any person the Grantor may designate. The Trustee will be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests, and instructions by the Executive Director of the Department of Waste Management, Commonwealth of Virginia, to the Trustee will be in writing, signed by the Executive Director and the Trustee will act and will be fully protected in acting in accordance with such orders, requests and instructions. The Trustee will have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Commonwealth of Virginia's Department of Waste Management hereunder has occurred. The Trustee will have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or the Commonwealth of Virginia's Department of Waste Management, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee will notify the Grantor and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, by certified mail within 10 days following the expiration of the 30 day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee is not required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, or by the Trustee and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust will be irrevocable and will continue until terminated at the written agreement of the Grantor, the Trustee, and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, or by the Trustee and the Executive Director if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, will be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee will not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Executive Director of the Department of Waste Management, Commonwealth of Virginia, issued in accordance with this Agreement. The Trustee will be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official

capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement will be administered, construed and enforced according to the laws of the Commonwealth of Virginia.

Section 20. Interpretation. As used in the Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement will not affect the interpretation of the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in the relevant regulations of the Department of Waste Management, Commonwealth of Virginia.

(Signature of Grantor)
By: ..... (Title)

Attest:
(Title)
(Seal)

(Signature of Trustee)
By
Attest:
(Title)
(Seal)

Certification of Acknowledgement:

COMMONWEALTH OF VIRGINIA

STATE OF .....

CITY/COUNTY OF .....

On this [date], before me personally came [owner or operator] to me known, who being by me duly sworn, did dispose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Expiration Date]

Appendix 3.3.

GUIDELINES FOR SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE OR POST-CLOSURE.

A. An owner or operator may satisfy the requirements of this section by obtaining a surety bond which satisfies the requirements of this appendix and by submitting the original copy of the bond with the facility closure plan along with the permit application. Only bonds issued by surety companies licensed to operate as sureties in the Commonwealth of Virginia and approved by the Executive Director will satisfy the requirements of this section.

B. The surety bond form supplied by the Executive Director shall be used by the owner or operator and the surety.

C. The surety bond must name the disposal site operator or owner as the principal and name the Commonwealth of Virginia as the obligee.

D. The term of the bond shall be for the life of the disposal facility for which a permit is applied by the owner or operator through the closure period. A bond used for post-closure assurance shall extend through the post-closure period.

E. The bond must guarantee that the owner or operator will:

1. Perform final closure or post-closure in accordance with the closure or post-closure plan and other requirements in the permit for the facility; or

2. Perform final closure or post-closure following an order to begin closure or post-closure issued by the Executive Director or by a court, or following issuance of a notice of termination of the permit.

F. Provide alternate financial assurance as specified in this section within 60 days after receipt by the Executive Director of a notice of cancellation of the bond from the surety.

G. The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

H. The penal sum of the body must be in an amount at least equal to the amount of the closure or post-closure cost estimate. (See § 3.4. of these regulations.)

I. If upon renewal of the permit, the cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator shall, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this section, to cover the increase. Whenever the cost estimate decreases, the penal sum may be reduced to the amount of the cost estimate following

written approval by the Executive Director. Notice of an increase or decrease in the penal sum must be sent to the Executive Director by certified mail within 60 days after the change.

J. The bond shall remain in force for its term unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Executive Director. Cancellation cannot occur, however:

1. During the 120 days beginning on the date of receipt of the notice of cancellation by the Executive Director as shown on the signed return receipt; or

2. While a compliance procedure is pending.

K. Following a determination that the owner or operator has failed to perform final closure or post-closure in accordance with the approved plan and other permit requirements when required to do so, the surety shall perform final closure in accordance with the terms of the bond, approved plan and other permit requirements or closure order. As an alternative to performing final closure or post-closure, the surety may forfeit the full amount of the penal sum to the Commonwealth.

L. The owner or operator may cancel the bond if the Executive Director has given prior written consent based on receipt of evidence of alternative financial assurance as specified in this section.

M. The Executive Director will notify the surety if the owner or operator provides alternate financial assurance as specified in this section.

N. The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the owner or operator has been notified by the Executive Director that the owner or operator is no longer required by this section to maintain financial assurance for closure of the facility.

O. In regard to closure or post-closure performed either by the owner or operator or the surety, proper final closure of a nonhazardous solid waste disposal site shall be deemed to have occurred when the Executive Director determines that final closure or post-closure has been completed. Such final closure shall be deemed to have been completed when the provisions of the site's approved plan have been executed and at the minimum, an acceptable final cover has been applied to all excavated trenches, pits, basins, and wastes; backfills have been returned to reasonably acceptable grades for the areas; leachate and erosion potential has been eliminated or minimized; and adequate revegetation of excavated and disturbed grounds and areas has been completed.

Appendix 3.4.

WORDING OF SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE OR POST-CLOSURE.

A surety bond guaranteeing performance of closure, as specified in § 3.5.B.2 of these Regulations, must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

PERFORMANCE BOND FOR CLOSURE

Date bond executed: .....

Effective date: .....
Principal: (legal name and business address)
Type of organization: (insert "individual", "joint venture", "partnership", or "corporation")
State of incorporation: .....
Surety: (name and business address)
Name, address, identification number, if any, and closure cost estimate for the facility: .....
Penal sum of bond: $.....

Know all men by these present, That we, the Principal and Surety hereto are firmly bound to the Department of Waste Management, Commonwealth of Virginia, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

Whereas, said Principal is required to have a permit from the Department of Waste Management, Commonwealth of Virginia, in order to own or operate the nonhazardous solid waste disposal facility identified above, and

Whereas, said Principal is required to provide financial assurance for closure of the facility as a condition of the permit,

Now, therefore the conditions of this obligation are such that if the Principal shall faithfully perform closure or post-closure of the facility identified above in accordance with the closure or post-closure plan submitted to receive said permit and other requirements of said permit as such plan and permit may be amended or renewed pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall faithfully perform closure or post-closure following an order to begin closure or post-closure issued by the Commonwealth of Virginia's Department of Waste Management or by a court, or following a notice of termination of the permit,

Or, if the Principal shall provide alternate financial assurance as specified in the Department's regulations within 90 days of the date notice of cancellation is received by the Executive Director of the Department of Waste Management, then this obligation will be null and void, otherwise it is to remain in full force and effect for the life of the disposal facility identified above.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Executive Director of the Department of Waste Management, Commonwealth of Virginia, that the Principal has been found in violation of the requirements of the Department's regulations, the Surety must either perform closure or post-closure in accordance with the approved plan and other permit requirements or forfeit the amount of the cost estimate to the Commonwealth of Virginia.

Upon notification by the Executive Director of the Department of Waste Management, Commonwealth of Virginia, that the Principal has been found in violation of an order to begin closure or post-closure, the Surety must either perform closure or post-closure in accordance with the closure order of forfeit the amount of the closure cost estimates to the Commonwealth of Virginia.

The Surety hereby agrees that amendments to the closure or post-closure plan, permit, applicable laws, statutes, rules and regulations shall in no way alleviate its obligation on this bond.

For purposes of this bond, final closure or post-closure shall be deemed to have been completed when the Executive Director of the Department of Waste Management, Commonwealth of Virginia, determines that the conditions of the approved plan have been met and, at the minimum, an acceptable final cover has been applied to all excavated trenches, pits, basins, and exposed wastes; backfills have been returned to reasonable grades for the area; leachate and erosion potential has been eliminated or minimized; and adequate revegetation of excavated and disturbed grounds and areas has been completed.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of said penal sum.

The Surety may cancel the bond by sending written notice of cancellation to the owner or operator and to the Executive Director of the Department of Waste Management, Commonwealth of Virginia, provided, however, that cancellation cannot occur (1) during the 120 days beginning on the date of receipt of the notice of cancellation by the Executive Director as shown on the signed return receipt; or (2) while a compliance procedure is pending.

The Principal may terminate this bond by sending written notice to the Surety, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the Executive Director of the Department of Waste Management, Commonwealth of Virginia.

In witness whereof, the Principal and Surety have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in the relevant regulations of the Commonwealth of Virginia, Department of Waste Management.

Principal

Signature(s): .....
Name(s) and Title(s) (typed) .....

Corporate Surety

Name and Address: .....
State of Incorporation: .....
Liability Limit: $.....
Signature(s): .....
Name(s) and Title(s) (typed) .....

Corporate Seal:

Appendix 3.5.

GUIDELINES FOR LETTER OF CREDIT.

A. An owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which satisfies the requirements of this appendix and by submitting the original copy of the letter of credit attached to the facility closure or post-closure plan along with the permit application. The letter of credit must be effective before the initial receipt of waste at the facility for which it is issued. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Commonwealth of Virginia.

B. The wording of the letter of credit must be identical to the wording specified in the Appendix 3.6.

C. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the current expiration date it must, at least 120 days before the date, notify both the owner or operator and the Executive Director by certified mail of that decision. The 120 day period will begin on the date of receipt by the Executive Director as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending.

D. The letter of credit must be issued for at least the amount of the cost estimate (see § 3.4. of these regulations), except as provided in § 3.5. of these

regulations.

E. Whenever the cost estimate increases to an amount greater than the amount of credit, the owner or operator shall, within 60 days of the increase, cause the amount of credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this section to cover the increase. Whenever the cost estimate decreases, the letter of credit may be reduced to the amount of the new estimate following written approval by the Executive Director. Notice of an increase or decrease in the amount of the credit shall be sent to the Executive Director by certified mail within 60 days of the change.

F. Following a determination that the owner or operator has failed to perform closure or post-closure in accordance with the approved plan or other permit requirements, the Executive Director will draw on the letter of credit.

G. The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the Executive Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the Executive Director shall issue an order of noncompliance with these regulations, unless the owner or operator of the site has demonstrated alternate financial assurance as specified in this appendix. Should the owner or operator not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the compliance order, the Executive Director will draw on the letter of credit.

H. The Executive Director shall return the original letter of credit to the issuing institution for termination when:

1. The owner or operator substitutes alternate financial assurance for closure or post-closure as specified in this section; or

2. The Executive Director notifies the owner or operator, in accordance with § 3.5.D of these regulations that he is no longer required by this section to maintain financial assurance for closure or post-closure of the facility.

Appendix 3.6.

WORDING OF LETTER OF CREDIT.

A letter of credit as specified in § 3.5.B.3 of these regulations must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Executive Director
Department of Waste Management
Commonwealth of Virginia

[11th Floor Monroe Building
101 N. 14th Street
Richmond, Virginia 23219]

Dear Sir or Madam:

We hereby establish our Irrevocable Letter of Credit No. ..... in favor of the Executive Director, Department of Waste Management, Commonwealth of Virginia, at the request and for the account of (owner's or operator's name and address) up to the aggregate amount of (in words) U.S. dollars $....., available upon presentation of

1. your sight draft, bearing reference to this letter of credit No. ..... together with

2. your signed statement declaring that the amount of the draft is payable pursuant to regulations issued under the authority of the Department of Waste Management, Commonwealth of Virginia.

The following amounts are included in the amount of this letter of credit: (Insert the facility identification number, if any, name and address, and the closure cost estimate, or portions thereof, for which financial assurance is demonstrated by this letter of credit.)

This letter of credit is effective as of (date) and will expire on (date at least one year later), but such expiration date will be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you and (owner or operator's name) by certified mail that we decide not to extend the Letter of Credit beyond the current expiration date. In the event you are so notified, unused portion of the credit will be available upon presentation of your sight draft for 120 days after the date of receipt by you as shown on the signed return receipt or while a compliance procedure is pending, whichever is later.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we will duly honor such draft upon presentation to us, and we will pay to you the amount of the draft promptly and directly.

I hereby certify that I am authorized to execute this letter of credit on behalf of (issuing institution) and that the wording of this letter of credit is identical to the wording specified in the relevant regulations of the Department of Waste Management, Commonwealth of Virginia.

Attest:

(Signature and title of official of issuing institution) (Date)

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce", of "the Uniform Commercial Code".)

Appendix 3.7.

GUIDELINES FOR DEPOSIT OF ACCEPTABLE COLLATERAL.

A. An owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section, wholly or in part, by filing with the Executive Director a collateral bond payable to the Commonwealth of Virginia, conditioned so that the owner or operator shall comply with the closure or post-closure plan filed for the site. The amount of the bond shall be at least equal to the estimated closure or post-closure cost of the site for which the permit application has been filed or any part thereof not covered by other financial responsibility instruments. Liability of such bond shall be for the term of the permit or until proper final closure or post-closure of the site is completed, whichever comes first. Such bond shall be executed by the owner or operator after depositing with the Executive Director acceptable collateral, the market value of which shall be at least equal to the total estimated closure or post-closure cost or any part thereof not covered by other financial repsonsibility instruments.

B. Acceptable collateral may include certificates of deposit, negotiable bonds of the United States Government, the Commonwealth of Virginia or any of its agencies, any government authority within the Commonwealth of Virginia, or any county, municipality or other local bond issuing authority within the Commonwealth of Virginia approved as acceptable for financial responsibility purposes by the Executive Director.

C. The Executive Director shall, upon receipt of any such collateral, place the instrument(s) with the State Treasurer to be held in the name of the Commonwealth of Virginia, in trust, for the purposes for which such deposit is made.

D. The owner or operator shall be entitled to demand, receive and recover the interest and income from said instrument(s) as it becomes due and payable as long as the market value of the instrument(s) plus any other mechanisms used continue to at least equal the amount of the estimated closing cost.

E. The owner or operator shall also be permitted to replace the collateral instruments with other like instruments of at least equal market value upon proper notification to the Executive Director and the State Treasurer.

F. In the event of failure of the owner or operator to comply with the final closure or post-closure plan, the Executive Director shall declare said collateral forfeited and shall request the State Treasurer to convert said collateral into cash and transfer such funds to the Executive Director to be used for final closure purposes.

Appendix 3.8.

GUIDELINES FOR FINANCIAL TEST AND CORPORATE GUARANTEE FOR FINANCIAL ASSURANCE AND LIABILITY COVERAGE.

A. An owner or operator may satisfy the requirements for financial assurance by demonstrating that he passes a financial test as specified in this appendix. To pass this test the owner or operator shall meet the criteria in either 1 or 2 below:

1. The owner or operator shall have:

a. Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

b. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

c. Tangible net worth of at least $10 million; and

d. Assests in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

2. The owner or operator shall have:

a. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

b. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates [or a Bond rating of AA for Standard and Poor's or Aa for Moody's and a tangible net worth of two times the sum of the current closure and post-closure cost estimates] ; and

c. Tangible net worth of at least $10 million; and

d. Assets located in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

B. To demonstrate that he meets this test, the owner or operator shall submit the following items to the Executive Director;

1. A letter signed by the owner's or operator's chief financial officer and worded as specified in Appendix 3.9 for closure and post-closure financial assurance or Appendix 3.11 for liability coverage. [A separate letter is required for closure and post-closure and for assuring liability coverage.]

2. A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statement for the latest completed fiscal year; and

3. A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

a. He has compared the data which the letter from the chief financial officer specifies as having been derived from an independently audited, year-end financial statement for the latest fiscal year with the amounts in such financial statements; and

b. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

C. An owner or operator of a new facility shall submit the items specified to the Executive Director at least 60 days before the date on which solid waste is first received for treatment, storage, or disposal.

D. After the initial submission of items specified in B, the owner or operator shall send updated information to the Executive Director within 90 days after the close of each succeeding fiscal year. This information shall consist of all three items specified in B.

E. If the owner or operator no longer meets the requirements of A, he shall send notice to the Executive Director of intent to establish alternate financial assurance as specified in this part. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator shall provide the alternate financial assurance within 120 days after the end of such fiscal year.

F. The Executive Director may, based on a reasonable belief that the owner or operator may no longer meet the requirement of A, require reports of financial condition at any time from the owner or operator in addition to those specified in B. If the Executive Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of A, the owner or operator shall provide alternate financial assurance as specified in this part within 30 days after notification of such a finding.

G. The Executive Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see B.2). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Executive Director will evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in this part within 30 days after notification of the disallowance.

H. During the period of post-closure care, the Executive Director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Executive Director that the amount of the cost estimate exceeds the remaining cost of the post-closure care.

I. The owner or operator is no longer required to submit the items specified in B when:

1. An owner or operator substitutes alternate financial assurance as specified in this part; or

2. The Executive Director releases the owner or operator from the requirements of this part.

J. Release of the owner or operator from the requirements of this appendix within 60 days after receiving certification from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan. The Executive Director will notify the owner or operator in writing that he is no longer required by this appendix to maintain financial assurance for closure of the particular facility, unless the Executive Director has reason to believe that closure has not been in accordance with the closure plan.

K. An owner or operator may meet the requirements of this appendix by obtaining a written guarantee, hereafter referred to as "corporate guarantee". The guarantor shall be the parent corporation of the owner or operator. The guarantor shall meet the requirements for owners or operators in A through G and shall comply with the terms of the corporate guarantee. The wording of the corporate guarantee shall be identical to the wording specified in Appendix 3.10. The corporate guarantee shall accompany the items sent to the Executive Director as specified in B. The terms of the corporate guarantee shall provide that:

1. If the owner or operator fails to perform final closure or post-closure of a facility covered by the corporate guarantee in accordance with the closure plan or post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Appendices 3.1 and 3.2 in the name of the owner and operator.

2. The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Executive Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Executive Director, as evidenced by the return receipts.

3. If the owner or operator fails to provide alternate financial assurance as specified in this part and obtain the written approval of such alternate assurance from the Executive Director within 90 days after the receipt by both the owner or operator and the Executive Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

Appendix 3.9.

WORDING OF LETTER FROM CHIEF FINANCIAL OFFICER FOR [CLOSURE AND POST-CLOSURE] FINANCIAL ASSURANCE.

NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets removed.

Executive Director
Department of Waste Management
101 N. 14th Street, 11th Floor
Richmond, Virginia 23219

Dear [Sir, Madam]:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in § 3.5 of the Solid Waste Financial Assurance Regulations.

[Fill out the following four paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

1. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Appendix 3.8 of the regulations. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:

.....

2. This firm guarantees, through the corporate guarantee specified in Appendix 3.8 of the regulations, the closure or post-closure care of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility:

.....

3. This firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

.....

4. This firm is the owner or operator of the following solid waste management facilities for which financial assurance for closure and post-closure care is not demonstrated through the financial test or any other financial assurance mechanism. The current closure and/or post-closure cost estimates for the facilities which are not covered by such financial assurance are shown for each facility:

.....

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

ALTERNATIVE I.

(1) Sum of current closure and post-closure cost estimates [total of all cost estimates shown in the four paragraphs above.] ..... $.....

*(*2) Total liabilities [if any portion of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4.]* ..... $.....

*(*3) Tangible net worth* ..... $.....

*(*4) New worth* ..... $.....

*(*5) Current assets* ..... $.....

*(*6) Current liabilities* ..... $.....

(7) New working capital [line 5 minus line 6]. ..... $.....

*(*8) The sum of net income plus depreciation, depletion, and amortization.* ..... $.....

*(*9) Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.).* ..... $.....

YES NO

(10) Is line 3 at least $10 million?

(11) Is line 3 at least 6 times line 1?

(12) Is line 7 at least 6 times line 1?

*(*13) Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.*

(14) Is line 9 at least 6 times line 1?

(15) Is line 2 divided by line 4 less than 2.0?

(16) Is line 8 divided by line 2 greater than 0.1?

(17) Is line 5 divided by line 6 greater than 1.5?

ALTERNATIVE II.

(1) Sum of current closure and post-closure cost estimates [total of all cost estimates shown in the four paragraphs above]. ..... $.....

(2) Current bond rating of most recent issuance of this firm and name of rating service ..... $.....

(3) Date of issuance of bond. ..... $.....

(4) Date of maturity of bond. ..... $.....

*(*5) Tangible net worth [If any portion of the closure and post-closure cost estimates if included in "Total Liabilities" on your firm's financial statements, you may add the amount of that portion to this line.]* ..... $.....

*(*6) Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)* ..... $.....

YES NO

*(*7) Is line 5 at least $10 million?*

(8) Is line 5 at least 6 times line 1?

*(*9) Are at least 90% of firm's assets located in the U.S.? If not, complete line 10.*

(10) Is line 6 at least 6 times line 1?

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 3.8 of the Regulations as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

Appendix 3.10.

WORDING OF CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE.

NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets removed.

CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE.

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], herein referred to as guarantor, to the Virginia Department of Waste Management ("Department"), obligee, on behalf of our subsidiary [owner or operator] of [business address].

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Appendix 3.8.

2. [Owner or operator] owns or operates the following solid waste management facility(ies) covered by this guarantee: [List for each facility: name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by § [3.5] of the Regulations.

4. For value received from [owner or operator], guarantor guarantees to the Department that in the event that [owner or operator] fails to perform [insert "closure", "post-closure care", or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other [permit or interim status] requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in § 3.5 of the Regulations in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in § [3.4].

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Executive Director and to [owner or operator] that he intends to provide alternate financial assurance as specified in § [3.5] of the Regulations, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the Executive Director by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the

proceeding.

7. Guarantor agrees that within 30 days after being notified by the Executive Director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in § [3.5] of the Regulations, in the name of [owner or operator] unless [owner or operator] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] shall comply with the applicable financial assurance requirements of § 3.5 for the above-listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the Executive Director and to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both the Department and [owner or operator], as evidenced by the return receipts.

10. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in § 3.5 of the Regulations, and obtain written approval of such assurance from the Executive Director within 90 days after a notice of cancellation by the guarantor is received by the Executive Director from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

11. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix 3.10 of the Regulations as such regulations were constituted on the date first above written.

Effective date: .....

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: .....

Appendix 3.11.

WORDING OF THE LETTER FROM CHIEF FINANCIAL OFFICER FOR LIABILITY COVERAGE.

Executive Director
Department of Waste Management
101 N. 14th Street, 11th Floor
Richmond, VA 23219

Dear [Sir, Madam]:

I am the chief financial officer of [owner's or operator's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post-closure care" if applicable] as specified in § [3.6] of the Virginia Solid Waste Financial Assurance Regulations.

[Fill out the following paragraph regarding facilities and liability coverage. For each facility, include its name and address.]

The owner or operator identified above is the owner or operator of the following facilities for which liability coverage is being demonstrated through the financial test specified in § [3.6].

[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following four paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are not facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its name, address, and current closure and/or post-closure care.]

1. The owner or operator identified above owns or operates the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in § [3.5] of the Virginia Solid Waste Financial Assurance Regulations. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:

.....

2. The owner or operator identified above guarantees, through the corporate guarantee specified in § [3.5] of the Virginia Solid Waste Financial Assurance Regulations, the closure and post-closure care of the following facilities owned or operated by its subsidiaries. The current cost estimates for the closure and post-closure care so guaranteed are shown for each facility:

.....

3. This owner or operator is demonstrating financial

assurance for the closure or post-closure care of the following facilities through the use of financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

.....

4. The owner or operator identified above owns or operates the following hazardous waste management facilities. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

.....

This owner or operator [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this owner or operator ends on [month, day]. The figures for the following items marked with the asterisk are derived from this owner's or operator's independently audited, year-end financial statements for the latest completed fiscal year ended [date].

[Fill in part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A.
Liability Coverage for Accidental Occurrences.

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

ALTERNATIVE I.

(1) Amount of annual aggregate liability coverage to be demonstrated. ..... $.....

*(*2) Current Assets.* ..... $.....

*(*3) Current Liabilities.* ..... $.....

(4) Net working capital (line 2 minus line 3). ..... $.....

*(*5) Tangible net worth.* ..... $.....

*(*6) If less than 90% of assets are located in the U.S., give total U.S. assets.* ..... $.....

YES NO

(7) Is line 5 at least $10 million?

(8) Is line 4 at least 6 times line 1?

(9) Is line 5 at least 6 times line 1?

*(*10) Are at least 90% of assets located in the U.S.? If not, complete 11.*

(11) Is line 6 at least 6 times line 1?

ALTERNATIVE II.

(1) Amount of annual aggregate liability coverage to be demonstrated. ..... $.....

(2) Current bond rating of most recent issuance and name of rating service. ..... $.....

(3) Date of issuance of bond. ..... $.....

(4) Date of maturity of bond. ..... $.....

*(*5) Tangible net worth.* ..... $.....

*(*6) Total assets in U.S. (required only if less than 90% of assets are located in the U.S.)* ..... $.....

YES NO

(7) Is line 5 at least $10 million?

(8) Is line 5 at least 6 times line 1?

*(*9) Are at least 90% of assets located in the U.S.? If not, complete line 10.*

(10) Is line 6 at least 6 times line 1?

[Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

Part B.
Closure or Post-Closure Care and Liability Coverage.

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.

ALTERNATIVE I.

(1) Sum of current and post-closure cost estimates (total of all cost estimates listed above). ..... $.....

(2) Amount of annual aggregate liability coverage to be demonstrated. ..... $.....

(3) Sum of lines 1 and 2. ..... $.....

*(*4) Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6).* ..... $.....

*(*5) Tangible net worth.* ..... $.....

*(*6) Net worth.* ..... $.....

*(*7) Current Assets.* ..... $.....

*(*8) Current Liabilities.* ..... $.....

(9) Net working capital (line 7 minus line 8). ..... $.....

*(*10) The sum of net income plus depreciation, depletion, and amortization.* ..... $.....

*(*11) Total assets in U.S. (required only if less than 90% of assets are located in the U.S.)* ..... $.....

YES NO

(12) Is line 5 at least $10 million?

(13) Is line 5 at least 6 times line 3?

(14) Is line 9 at least 6 times line 3?

*(*15) Are at least 90% of assets located in the U.S.? If not, complete line 16.*

(16) Is line 11 at least 6 times line 3?

(17) Is line 4 divided by line 6 less than 2.0?

(18) Is line 10 divided by line 4 greater than 0.1?

(19) Is line 7 divided by line 8 greater than 1.5?

ALTERNATIVE II.

(1) Sum of current and post-closure cost estimates (total of all cost estimates listed above). ..... $.....

(2) Amount of annual aggregate liability coverage to be demonstrated. ..... $.....

(3) Sum of lines 1 and 2. ..... $.....

(4) Current bond rating of most recent issuance and name of rating service. ..... $.....

(5) Date of issuance of bond. ..... $....

(6) Date of maturity of bond. ..... $.....

*(*7) Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line).* ..... $...

*(*8) Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.)* ..... $.....

YES NO

(9) Is line 7 at least $10 million?

(10) Is line 7 at least 6 times line 3?

*(*11) Are at least 90% of assets located in the U.S.? If not, complete line 12.*

(12) Is line 8 at least 6 times line 3?

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 3.11 of the Virginia Solid Waste Financial Assurance Regulations as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

Title of Regulation: **Registration of Investment Advisor and Investment Advisor Representatives.**

ARTICLE X.
INVESTMENT ADVISOR REGISTRATION, EXPIRATION, RENEWAL, UPDATES AND AMENDMENTS, TERMINATION AND MERGER OR CONSOLIDATION.

Rule 1000. Application for Registration as an Investment Advisor.

A. Application for registration as an investment advisor shall be filed with the Commission at its Division of Securities and Retail Franchising on and in full compliance with forms prescribed by the Commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as an investment advisor unless the following executed forms, fee and information are submitted:

1. Form ADV.

2. The statutory fee in the amount of $200.00. The check must be made payable to the Treasurer of Virginia.

3. Signed and executed Agreement for Inspection of Records.

4. Any other information the Commission may require.

C. The Commission shall either grant or deny each application for registration within thirty days following the filing of the application. However, this period may be extended if additional time is required for a formal hearing on the application.

Rule 1001. Expiration.

An investment advisor's registration shall expire annually at midnight on the thirty-first day of December, unless renewed in accordance with Rule 1002.

Rule 1002. Renewals.

To renew its registration, an investment advisor shall file the following items with the Commission at its Division of Securities and Retail Franchising at least thirty days prior to the expiration of registration:

1. A letter requesting renewal of the investment advisor's registration.

2. The statutory fee in the amount of $200.00.

3. A balance sheet as prescribed by Part II, Item 14 of Form ADV, unless excluded from such requirement. If the most recent fiscal year audited balance sheet precedes the date of renewal by more than ninety days, an unaudited balance sheet dated within 90 days of the renewal date must be submitted. The balance sheet must conform to Schedule G of Form ADV, excluding parts 1.B and 3 of such schedule.

Rule 1003. Updates and Amendments.

An investment advisor shall update its Form ADV as required by the "Updating" provisions of Item 7 of Form ADV Instructions and shall file all such amendments with the Commission at its Division of Securities and Retail Franchising.

Rule 1004. Termination of Registration.

When an investment advisor desires to terminate its registration, it shall file a written request for such termination with the Commission at its Division of Securities and Retail Franchising. An investment advisor may file SEC Form ADV-W in lieu of a written request for termination.

Rule 1005. Investment Advisor Merger or Consolidation.

In any merger or consolidation of an investment advisor a new application for registration together with the proper fee must be filed with the Commission at its Division of Securities and Retail Franchising. For each investment advisor representative of the new or surviving entity who will transact business in this Commonwealth, an application for registration together with the proper fee(s) must also be filed on and in compliance with all requirements of the NASAA/NASD Central Depository Registration system and in full compliance with the forms prescribed by the Commission.

ARTICLE XI.
INVESTMENT ADVISOR REPRESENTATIVE REGISTRATION, EXPIRATION, UPDATES AND AMENDMENTS, TERMINATION, AND CHANGING CONNECTION FROM ONE INVESTMENT ADVISOR TO ANOTHER.

Rule 1100. Application for Registration as an Investment Advisor Representative.

A. Application for registration as an investment advisor representative shall be filed on and in compliance with all requirements of the NASAA/NASD Central Depository Registration system and in full compliance with forms prescribed by the Commission. The application shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as an investment advisor representative unless the following executed forms, fee and information are submitted:

1. Form U-4.

2. The statutory fee in the amount of $30.00. The check must be made payable to the NASD.

3. Any other information the Commission may require.

C. The Commission shall either grant or deny each application for registration within thirty (30) days following the filing of the application. However, this period may be extended if additional time is required for a formal hearing on the application.

Rule 1101. Expiration.

The registration of an investment advisor representative shall expire annually at midnight on the thirty-first day of December unless renewed in accordance with Rule 1102.

Rule 1102. Renewals.

To renew the registration(s) of its investment advisor representative(s), an investment advisor shall file with the NASAA/NASD Central Registration Depository all documents, fees and information necessary to comply with the requirements of the Commission and the NASAA/NASD Central Registration Depository system.

Rule 1103. Updates and Amendments.

An investment advisor representative shall amend or update his/her Form U-4 as required by the "Amendment Filings" provisions set forth under "How to Use Form U-4." All filings shall be made with the NASAA/NASD Central Registration Depository system.

Rule 1104. Termination of Registration.

When an investment advisor representative terminates a connection with an investment advisor, or an investment advisor terminates connection with an investment advisor representative, the investment advisor shall file with the the NASAA/NASD Central Registration Depository system notice of such termination on Form U-5 within 30 calendar days of the date of termination.

Rule 1105. Changing a Connection from One Investment Advisor to Another.

An investment advisor representative who changes connection from one investment advisor to another shall comply with Rule 1100.

ARTICLE XII.
INVESTMENT ADVISOR AND INVESTMENT ADVISOR REPRESENTATIVE REGULATIONS.

Rule 1200. Custody of Client Funds or Securities by Investment Advisors.

An investment advisor who takes or has custody of any securities or funds of any client must comply with the following:

1. The investment advisor shall notify the Commission that it has or may have custody. Such notification may be given on Form ADV.

2. The securities of each client must be segregated, marked to identify the particular client having the beneficial interest therein and held in safekeeping in some place reasonably free from risk of destruction or other loss.

3. (a) All client funds must be deposited in one or more bank accounts containing only clients' funds, (b) such account or accounts must be maintained in the name of the investment advisor or agent or trustee for such clients, and (c) the investment advisor must maintain a separate record for each such account showing the name and address of the bank where the account is maintained, the dates and amounts of deposits in and withdrawals from the account, and the exact amount of each client's beneficial interest in the account.

4. Immediately after accepting custody or possession of funds or securities from any client, the investment advisor must notify the client in writing of the place where and the manner in which the funds and securities will be maintained and subsequently, if and when there is a change in the place where or the manner in which the funds or securities are maintained, the investment advisor must give written notice thereof to the client.

5. At least once every three months, the investment advisor must send each client an itemized statement showing the funds and securities in the investment advisor's custody at the end of such period and all debits, credits and transactions in the client's account during such period.

6. At least once every calendar year, an independent public accountant must verify all client funds and securities by actual examination at a time chosen by the accountant without prior notice to the investment advisor. A certificate of such accountant stating that he or she has made an examination of such funds and securities, and describing the nature and extent of the examination, shall be filed with the Commission promptly after each such examination.

Rule 1201. Agency Cross Transactions.

A. For purposes of this rule, "agency cross transaction" means a transaction in which an investment advisor, or any person controlling, controlled by, or under common control with such investment advisor, including an investment advisor representative, acts as a broker-dealer for both the advisory client and the person on the other side of the transaction.

B. An investment advisor effecting an agency cross transaction for an advisory client shall comply with the

following conditions:

1. Obtain from the advisory client a written consent prospectively authorizing the investment advisor to effect agency cross transactions for such client.

2. Before obtaining such written consent from the client, disclose to the client in writing that, with respect to agency cross transactions, the investment advisor will act as broker-dealer for, receive commissions from and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions.

3. At or before the completion of each agency cross transaction, send the client a written confirmation. The written confirmation shall include (a) a statement of the nature of the transaction, (b) the date the transaction took place (c) an offer to furnish, upon request, the time when the transaction took place and (d) the source and amount of any other remuneration the investment advisor received or will receive in connection with the transaction. In the case of a purchase, if the investment advisor was not participating in a distribution, or, in the case of a sale, if the investment advisor was not participating in a tender offer, the written confirmation may state whether the investment advisor has been receiving or will receive any other remuneration and that the investment advisor will furnish to the client the source and amount of such remuneration upon the client's written request.

4. At least annually, and with or as part of any written statement or summary of the account from the investment advisor, send each client a written disclosure statement identifying (a) the total number of agency cross transactions during the period since the date of the last such statement or summary and (b) the total amount of all commissions or other remuneration the investment advisor received or will receive in connection with agency cross transactions during the period.

5. Each written disclosure and confirmation required by this rule must include a conspicuous statement that the client may revoke the written consent required under subsection B.1 of this rule at any time by providing written notice of revocation to the investment advisor.

6. No agency cross transaction may be effected in which the same investment advisor recommended the transaction to both any seller and any purchaser.

C. Nothing in this rule shall be construed to relieve an investment advisor or investment advisor representative from acting in the best interests of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment advisor or investment advisor representative of any other disclosure obligations imposed by the Act.

Rule 1202. Record-Keeping Requirements for Investment Advisors.

A. Every investment advisor registered or required to be registered under the Act shall make and keep the following books, ledgers and records:

1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entities in any ledger.

2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

3. A memorandum of each order given by the investment advisor for the purchase or sale of any security, of any instruction received by the investment advisor from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. Such memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment advisor who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank, broker or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.

4. All check books, bank statements, cancelled checks and cash reconciliations of the investment advisor.

5. All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment advisor as such.

6. All trial balances, financial statements, and internal audit working papers relating to the business of such investment advisor.

7. Originals of all written communications received and copies of all written communications sent by such investment advisor relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given, (ii) any receipt, disbursement or delivery of funds or securities, and (iii) the placing or execution of any order to purchase or sell any security; provided, however, (a) that the investment advisor shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment advisor, and (b) that if the investment advisor sends any notice, circular or other advertisement offering any report, analysis, publication

or other investment advisory service to more than 10 persons, the investment advisor shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment advisor shall retain with a copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

8. A list or other record of all accounts in which the investment advisor is vested with any discretionary power with respect to the funds, securities or transactions of any client.

9. All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment advisor, or copies thereof.

10. All written agreements (or copies thereof) entered into by the investment advisor with any client or otherwise relating to the business of such investment advisor as such.

11. A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of a specific security, which the investment advisor circulates or distributes, directly or indirectly, to 10 or more persons (other than investment advisory clients or persons connected with such investment advisor), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a memorandum of the investment advisor indicating the reasons therefor.

12. (a) A record of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected. (b) An investment advisor shall not be deemed to have violated the provisions of this paragraph 12 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

13. (a) Notwithstanding the provisions of paragraph 12 above, where the investment advisor is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, a record must be maintained of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(b) An investment advisor is "primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is less, the investment advisor derived, on an unconsolidated basis, more than 50% of (i) its total sales and revenues, and (ii) its income (or loss) before income taxes and extraordinary items, from such other business or businesses.

(c) An investment advisor shall not be deemed to have violated the provisions of this paragraph 13 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

14. A copy of each written statement and each

amendment or revision thereof, given or sent to any client or prospective client of such investment advisor in accordance with the provisions of Rule 1205 and a record of the dates that each written statement, and each amendment or revision thereof, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

B. If an investment advisor subject to subsection A of this rule has custody or possession of securities or funds of any client, the records required to be made and kept under subsection A above shall include:

1. A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts.

2. A separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits.

3. Copies of confirmations of all transactions effected by or for the account of any such client.

4. A record for each security in which any such client has a position, which record shall show the name of each such client having any interest in each security, the amount or interest of each such client, and the location of each such security.

C. Every investment advisor subject to subsection A of this rule who renders any investment advisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment advisor, make and keep true, accurate and current:

1. Records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale.

2. For each security in which any such client has a current position, information from which the investment advisor can promptly furnish the name of each such client, and the current amount or interest of such client.

D. Any books or records required by this rule may be maintained by the investment advisor in such manner that the identity of any client to whom such investment advisor renders investment advisory services is indicated by numerical or alphabetical code or some similar designation.

E. 1. All books and records required to be made under the provisions of subsections A to C.1, inclusive, of this rule shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years of such period in the office of the investment advisor.

2. Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment advisor and of any predecessor, shall be maintained in the principal office of the investment advisor and preserved until at least three years after termination of the enterprise.

F. An investment advisor subject to subsection A of this rule, before ceasing to conduct or discontinuing business as an investment advisor shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this rule for the remainder of the period specified in this rule, and shall notify the Commission in writing of the exact address where such books and records will be maintained during such period.

G. After a record or other document has been preserved for two years a photograph on film may be substituted for the balance of the required time.

Rule 1203. Supervision of Investment Advisor Representatives.

A. An investment advisor shall be responsible for the acts, practices, and conduct of its investment advisor representatives in connection with advisory services until such time as the investment advisor representatives have been properly terminated as provided by Rule 1104.

B. Every investment advisor shall exercise diligent supervision over the advisory activities of all of its investment advisor representatives.

C. Every investment advisor representative employed by an investment advisor shall be subject to the supervision of a supervisor designated by such investment advisor. The supervisor may be the investment advisor in the case of a sole proprietor, or a partner, officer, office manager or any qualified investment advisor representative in the case of entities other than sole proprietorships.

D. As part of its responsibility under this rule, every investment advisor shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, which shall set forth the procedures adopted by the investment advisor, which shall include but not be limited to the following duties imposed by this rule.

1. The review and written approval by the designated supervisor of the opening of each new client account;

2. The frequent examination of all client accounts to detect and prevent irregularities or abuses;

3. The prompt review and written approval by a

designated supervisor of all advisory transactions by investment advisor representatives of all correspondence pertaining to the solicitation or execution of all advisory transactions by investment advisor representatives;

4. The prompt review and written approval of the handling of all client complaints.

E. Every investment advisor who has designated more than one supervisor pursuant to subsection C of this rule shall designate from among its partners, officers, or other qualified investment advisor representatives, a person or group of persons who shall:

1. Supervise and periodically review the activities of the supervisors designated pursuant to subsection C of this rule; and

2. Periodically inspect each business office under his/her supervision to insure that the written procedures are being enforced.

Rule 1204. Requirements for Surety Bonds and Financial Reporting.

A. Investment advisors required to provide a balance sheet pursuant to Part II, Item 14 of Form ADV must demonstrate a net worth in excess of $25,000.

B. If an investment advisor's net worth drops below $25,001, the investment advisor must notify the Division of Securities and Retail Franchising within 24 hours of initial awareness of the discrepancy and immediately take action to establish a net worth in excess of $25,000 or obtain a surety bond in the penalty amount of $25,000. The surety bond form prescribed by Rule 800 must be utilized. Additionally, within 24 hours after transmitting such notice, the investment advisor shall file a report with the Division of Securities and Retail Franchising of its financial condition, including the following:

1. A trial balance of all ledger accounts.

2. A computation of net worth.

3. A statement of all client funds or securities which are not segregated.

4. A computation of the aggregate amount of client ledger debit balances.

5. A statement as to the number of client accounts.

Rule 1205. Disclosure Requirements

A. For purposes of compliance with Section 13.1-505.1 of the Act, a copy of Part II of Form ADV must be given to clients of investment advisors, or a brochure containing such information may be utilized.

B. The investment advisor or its registered representatives shall deliver the disclosure information required by this section to an advisory client or prospective advisory client:

1. Not less than 48 hours prior to entering into any investment advisory contract with such client or prospective client, or

2. At the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five calendar days after entering into the contract.

C. A copy of Part II of Form ADV or the brochure to be given to clients must be filed with the Commission at its Division of Securities and Retail Franchising prior to use.

ARTICLE XIII.
EXCLUSIONS.

Rule 1300. Exclusions from Definition of "Investment Advisor".

Pursuant to Section 13.1-501(m)(vi) of the Act, the term "investment advisor" does not include any person engaged in the investment advisory business whose only client in this Commonwealth is one or more of the following:

A. An investment company as defined in the Investment Company Act of 1940.

B. An insurance company licensed to transact insurance business in this Commonwealth.

C. A bank, a bank holding company as defined in the Bank Holding Company Act of 1956 (12 USC Section 1841 et seq.), a trust subsidiary organized under Article 3.1 (Section 6.1-32.1 et seq.) of Chapter 2 of Title 6.1, a savings institution, a credit union, or a trust company if any of the foregoing is

(1) authorized or licensed to transact such business in this Commonwealth or

(2) organized under the laws of the United States.

TO: State Corporation Commission of Virginia
Division of Securities and Retail Franchising
P.O. Box 1197
Richmond, Virginia 23209

AGREEMENT FOR INSPECTION OF RECORDS

(Name of Investment Advisor)

(hereinafter "Applicant") hereby agrees and represents as a condition of granting application for registration as an investment advisor under the Virginia Securities Act:

I.

(A) That all of Applicant's records, immediately upon the request of the Commission, will be made available for inspection by the Commission and reproduction for the Commission in the office where such records are maintained;

(B) That all of Applicant's records (or legible copies of same, or print-outs of same, if automated) pertaining to the investment advisory business any part of which occurred or is to occur within the Commonwealth of Virginia will be made available for inspection by the Commission in the office of the Commission's Division of Securities and Retail Franchising within 48 hours after request of the Commission for same;

(C) That the term "records" shall mean and include all books, papers, documents, tapes, films, photographs or other materials, regardless of physical form or characteristics, (1) that are maintained for the recordation or storage of information prepared, used or to be used in connection with the investment advisory business or (2) that were used or are to be used in connection with the investment advisory business; and

(D) That the address at which the records are maintained is ....., and that if this address changes, then the Applicant immediately will give written notification to the Commission of the correct address.

II.

The Applicant understands:

(A) That failure to comply with the terms of part I of this Agreement may be considered grounds for the institution of a proceeding to revoke an investment advisor's registration.

(B) That any investment advisor subject to an investigation made by the Commission may be required to pay the actual costs of the investigation including $20 per day for the time of the investigator.

.....
..... (Name of Investment Advisor)

By: .....
..... (Signature)

.....
..... (Typed or Printed Name of Signer)

.....
..... (Title)

.....
..... (Date)

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

INVESTMENT ADVISOR'S SURETY BOND

..... of ..... as principal, and ..... a corporation organized and existing under the laws of the State of ....., and authorized to write bonds in the Commonwealth of Virginia, as Surety, are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the penal sum of $..... for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED AND DATED this ..... day of ....., 19....

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

Whereas, the said Principal has applied to the State Corporation Commission of the Commonwealth of Virginia for registration (or renewal of registration) as an investment advisor pursuant to the Securities Act (Chapter 5, Title 13.1, Code of Virginia (1950), as amended) and, in accordance with Section 13.1-505 thereof, the State Corporation Commission has conditioned registration (or renewal of registration) upon the Principal filing a surety bond;

Therefore, the conditions of this obligation are such that if the Principal, in connection with his investment advisory business transacted in Virginia, discharges all obligations imposed on him as an investment advisor registered under the Securities Act, accounts for all money and securities coming into his hands for the use of his clients, fully performs all investment advisory contracts to which he is a party, and satisfies all civil penalties provided in the Securities Act for which said Principal may become liable, then this obligation shall be null and void; otherwise, to remain in full force and effect;

Provided, this bond shall cover the acts of the Principal during the period of registration; and in no event shall the Surety's aggregate liability hereunder for all losses exceed the penal sum of $.....

Provided further, the Surety may be released from liability for future breaches of the conditions of this bond only after thirty days have elapsed from the giving of written notice to the Principal and to the State Corporation Commission of the Commonwealth of Virginia, of its desire to be released.

.....
..... (Principal)
(SEAL OF PRINCIPAL)
By .....
..... (If Principal is Partnership or Corporation)

Title .....
(SEAL OF SURETY)
.....
..... (Surety)

By .....
..... (Officer or Attorney-in-Fact)
Countersigned by

(Name of Agency)

(Resident Virginia Agent)

Date

OMB APPROVAL
OMB No.: 3235-0049
Expires: June 30, 1988

FORM ADV INSTRUCTIONS

1. **This is a Uniform Form for use by investment advisers to:**
   - register with the Securities and Exchange Commission and the jurisdictions that require advisers to register.
   - update those registrations. When updating, complete all amended pages in full and circle the number of the item being changed. Each amendment must include the execution page.

2. **Organization**

   The Form contains two parts. Parts I and II are filed with the SEC and the jurisdictions; Part II can be given to clients to satisfy the brochure rule. The Form also contains the following schedules:
   - Schedule A — for corporations;
   - Schedule B — for partnerships;
   - Schedule C — for entities that are not sole proprietorships, partnerships or corporations;
   - Schedule D — for reporting information about individuals under Part I Items 11 and 12;
   - Schedule E — for continuing responses to Part I items;
   - Schedule F — for continuing responses to Part II items; and
   - Schedule G — for the balance sheet required by Part II Item 14.

3. **Format**
   - Type all information.
   - Give all individual names in full, including full middle names.
   - Use only Form ADV and its Schedules or a reproduction of them.

4. **Signature**
   - All filings and amendments must be filed with a signed execution page (page 1).
   - Each copy filed with the Securities and Exchange Commission and any jurisdiction must be manually signed.

If applicant is	Form ADV should be signed by
• a sole proprietor	the proprietor
• a partnership	a general partner for the partnership
• a corporation	an authorized principal officer for the corporation
• any other organization	the managing agent (an authorized person that participates in managing or directing applicant's affairs)

5. **General Definitions** (Additional definitions appear in Part I Item 11 and Part II.)
   - Applicant — The investment adviser applying on or amending this Form.
   - Client — An investment advisory client of the applicant.
   - Control — The power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any individual or firm that is a director, partner or officer exercising executive responsibility (or having similar status or functions) or that directly or indirectly has the right to vote 25 percent or more of the voting securities or is entitled to 25 percent or more of the profits is presumed to control that company. (This definition is used solely for the purpose of Form ADV.)
   - Custody — A person has custody if it directly or indirectly holds client funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them. An adviser has custody, for example, if it has a general power of attorney over a client's account or has signatory power over a client's checking account. (The definition and examples are for the convenience of registrants. Depending on the facts and circumstances, other situations also may involve custody.)
   - Jurisdiction — Any non-Federal government or regulatory body in the United States, or Puerto Rico.
   - Person — An individual, partnership, corporation or other organization.
   - Related person — Any officer, director or partner of applicant or any person directly or indirectly controlling, controlled by or under common control with the applicant, including any non-clerical, non-ministerial employee.
   - Self-regulatory organization — Any national securities or commodities exchange or registered association, or registered clearing agency.

6. **Continuation Sheets** — Schedules E and F provide additional space for continuing Form ADV items (Schedule E for Part I; Schedule F for Part II) but not for continuing Schedules A, B, C, D or G. To continue those schedules, use copies of the schedule being continued.

7. **SEC Filings**
   - Submit filings in triplicate to the U.S. Securities and Exchange Commission, Washington, D.C. 20549. To register, submit a check or money order for $150 payable to the U.S. Securities and Exchange Commission. This fee is non-refundable. There is no fee for amendments.
   - **Non-Residents** — Rule 0-2 under the Investment Advisers Act of 1940 [17 CFR 275.0-2] covers those non-resident persons named anywhere in Form ADV that must file a consent to service of process and a power of attorney. Rule 204-2(j) under the Investment Advisers Act of 1940 [17 CFR 275.204-2] covers the notice of undertaking on books and records non-residents must file with Form ADV.
   - **Updating.** Federal law requires filing amendments:
     - promptly for *any* changes in:

       Part I — Items 1, 2, 3, 4, 5, 8, 11, 13A, 13B, 14A, and 14B;
     - promptly for *material* changes in:

       Part I — Items 9 and 10 and all items of Part II except Item 14;
     - within 90 days of the end of the fiscal year for any other changes.
   - **Federal Information Law and Requirements** — Investment Advisers Act of 1940 Sections 203(c), 204, 206, and 211(a) authorize the SEC to collect the information on this Form from applicants for investment adviser registration. The information is used for regulatory purposes, including deciding whether to grant registration. The SEC maintains files of the information on this form and makes it publicly available. Only the Social Security Number, which aids identifying the applicant, is voluntary. The SEC may return as unacceptable Forms that do not include all other information. By accepting this Form, however, the SEC does not make a finding that it has been filled out or submitted correctly. Intentional misstatements or omissions constitute Federal criminal violations under 18 USC 1001 and 15 USC 80b-17.

8. **Filings in Jurisdictions** — Consult the requirements of each jurisdiction in which you are filing to determine its requirements for, among other things:
   - filings
   - updates
   - financial statements
   - bonding
   - examinations and qualifications
   - photographs and fingerprints
   - limitations on advisory fees

   Information on a jurisdiction's requirements is available from its Securities Administrator. For the address and telephone number of the Securities Administrator in a jurisdiction, contact the North American Securities Administrators Association, Inc., 2930 S.W. Wanamaker Drive, Suite 5, Topeka, Kansas 66614, (913) 273-2600.

FORM ADV Part I - Page 1

Uniform Application for Investment Adviser Registration

OMB APPROVAL
OMB No.: 3235-0049
Expires: June 30, 1988

This filing is an: ☐ Initial Application or ☐ Amendment

If this filing is an Amendment:
- Give the Applicant's SEC File Number 801-_____
- Is Applicant now active in business as an investment Adviser? Yes ☐ No ☐

WARNING: Failure to complete this Form accurately and keep it current subjects applicant to administrative, civil and criminal penalties.

1. A. Applicant's full name (If sole proprietor, state last, first and middle name):

B. Name under which business is conducted, if different:

C. If business name is being amended, give previous name:

2. A. Principal place of business: (Number and Street — Do not use P.O. Box Number) (City) (State) (Zip Code)

B. Hours business is conducted at this location: from _____ to _____ C. Telephone Number at this location: (Area Code) (Telephone Number)

D. Mailing address, if different from address given in 2A: (Number and Street or P.O. Box Number) (City) (State) (Zip Code)

E. Is the address in Item 2A or 2D being amended in this filing? Yes ☐ No ☐

F. On Schedule E give the addresses and telephone numbers of all offices at which applicant's investment advisory business is conducted, other than the one given in Item 2A.

3. A. If books and records required by Section 204 of the Investment Advisers Act of 1940 are kept somewhere other than at the principal place of business given in Item 2A, give the following information (if kept in more than one place, give additional names, addresses and hours of business on Schedule E):

Name and address of entity where books and records are kept:

(Number and Street) (City) (State) (Zip Code)

B. Hours business is conducted at this location: from _____ to _____ C. Telephone Number at this location: (Area Code) (Telephone Number)

EXECUTION

For the purpose of complying with the laws of the State(s) I have marked in Item 7 relating to the giving of investment advice, I hereby certify that the applicant is in compliance with applicable state surety bonding requirements and irrevocably appoint the administrator of each of those State(s), or such other person designated by law, and the successors in such office, my attorney in said State(s) upon whom may be served any notice, process or pleading in any action or proceeding against me arising out of or in connection with the offer or sale of securities or commodities, or out of the violation or alleged violation of the laws of those State(s) and I do hereby consent that any such action or proceeding against me may be commenced in any court of competent jurisdiction and proper venue within said State(s) by service of process upon said appointee with the same effect as if I were a resident in said State(s) and had lawfully been served with process in said State(s).

The undersigned, being first duly sworn, deposes and says that he has executed this Form on behalf of, and with the authority of, said applicant. The undersigned and applicant represent that the information and statements contained herein, including exhibits attached hereto and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and applicant further represent that to the extent any information previously submitted is not amended, such information is currently accurate and complete.

Date:	Name of Applicant:	By (Signature):
Typed Name and Title:		
Subscribed and sworn before me this _____ day of _____ 19____		
By:		
My commission expires	County of	State of

Answer all items.

FORM ADV Part I - Page 2

Applicant: SEC File Number: 801- Date:

4. A. Persons to contact for further information about this Form: (Name) (Title)

B. Mailing Address (Number and Street, City, State, Zip Code): Area Code and Telephone Number:

5. A. Applicant consents that notice of any proceeding before the Securities and Exchange Commission or a jurisdiction in connection with its investment adviser registration may be given by registered or certified mail or confirmed telegram to: (Last Name) (First Name) (Middle Name)

B. (Number and Street) (City) (State) (Zip Code) 6. Applicant's fiscal year ends: (Month) (Day)

7. In the box below, give status of applicant's investment adviser registration by indicating:
"1" for pending
"2" for registered
"3" for withdrawn before registration within the last 10 years
"4" for previously registered within the last 10 years

Securities and Exchange Commission _____

AL ___ AK ___ AZ ___ AR ___ CA ___ CO ___ CT ___ DE ___ DC ___ FL ___ GA ___ HI ___ ID ___
IL ___ IN ___ IA ___ KS ___ KY ___ LA ___ ME ___ MD ___ MA ___ MI ___ MN ___ MS ___ MO ___
MT ___ NE ___ NV ___ NH ___ NJ ___ NM ___ NY ___ NC ___ ND ___ OH ___ OK ___ OR ___ PA ___
RI ___ SC ___ SD ___ TN ___ TX ___ UT ___ VT ___ VA ___ WA ___ WV___ WI ___ WY___ Puerto Rico ___
Other (Specify): _____

8. Applicant is a (check box that applies and complete those items):

A. ☐ CORPORATION - Complete Schedule A.	(1) Date of incorporation (Month, Day, Year):	(2) Jurisdiction where incorporated:	
B. ☐ PARTNERSHIP - Complete Schedule B.	(1) Date of establishment (Month, Day, Year):	(2) Current legal address (Number, Street, City, State, Zip Code):	
C. ☐ SOLE PROPRIETORSHIP	(1) Date business began (Month, Day, Year):	(2) Current residence address of proprietor: (Number, Street, City, State, Zip Code)	(3) Social Security No.
D. ☐ Other - Specify _____ Complete Schedule C	(1) Date of establishment (Month, Day, Year):	(2) Current legal address (Number, Street, City, State, Zip Code):	

9. Is the applicant taking over the business of a registered investment adviser? (If yes, describe the transfer on Schedule E, including the transfer date, and predecessor's full name, IRS employer number and SEC file number) Yes ☐ No ☐

10. A. Does any person not named in Item 1A or Schedules A, B, or C, through agreement or otherwise, control the management or policies of applicant? Yes ☐ No ☐

(If yes, state on Schedule E the exact name of each person and describe the basis for the person's control.)

B. Is the applicant financed by a person not named in Items 1A or Schedule A, B, or C other than by: (1) a public offering under the Securities Act of 1933; (2) credit given in the ordinary course of business by banks, suppliers or others; or (3) a satisfactory subordination agreement under Securities Exchange Act of 1934 Rule 15cl-1 (17 CFR 240.15cl-1)? Yes ☐ No ☐

(If yes, state on Schedule E the exact name of each person and describe the arrangement through which financing is made available, including the amounts.)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV
Part I - Page 3

Applicant:	SEC File Number: 801-	Date:

11. Disciplinary questions. Definitions:

- Advisory affiliate — A person named in Items 1A, 10A or Schedules A, B or C; or an individual or firm that directly or indirectly controls or is controlled by the applicant, including any current employee except one performing only clerical, administrative, support or similar functions.
- Investment or investment-related — Pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment adviser, futures sponsor, bank or savings and loan association).
- Involved — Doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

A. In the past ten years has the applicant or an advisory affiliate been convicted of or pleaded guilty or nolo contendre ("no contest") to:

(1) a felony or misdemeanor involving:
- investment or an investment-related business
- fraud, false statements, or omissions
- wrongful taking of property or
- bribery, forgery, counterfeiting, or extortion? ..... Yes ☐ No ☐

(2) any other felony? ..... Yes ☐ No ☐

B. Has any court:

(1) in the past ten years, enjoined the applicant or an advisory affiliate in connection with any investment-related activity? ..... Yes ☐ No ☐

(2) ever found that the applicant or an advisory affiliate was involved in a violation of investment-related statutes or regulations? ..... Yes ☐ No ☐

C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:

(1) found the applicant or an advisory affiliate to have made a false statement or omission? ..... Yes ☐ No ☐

(2) found the applicant or an advisory affiliate to have been involved in a violation of its regulations or statutes? ..... Yes ☐ No ☐

(3) found the applicant or an advisory affiliate to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? ..... Yes ☐ No ☐

(4) entered an order denying, suspending or revoking the applicant's or an advisory affiliate's registration or otherwise disciplined it by restricting its activities? ..... Yes ☐ No ☐

D. Has any other federal regulatory agency or any state regulatory agency:

(1) ever found the applicant or an advisory affiliate to have made a false statement or omission or been dishonest, unfair, or unethical? ..... Yes ☐ No ☐

(2) ever found the applicant or an advisory affiliate to have been involved in a violation of investment regulations or statutes? ..... Yes ☐ No ☐

(3) ever found the applicant or an advisory affiliate to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? ..... Yes ☐ No ☐

(4) in the past ten years, entered an order against the applicant or an advisory affiliate in connection with an investment-related activity? ..... Yes ☐ No ☐

(5) ever denied, suspended, or revoked the applicant's or an advisory affiliate's registration or license, prevented it from associating with an investment-related business, or otherwise disciplined it by restricting its activities? ..... Yes ☐ No ☐

(6) ever revoked or suspended the applicant's or an advisory affiliate's license as an attorney or accountant? ..... Yes ☐ No ☐

Answer all items. Complete extended pages in full, circle amended items and file with execution page (page 1).

FORM ADV
Part I - Page 4

Applicant:	SEC File Number: 801-	Date:

E. Has any self-regulatory organization or commodities exchange ever:

(1) found the applicant or an advisory affiliate to have made a false statement or omission? ..... Yes ☐ No ☐

(2) found the applicant or an advisory affiliate to have been involved in a violation of its rules? ..... Yes ☐ No ☐

(3) found the applicant or an advisory affiliate to have been the cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? ..... Yes ☐ No ☐

(4) disciplined the applicant or an advisory affiliate by expelling or suspending it from membership, by barring or suspending its association with other members, or by otherwise restricting its activities? ..... Yes ☐ No ☐

F. Has any foreign government, court, regulatory agency, or exchange ever entered an order against the applicant or an advisory affiliate related to investments or fraud? ..... Yes ☐ No ☐

G. Is the applicant or an advisory affiliate now the subject of any proceeding that could result in a 'yes' answer to parts A-F of this item? ..... Yes ☐ No ☐

H. Has a bonding company denied, paid out on, or revoked a bond for the applicant? ..... Yes ☐ No ☐

I. Does the applicant have any unsatisfied judgments or liens against it? ..... Yes ☐ No ☐

J. Has the applicant or an advisory affiliate of the applicant ever been a securities firm or an advisory affiliate of a securities firm that has been declared bankrupt, had a trustee appointed under the Securities Investor Protection Act, or had a direct payment procedure begun? ..... Yes ☐ No ☐

K. Has the applicant, or an officer, director or person owning 10% or more of the applicant's securities failed in business, made a compromise with creditors, filed a bankruptcy petition or been declared bankrupt? ..... Yes ☐ No ☐

If a 'yes' answer on Item 11 involves:

- an individual, complete a Schedule D for the individual
- a partnership, corporation or other organization, on Schedule E give the following details of any court or regulatory action:
  - the organization and individuals named
  - the title and date of the action
  - the court or body taking the action
  - a description of the action.

12. Individual's Education, Business and Disciplinary Background. Complete a Schedule D for each individual who is:

A. The applicant, named in Part I Item 1A

B. A control person named in Part I Item 10

C. An owner of at least 10% of a class of applicant's equity securities

D. An officer, director, partner, or individual with similar status of applicant, described in Schedule A Item 2a, Schedule B Item 2, or Schedule C Item 2

E. A member of the applicant's investment committee that determines general investment advice to be given to clients

F. If applicant has no investment committee, an individual who determines general investment advice (if more than five, complete for their supervisors only)

G. An individual giving investment advice on behalf of the applicant in the jurisdiction in which this application is filed

H. An individual reporting a 'yes' answer to the disciplinary question, Part I Item 11

Answer all items. Complete extended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part I - Page 5 | Applicant: | SEC File Number: 801- | Date:

13. Does applicant have custody (see definition in instructions) of any advisory client: Yes ☐ No ☐

A. funds ..... Yes ☐ No ☐

B. securities ..... Yes ☐ No ☐

C. If either answer is yes, the value of those funds and securities at the end of applicant's last fiscal year was:

(1) ☐ under $100,000 (3) ☐ $1,000,0001 to $5,000,000

(2) ☐ $100,000 to $1,000,000 (4) ☐ Over $5,000,000

14. Do any of applicant's related persons have custody (see definition in instructions) of any advisory client: Yes ☐ No ☐

A. funds ..... Yes ☐ No ☐

B. securities ..... Yes ☐ No ☐

If either is yes:

C. is that person a registered broker-dealer qualified to take custody under Section 15 of the Securities Exchange Act of 1934? ..... Yes ☐ No ☐

D. the value of those funds and securities at the end of applicant's last fiscal year was:

(1) ☐ under $100,000 (3) ☐ $1,000,001 to $5,000,000

(2) ☐ $100,000 to $1,000,000 (4) ☐ Over $5,000,000

15. Does applicant require prepayment of fees of more than $500 per client and more than 6 months in advance? ..... Yes ☐ No ☐

16. With a few exceptions, the "brochure rule" (Advisers Act Rule 204-3) requires that clients must be given information about the investment adviser. Will applicant be giving clients:

A. Part II of this Form ADV? ..... Yes ☐ No ☐

B. Another document that includes at least the information contained in Form ADV Part II? ..... Yes ☐ No ☐

17. A. The number of employees of applicant who perform investment advisory functions (including research, but excluding unrelated functions such as accounting) is: (check only one box)

(1) ☐ 1 person, part time (3) ☐ 2-9 persons

(2) ☐ 1 person primarily involved in providing investment advisory services (4) ☐ 10 or more persons

B. The number of clients to whom applicant provided advisory services during the last fiscal year was:

(1) ☐ 14 or fewer (4) ☐ 101 to 500

(2) ☐ 15 to 50 (5) ☐ over 500

(3) ☐ 51 to 100

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part I - Page 6 | Applicant: | SEC File Number: 801- | Date:

18. Does applicant manage client securities portfolios on a discretionary basis? ..... Yes ☐ No ☐

If yes, at the end of applicant's last fiscal year these accounts:

A. numbered _____ B. totaled in aggregate market value, rounded to nearest thousand ..... $_____000.00

19. Does applicant manage or supervise client securities portfolios on a non-discretionary basis? ..... Yes ☐ No ☐

If yes, at the end of applicant's last fiscal year these accounts:

A. numbered _____ B. totaled in aggregate market value, rounded to nearest thousand ..... $_____000.00

20. Does applicant hold itself out as providing financial planning or some similarly termed services to clients? ..... Yes ☐ No ☐

If yes, during the last fiscal year applicant provided financial planning services to clients:

A. who numbered:

(1) ☐ 14 or fewer (4) ☐ 101 to 500

(2) ☐ 15 to 50 (5) ☐ over 500

(3) ☐ 51 to 100

B. whose investments in financial products based on those services totaled:

(1) ☐ under $100,000 (3) ☐ $1,000,001 to $5,000,000

(2) ☐ $100,000 to $1,000,000 (4) ☐ over $5,000,000

21. Did applicant recommend securities to clients during its last fiscal year in which the applicant acted (itself or through a related person) as an underwriter, general or managing partner, or offeree representative, or had any ownership or sales interest (other than the receipt of normal and customary sales commissions as a broker or brokers representative)? ... Yes ☐ No ☐

If yes, the approximate value of securities so recommended during its last fiscal year is:

A. ☐ Under $50,000 C. ☐ $250,001 to $1,000,000

B. ☐ $50,000 to $250,000 D. ☐ over $1,000,000

22. Attach to this Form any financial statements required by the jurisdiction in which applicant is filing, other than the balance sheet required by Part II Item 14.

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV
Part II - Page 1

Uniform Application for Investment Adviser Registration

OMB APPROVAL
OMB No.: 3235-0049
Expires: June 30, 1988

Name of Investment Adviser:					
Address: (Number and Street)		(City)	State)	(Zip Code)	Area Code: ( ) Telephone Number:

This part of Form ADV gives information about the investment adviser and its business for the use of clients. The information has not been approved or verified by any governmental authority.

Table of Contents

Item Number	Item	Page
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(Schedules A, B, C, D, and E are included with Part I of this Form, for the use of regulatory bodies, and are not distributed to clients.)

FORM ADV
Part II- Page 2

Applicant:	SEC File Number: 801-	Date:

Definitions for Part II

Related person — Any officer, director or partner of applicant or any person directly or indirectly controlling, controlled by, or under common control with the applicant, including any non-clerical, non-ministerial employee.

Investment Supervisory Services — Giving continuous investment advice to a client (or making investments for the client) based on the individual needs of the client. Individual needs include, for example, the nature of other client assets and the client's personal and family obligations.

1. A. **Advisory Services and Fees.** (check the applicable boxes)

For each type of service provided, state the approximate % of total advisory billings from that service. (See instruction below.)

Applicant:

- ☐ (1) Provides investment supervisory services ..... _____%
- ☐ (2) Manages investment advisory accounts not involving investment supervisory services ..... _____%
- ☐ (3) Furnishes investment advice through consultations not included in either service described above ..... _____%
- ☐ (4) Issues periodicals about securities by subscription ..... _____%
- ☐ (5) Issues special reports about securities not included in any service described above ..... _____%
- ☐ (6) Issues, not as part of any service described above, any charts, graphs, formulas, or other devices which clients may use to evaluate securities ..... _____%
- ☐ (7) On more than an occasional basis, furnishes advice to clients on matters not involving securities ..... _____%
- ☐ (8) Provides a timing service ..... _____%
- ☐ (9) Furnishes advice about securities in any manner not described above ..... _____%

(Percentages should be based on applicant's last fiscal year. If applicant has not completed its first fiscal year, provide estimates of advisory billings for that year and state that the percentages are estimates.)

B. Does applicant call any of the services it checked above financial planning or some similar term? ..... Yes ☐ No ☐

C. Applicant offers investment advisory services for: (check all that apply)

- ☐ (1) A percentage of assets under management
- ☐ (2) Hourly charges
- ☐ (3) Fixed fees (not including subscription fees)
- ☐ (4) Subscription fees
- ☐ (5) Commissions
- ☐ (6) Other

D. For each checked box in A above, describe on Schedule F:

- the services provided, including the name of any publication or report issued by the adviser on a subscription basis or for a fee
- applicant's basic fee schedule, how fees are charged and whether its fees are negotiable
- when compensation is payable, and if compensation is payable before service is provided, how a client may get a refund or may terminate an investment advisory contract before its expiration date

2. Types of Clients — Applicant generally provides investment advice to: (check those that apply)

- ☐ A. Individuals
- ☐ B. Banks or thrift institutions
- ☐ C. Investment companies
- ☐ D. Pension and profit sharing plans
- ☐ E. Trusts, estates, or charitable organizations
- ☐ F. Corporations or business entities other than those listed above
- ☐ G. Other (describe on Schedule F)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part II- Page 3 | Applicant: | SEC File Number: 801- | Date:

3. **Types of Investments.** Applicant offers advice on the following: (check those that apply)

A. Equity Securities
- ☐ (1) exchange-listed securities
- ☐ (2) securities traded over-the-counter
- ☐ (3) foreign issuers

☐ B. Warrants

☐ C. Corporate debt securities (other than commercial paper)

☐ D. Commercial paper

☐ E. Certificates of deposit

☐ F. Municipal securities

G. Investment company securities:
- ☐ (1) variable life insurance
- ☐ (2) variable annuities
- ☐ (3) mutual fund shares

☐ H. United States government securities

I. Options contracts on:
- ☐ (1) securities
- ☐ (2) commodities

J. Futures contracts on:
- ☐ (1) tangibles
- ☐ (2) intangibles

K. Interests in partnerships investing in:
- ☐ (1) real estate
- ☐ (2) oil and gas interests
- ☐ (3) other (explain on Schedule F)

☐ L. Other (explain on Schedule F)

4. **Methods of Analysis, Sources of Information, and Investment Strategies.**

A. Applicant's security analysis methods include: (check those that apply)

(1) ☐ Charting
(2) ☐ Fundamental
(3) ☐ Technical
(4) ☐ Cyclical
(5) ☐ Other (explain on Schedule F)

B. The main sources of information applicant uses include: (check those that apply)

(1) ☐ Financial newspapers and magazines
(2) ☐ Inspections of corporate activities
(3) ☐ Research materials prepared by others
(4) ☐ Corporate rating services
(5) ☐ Timing services
(6) ☐ Annual reports, prospectuses, filings with the Securities and Exchange Commission
(7) ☐ Company press releases
(8) ☐ Other (explain on Schedule F)

C. The investment strategies used to implement any investment advice given to clients include: (check those that apply)

(1) ☐ Long term purchases (securities held at least a year)
(2) ☐ Short term purchases (securities sold within a year)
(3) ☐ Trading (securities sold within 30 days)
(4) ☐ Short sales
(5) ☐ Margin transactions
(6) ☐ Option writing, including covered options, uncovered options or spreading strategies
(7) ☐ Other (explain on Schedule F)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part II - Page 4 | Applicant: | SEC File Number: 801- | Date:

5. **Education and Business Standards.**

Are there any general standards of education or business experience that applicant requires of those involved in determining or giving investment advice to clients? ..... Yes ☐ No ☐

(If yes, describe these standards on Schedule F.)

6. **Education and Business Background.**

For:
- each member of the investment committee or group that determines general investment advice to be given to clients, or
- if the applicant has no investment committee or group, each individual who determines general investment advice given to clients (if more than five, respond only for their supervisors)
- each principal executive officer of applicant or each person with similar status or performing similar functions.

On Schedule F, give the:
- name
- year of birth
- formal education after high school
- business background for the preceding five years

7. **Other Business Activities.** (check those that apply)

☐ A. Applicant is actively engaged in a business other than giving investment advice.

☐ B. Applicant sells products or services other than investment advice to clients.

☐ C. The principal business of applicant or its principal executive officers involves something other than providing investment advice.

(For each checked box describe the other activities, including the time spent on them, on Schedule F.)

8. **Other Financial Industry Activities or Affiliations.** (check those that apply)

☐ A. Applicant is registered (or has an application pending) as a securities broker-dealer.

☐ B. Applicant is registered (or has an application pending) as a futures commission merchant, commodity pool operator or commodity trading adviser.

C. Applicant has arrangements that are material to its advisory business or its clients with a related person who is a:

☐ (1) broker-dealer
☐ (2) investment company
☐ (3) other investment adviser
☐ (4) financial planning firm
☐ (5) commodity pool operator, commodity trading adviser or futures commission merchant
☐ (6) banking or thrift institution
☐ (7) accounting firm
☐ (8) law firm
☐ (9) insurance company or agency
☐ (10) pension consultant
☐ (11) real estate broker or dealer
☐ (12) entity that creates or packages limited partnerships

(For each checked box in C, on Schedule F identify the related person and describe the relationship and the arrangements.)

D. Is applicant or a related person a general partner in any partnership in which clients are solicited to invest? ..... Yes ☐ No ☐

(If yes, describe on Schedule F the partnerships and what they invest in.)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV
Part II - Page 5

Applicant:	SEC File Number: 801-	Date:

9. **Participation or Interest in Client Transactions.**

Applicant or a related person: (check those that apply)

☐ A. As principal, buys securities for itself from or sells securities it owns to any client.

☐ B. As broker or agent effects securities transactions for compensation for any client.

☐ C. As broker or agent for any person other than a client effects transactions in which client securities are sold to or bought from a brokerage customer.

☐ D. Recommends to clients that they buy or sell securities or investment products in which the applicant or a related person has some financial interest.

☐ E. Buys or sells for itself securities that it also recommends to clients.

(For each box checked, describe on Schedule F when the applicant or a related person engages in these transactions and what restrictions, internal procedures, or disclosures are used for conflicts of interest in those transactions.)

10. **Conditions for Managing Accounts.** Does the applicant provide investment supervisory services, manage investment advisory accounts or hold itself out as providing financial planning or some similarly termed services *and* impose a minimum dollar value of assets or other conditions for starting or maintaining an account? ..... Yes ☐ No ☐

(If yes, describe on Schedule F.)

11. **Review of Accounts.** If applicant provides investment supervisory services, manages investment advisory accounts, or holds itself out as providing financial planning or some similarly termed services:

A. Describe below the reviews and reviewers of the accounts. For reviews, include their frequency, different levels, and triggering factors. For reviewers, include the number of reviewers, their titles and functions, instructions they receive from applicant on performing reviews, and number of accounts assigned each.

B. Describe below the nature and frequency of regular reports to clients on their accounts.

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV
Part II - Page 6

Applicant:	SEC File Number: 801-	Date:

12. **Investment or Brokerage Discretion.**

A. Does applicant or any related person have authority to determine, without obtaining specific client consent, the:

(1) securities to be bought or sold? ..... Yes ☐ No ☐

(2) amount of the securities to be bought or sold? ..... Yes ☐ No ☐

(3) broker or dealer to be used? ..... Yes ☐ No ☐

(4) commission rates paid? ..... Yes ☐ No ☐

B. Does applicant or a related person suggest brokers to clients? ..... Yes ☐ No ☐

For each yes answer to A describe on Schedule F any limitations on the authority. For each yes to A(3), A(4) or B, describe on Schedule F the factors considered in selecting brokers and determining the reasonableness of their commissions. If the value of products, research and services given to the applicant or a related person is a factor, describe:

- the products, research and services
- whether clients may pay commissions higher than those obtainable from other brokers in return for those products and services
- whether research is used to service all of applicant's accounts or just those accounts paying for it; and
- any procedures the applicant used during the last fiscal year to direct client transactions to a particular broker in return for products and research services received.

13. **Additional Compensation.**

Does the applicant or a related person have any arrangements, oral or in writing, where it:

A. is paid cash by or receives some economic benefit (including commissions, equipment or non-research services) from a non-client in connection with giving advice to clients? ..... Yes ☐ No ☐

B. directly or indirectly compensates any person for client referrals? ..... Yes ☐ No ☐

(For each yes, describe the arrangements on Schedule F.

14. **Balance Sheet.** Applicant must provide a balance sheet for the most recent fiscal year on Schedule G if applicant:

- has custody of client funds or securities; or
- requires prepayment of more than $500 in fees per client and 6 or more months in advance

Has applicant provided a Schedule G balance sheet? ..... Yes ☐ No ☐

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule A of Form ADV FOR CORPORATIONS

Applicant:	SEC File Number: 801-	Date:	Official Use

(Answers for Form ADV Part I Item 5.)

1. This Schedule requests information on the owners and executive officers of the applicant.
2. Please complete for:
   (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, director, and individuals with similar status or functions, and
   (b) every person who is directly, or indirectly through intermediaries, the beneficial owner of 5% or more of any class of equity security of the applicant.
3. If a person covered by 2(b) above owns applicant indirectly through intermediaries, list all intermediaries and below them, if they are not subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934 but are:
   (a) corporations, give their shareholders who own 5% or more of a class of equity security, or
   (b) partnerships, give their general partners or any limited and special partners who have contributed 5% or more of the partnership's capital.
4. If the intermediary's shareholders or partners listed under 3 above are not individuals, continue up the chain of ownership listing their 5% shareholders, general partners, and 5% limited or special partners until individuals are listed.
5. Ownership codes are: NA – 0 up to 5% A – 5% up to 10% B – 10% up to 25% C – 25% up to 50% D – 50% up to 75% E – 75% up to 100%
6. Asterisk (*) names reporting a change in title, status, stock ownership or partnership interest or control. Double asterisk (**) names new on this filing.
7. Check "Control Person" column if person has "control" as defined in the instructions to this Form.

FULL NAME Last	First	Middle	Beginning Date Month	Year	Title or Status	Ownership Code	Control Person	CRD No., or, if none Social Security Number	OFFICIAL USE ONLY

List below names reported on the most recent previous filing under this item that are being DELETED:

FULL NAME Last	First	Middle	Ending Date Month	Year	CRD No., or, if none Social Security Number

Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule B of Form ADV FOR PARTNERSHIPS

Applicant:	SEC File Number: 801-	Date:	Official Use

(Answers for Form ADV Part I Item 5.)

1. This Schedule requests information on the owners and partners of the applicant.
2. Please complete for all general partners and with respect to limited and special partners all those who have contributed directly or indirectly through intermediaries, 5% or more of the partnership's capital.
3. If a person owns applicant indirectly through intermediaries, list all intermediaries and below them, if they are not subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934 but are:
   (a) corporations, give their shareholders who own 5% or more of a class of equity security, or
   (b) partnerships, give their general partners or any limited and special partners who have contributed 5% or more of the partnership's capital.
4. If the intermediary's shareholders or partners listed under 3 above are not individuals, continue up the chain of ownership listing their 5% shareholders, general partners, and 5% limited or special partners until individuals are listed.
5. Ownership codes are: NA – 0 up to 5% A – 5% up to 10% B – 10% up to 25% C – 25% up to 50% D – 50% up to 75% E – 75% up to 100%
6. Asterisk (*) names reporting a change in title, status, stock ownership or partnership interest or control. Double asterisk (**) names new on this filing.
7. Check "Control Person" column if person has "control" as defined in the instructions to this Form.

FULL NAME Last	First	Middle	Beginning Date Month	Year	Title or Status	Ownership Code	Control Person	CRD No., or, if none Social Security Number	OFFICIAL USE ONLY

List below names reported on the most recent previous filing under this item that are being DELETED:

FULL NAME Last	First	Middle	Ending Date Month	Year	CRD No., or, if none Social Security Number

Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule C of Form ADV for OTHER THAN Partnerships and Corporations | Applicant: | SEC File Number: 801- | Date: | Official Use

(Answers for Form ADV Part I Item 8.)

1. This Schedule requests information on the owners and executive officers of the applicant.
2. Please complete for each person, including trustees, who participates in directing or managing the applicant.
3. Give each listed person's title or status, and describe the person's authority and beneficial interest in applicant. Sole proprietors must be identified in the "Title or Status" column.
4. Astrisk (*) names reporting a change in title, status, stock ownership or partnership interest. Double asterisk (**) names new on this filing.

FULL NAME Last	First	Middle	RELATIONSHIP Beginning Date Month	Year	Title or Status	CRD No., or, if none Social Security Number	Description of Authority and Beneficial Interest

List below names reported on the most recent previous filing under this item that are being DELETED:

FULL NAME Last	First	Middle	Ending Date Month	Year	CRD No., or, if none Social Security Number

Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule D of Form ADV Page 1 | Applicant: | SEC File Number: 801- | Date:

(Answers for Form ADV Part I Items 11 and 12.)

This Schedule is submitted for an individual who is: (Check all boxes that apply)

- ☐ A. the applicant, named in Part I Item 1A
- ☐ B. a control person, named in Part I Item 10A
- ☐ C. an owner of at least 10% of a class of applicant's equity securities
- ☐ D. an officer or director, partner, or individual with similar status of applicant, described in Schedule A Item 2a, Schedule B Item 2, or Schedule C Item 2
- ☐ E. a member of the applicant's investment committee that determines general investment advice to be given to clients
- ☐ F. if applicant has no investment committee, an individual who determines general client advice (if more than five, complete for their supervisors only)
- ☐ G. an individual giving investment advice on behalf of the applicant in the jurisdictions checked below:

AL ___ AK ___ AZ ___ AR ___ CA ___ CO ___ CT ___ DE ___ DC ___ FL ___ GA ___ HI ___ ID ___
IL ___ IN ___ IA ___ KS ___ KY ___ LA ___ ME ___ MD ___ MA ___ MI ___ MN ___ MS ___ MO ___
MT ___ NE ___ NV ___ NH ___ NJ ___ NM ___ NY ___ NC ___ ND ___ OH ___ OK ___ OR ___ PA ___
RI ___ SC ___ SD ___ TN ___ TX ___ UT ___ VT ___ VA ___ WA ___ WV ___ WI ___ WY ___ Puerto Rico ___
Other: _____ (Specify)

- ☐ H. involved in any yes answer to the disciplinary question, Part I Item 11.

Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule D of Form ADV Page 2

Applicant: | SEC File Number: 801- | Date:

(Answers for Form ADV Part I Items 11 and 12.)

1. Applicant investment adviser: use Part I Item 1A) | IRS Empl. Identi. No.:

2. Individual's full name for whom this Schedule is being completed: | Social Security Number: | CRD No., if any: | IRS Empl. Identi. No.:

3. (a) Residence of individual: (Number and Street) | (City) | (State) | (Zip Code)

(b) Birth Date: | (c) City: | (d) State or Province: | (e) Country:

4. NAMES USED. List all names other than the one given in item 2 above that the individual has used, including maiden names. (Last) (First) (Middle)

5. EDUCATION. Start with last high school attended. If no degree received, state "none."

School: (Name, City and State)	Years Attended	Year Graduated	For College and above Degree	Major

6. BUSINESS BACKGROUND. Provide complete consecutive statement of all employment for the past ten years, beginning with the most recent position first.

Name of Firm and Address	Kind of Business	Exact Nature of Connection or Employment	Beginning Date: Month	Year	Ending Date: Month	Year

7. EXAMINATIONS/PROFESSIONAL DESIGNATIONS. List all jurisdiction, self-regulatory organization, and professional examinations and designations. Give name of examination or designation (include any examination's title and number), body giving it, and date taken or conferred. If examination was waived, give details.

8. PROCEEDINGS. For each "yes" answer to Part I Item 11 involving the individual, give the following details of any court or regulatory action:

- the adviser and individuals named,
- the title and date of the action,
- the court or body taking the action, and
- a description of the action

Complete additional pages as full, circle amended items and file with execution page (page 1).

Schedule E of Form ADV Continuation Sheet for Form ADV Part I

Applicant: | SEC File Number: 801- | Date:

(Do not use this Schedule as a continuation sheet for Form ADV Part II or any other schedules.)

1. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV: | IRS Empl. Identi. No.:

Item of Form (Identify)	Answer

Complete additional pages as full, circle amended items and file with execution page (page 1).

Schedule F of Form ADV
Continuation Sheet for Form ADV Part II

Applicant:	SEC File Number: 801-	Date:

(Do not use this Schedule as a continuation sheet for Form ADV Part I or any other schedules.)

1. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV:	IRS Empl. Ident. No.:

Item of Form (Identify)	Answer

Complete amended pages in full, circle amended items and file with executed page (page 1).

Schedule G of Form ADV
Balance Sheet

Applicant:	SEC File Number: 801-	Date:

(Answers in Response to Item 4 of Form ADV-S, or Form ADV Part II Item 14.)

1. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV:	IRS Empl. Ident. No.:

Instructions

1. The balance sheet must be:
   A. Prepared in accordance with generally accepted accounting principles
   B. Audited by an independent public accountant
   C. Accompanied by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.
2. Securities included at cost should show their market or fair value parenthetically.
3. Qualifications and any accompanying independent accountant's report must conform to Article 2 of Regulation S-X (17 CFR 210.2-01 et seq.).
4. Sole proprietor investment advisers:
   A. Must show investment advisory business assets and liabilities separate from other business and personal assets and liabilities
   B. May aggregate other business and personal assets and liabilities unless there is an asset deficiency in the total financial position.

Complete amended pages in full, circle amended items and file with executed page (page 1).

Form U-4

Uniform Application for Securities Industry Registration or Transfer

IMPORTANT

PLEASE USE THE BLUE LABEL FOR CRD MAILINGS TO EXPEDITE PROCESSING.

NASAA/NASD CENTRAL
REGISTRATION DEPOSITORY
P.O. BOX 9401
GAITHERSBURG, MD. 20898-9401

4/85

HOW TO USE FORM U-4

How the Form Works

An individual applies for registration for the first time by filing a complete Form U-4 with the Central Registration Depository (CRD). After an individual has filed a complete Form U-4 with the CRD, a change of employment or association from one broker-dealer to another is effected by filing only pages 1, 2 and 4 of this form. Since the data contained on page 3 is primarily of an historical nature, it need not be resubmitted with each successive filing.

To keep the CRD current, page 1 (item 12) requires the applicants to provide their current address and update their broker-dealer employment history to report the termination from their previous firm(s). This information will update the individual's record and lessen the probability of application deficiencies. Both initially and with each subsequent change of employment or association to another broker-dealer, the filing must be accompanied by a fingerprint card unless exempt from the fingerprint requirement pursuant to SEC Rule 17f-2.

Additionally, if the applicant has other changes to employment history (item 13) or other affiliations (item 20) which are not covered in item 12, the new information should be submitted on page 2 along with the balance of the filing.

Information contained on Form U-4 must be kept current. As changes occur, the CRD should be updated by an amendment filing. Amendments are accomplished by filing the appropriate page(s) containing only the information in need of revision.

Complete Filings

File a complete Form U-4 if any of the following circumstances apply:

1. the applicant has never been registered;
2. the applicant has previously been registered but not within the last 120 calendar days;
3. the applicant has been continuously registered but has never filed a complete Form U-4 with the CRD; or
4. the applicant has been continuously registered, but has amendments to page 2 data not covered by items 4 and 12 on page 1.

Partial Filings

In all other cases, file only pages 1, 3 and 4 of Form U-4.

The 120 calendar day time frame mentioned above has no bearing upon filing deadlines which are specified as part of the Temporary Agent Transfer Program (TAT). It only serves to specify the period during which a partial filing (pages 1, 3 and 4) is acceptable. Notwithstanding the applicability of the Temporary Agent Transfer Program, all individuals meeting the partial filing criteria should file only pages 1, 3 and 4.

For information regarding the TAT Program call NASD Information Services at (202) 728-8800.

Amendment Filings

Amendment filings are required to:

1. correct deficiencies in a previous filing;
2. update and keep current the information required by the form;
3. request additional registrations with jurisdictions or self-regulatory organizations; and
4. request an examination (See General Instructions Number 5).

Amendments are made by filing the appropriate page(s) of the form and/or one only the item(s) which are in need of revision. Each amendment page must be manually signed in accordance with the instructions found on the respective page(s).

Supplements to Form BD:

Page 2 of this form is required to be filed on behalf of any natural person listed on Schedule A, B or C of Form BD who does not require registration.

When filing Page 2 of this form for such an individual, the broker-dealer name must appear in the Business and Personal History section (item 19) or in item 20 as may apply. Signatures on those Page 2 filings are not required; however, the filing must be accompanied by an Execution Page of Form BD.

GENERAL INSTRUCTIONS

1. All information must be typed or neatly printed in BLACK INK.
2. All information required by Form U-4 must be submitted on the officially prescribed form, or mechanical reproduction thereof. All pages containing this information may be mechanically reproduced by any method producing clear, legible copies of identical type size.
3. All questions must be answered. Enter "none" or "N/A" (not applicable) where this is the appropriate response. Failure to complete all required items may cause the form to be returned unprocessed or considered deficient.
4. An applicant must use all space provided on the form before using the Form U-4 Attachment Sheet. Except for copies of supporting documents, additional and/or explanatory information must be submitted on the Form U-4 Attachment Sheet. Copied documents must be clearly identified with the applicant's name and CRD# or Social Security #, as well as the item # being answered.
5. All required signatures must be original. Mechanical reproductions of signatures will not be accepted. Page 1, when it is being used only to request an exam, requires no signature.
6. An applicant is under a continuing obligation to update information required by Form U-4 as changes occur. To amend information, use the appropriate page(s) of Form U-4 reflecting the updated data.
7. For purposes of this form, the term "jurisdiction" means any state, territory, the District of Columbia, the Commonwealth of Puerto Rico, a province of the Dominion of Canada or any subdivision or regulatory body thereof.
8. For purposes of this form, the terms "self-regulatory organization" or "organization" mean any national securities and commodities exchange, any national securities association (e.g., the NASD), or any registered clearing agency.
9. For purposes of this form, the term "Control" means the power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any individual or firm that is a director, partner or officer exercising executive responsibility (or having similar status or functions); or that directly or indirectly has the right to vote 25 percent or more of the voting securities or is entitled to 25 percent or more of the profits is presumed to control that company.
10. For purposes of this form, "appropriate signatory" means the individual designated by the broker-dealer or futures sponsor who is authorized to execute Form U-4 on behalf of the broker-dealer or futures sponsor. Such individual must meet the criteria, if any, for acting as the "appropriate signatory" as established by the jurisdictions or self-regulatory organizations requiring this form to be filed.

SPECIFIC INSTRUCTIONS

Items 1-12 must be completed by employer.

Item

5. Specify applicant's initial date (month, day and year) of employment or association with the firm.
8. If the answer to Item 8 is "Yes", consult the rules and statutes of the appropriate self-regulatory organizations and jurisdictions for prohibitions and liability provisions. Employment with other broker-dealers must be listed in the Business and Personal History item on page 2.
9. When an applicant seeks simultaneous registration with more than one broker-dealer under common ownership or control, list the primary broker-dealer under Item 4 and affiliated firms under Item 9. If the registrations requested under Item 10 are common to all firms, the CRD will process them from this single form filing. However, if the applicant seeks registration with a different set of self-regulatory organizations and jurisdictions for the affiliates, a separate page 1 for each affiliate must accompany the application.
10. Indicate the self-regulatory organizations and jurisdictions where registration is being sought. The checking of a box in Item # (s) constitutes an application for registration via the CRD and will cause the applicable fee to be charged to the broker-dealer's CRD account.

    In the case of a Temporary Agent Transfer (TAT), failure to check those jurisdictions and self-regulatory organizations for which a TAT is in effect will result in expiration without registration. However, additional registrations may be requested in the same filing.
11. An applicant may apply for one or more categories of registration in a filing with the CRD. If an applicant does not qualify for the category of registration requested, the required examination will be scheduled and the examination fee(s) charged to the broker-dealer's CRD account.

    The "Reschedule Exam Series" box should be used to:

    1. request re-examination, or
    2. schedule an examination for an individual whose current exam qualifications are not accepted by a specific jurisdiction or self-regulatory organization.
12. **Item 12 must be completed in all partial filings.**

Items 13 through 22 must be completed by applicant.

15. Include any names by which you are or have been known other than your current legal name. This includes any nickname, maiden name or married names by which you are now or have been known since adulthood.
20. The following information should be furnished.
    1. the full name and address of the business;
    2. the nature of [illegible];
    3. your title or position;
    4. a brief description of your duties;
    5. the amount of time you devote to the business; and
    6. whether it is during securities trading hours.
22. For each question answered "Yes", supply the following information in complete detail:
    1. who was involved (e.g., the parties to any proceedings);
    2. when it happened;
    3. what the circumstances were, in your own words;
    4. what the final disposition was, if any, and the date on which that disposition was made; and
    5. a copy of any applicable documents such as any complaint, plea, order, agreement or settlement, verdict or other findings made, and sanctions or sentences imposed.

FORM U-4

UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER

If there is an amendment to this page, complete only Items 1, 2, 3, 4 and Items being amended.

(1) LAST NAME | JR./SR., etc. | FIRST NAME | MIDDLE NAME (SPECIFY IF NONE) | (2) APPLICANT'S CRD #

(3) FIRM CRD # | (4) FIRM NAME (Do not include this employment under Item 13, page 2) | SOC. SEC. # | APPLICANT'S NFA #

FIRM NFA # | (5) EMPLOYMENT DATE

(6) FIRM MAIN ADDRESS | STREET | CITY | STATE | ZIP

(7) BRANCH I.D. # | OFFICE OF EMPLOYMENT ADDRESS | STREET | CITY | STATE | ZIP

(8) Will applicant maintain registration with another Broker-Dealer not under common ownership or control with the firm named in Item 4 above? ☐ Yes ☐ No
If "Yes", list in Item 19.
If "Yes", has the firm(s) been contacted? ☐ Yes ☐ No

(9) Will applicant maintain multiple registrations with Broker-Dealers under common ownership or control with the firm named in Item 4 above? ☐ Yes ☐ No
If "Yes", fill in information below:

Firm CRD # _____ Name of Firm _____

Firm CRD # _____ Name of Firm _____

Firm CRD # _____ Name of Firm _____

STATE REGISTER

(10) TO BE REGISTERED WITH THE FOLLOWING:

☐ ASE ☐ BSE ☐ CBOE ☐ CSE ☐ MSE ☐ NASD ☐ NFA ☐ NYSE ☐ PHLX ☐ PSE ☐ OTHER (Specify) _____

☐ AL ☐ AK ☐ AZ ☐ AR ☐ CA ☐ CO ☐ CT ☐ DE ☐ DC ☐ FL ☐ GA ☐ HI ☐ ID

☐ IL ☐ IN ☐ IA ☐ KS ☐ KY ☐ LA ☐ ME ☐ MD ☐ MA ☐ MI ☐ MN ☐ MS ☐ MO

☐ MT ☐ NE ☐ NV ☐ NH ☐ NJ ☐ NM ☐ NY ☐ NC ☐ ND ☐ OH ☐ OK ☐ OR ☐ PA

☐ RI ☐ SC ☐ SD ☐ TN ☐ TX ☐ UT ☐ VT ☐ VA ☐ WA ☐ WV ☐ WI ☐ WY ☐ PR

(11) TYPE OF EXAMINATION/REGISTRATION REQUESTED (check all applicable categories)

☐ S-3 (CR) Commodity Futures	☐ S-16 (SA) Supervisory Analyst	☐ S-52 (MR) Municipal Securities Representative
☐ S-4 (OP) Registered Options Principal	☐ S-22 (DR) Direct Participation Programs Representative	☐ S-53 (MP) Municipal Securities Principal
☐ S-5 (IO) Interest Rate Options	☐ S-24 (GP) General Securities Principal	☐ S-54 (FM) Municipal Securities Financial and Operations Principal
☐ S-6 (IR) Investment Company and Variable Contracts Products Representative	☐ S-26 (IP) Investment Company and Variable Contracts Products Principal	☐ S-62 (CS) Corporate Securities Representative
☐ S-7 (GS) Full Registration/General Securities Representative	☐ S-27 (FN) Financial and Operations Principal	☐ S-63 (AG) Agent
☐ S-8 (SU) General Securities Sales Supervisor	☐ S-39 (DP) Direct Participation Programs Principal	☐ Member Exchange
☐ S-9 (BM) Branch Office Manager (NYSE)	☐ S-61 (AM) Allied Member	☐ Reschedule Exam Series _____
☐ S-15 (FC) Foreign Currency Options	☐ S-42 (OR) Options Representative	☐ Other _____

THIS PORTION MUST BE COMPLETED FOR ALL PARTIAL FILINGS

(12) APPLICANT'S CURRENT ADDRESS _____ STREET _____ CITY _____ STATE _____ ZIP _____ FROM (MONTH / YEAR)

FIRM(S) APPLICANT IS TRANSFERRING FROM: | TERMINATION DATE (Mo./Day/Yr.)

☐ *CHECK IF THIS U-4 IS BEING FILED TO MAKE PERMANENT A TEMPORARY REGISTRATION (TAT).*

The appropriate signatory area *DOES NOT* have to be completed *UNLESS* this page is being submitted as an amendment.

MONTH DAY YEAR _____ SIGNATURE OF APPROPRIATE SIGNATORY

TYPE OR PRINT NAME OF APPROPRIATE SIGNATORY | CRD USE ONLY

FORM U-4

UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER

If there is an amendment to this page, complete only Items 13, 14 and the Items being amended.

(13) FIRM CRD # | SOCIAL SECURITY # | APPLICANT'S CRD #

FIRM NFA # | APPLICANT'S NFA #

PERSONAL DATA

(14) LAST NAME | JR./SR. ETC.) FIRST NAME | MIDDLE NAME | (15) OTHER NAMES KNOWN BY

(16) DATE OF BIRTH (Month, Day, Year) | (17) SEX | HEIGHT | WEIGHT | HAIR COLOR | EYE COLOR

RESIDENTIAL HISTORY

(18) GIVE ALL ADDRESSES FOR THE PAST FIVE YEARS, STARTING WITH CURRENT ADDRESS.

STREET | CITY | STATE | ZIP | FROM (MONTH / YEAR) TO (MONTH / YEAR)

PRESENT

EMPLOYMENT AND PERSONAL HISTORY

(19) ACCOUNT FOR ALL TIME FOR THE PAST TEN YEARS. Give all employment experience starting with your previous employer and working back ten years. Include full and part-time work, self-employment, military service, unemployment and full-time education. (If this page is being filed as part of a Form BD, start with your present employer instead.)

FROM (MONTH / YEAR) TO (MONTH / YEAR) | POSITION HELD

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

NAME
CITY STATE

(20) Are you currently engaged in any other business, other than those listed above, either as a proprietor, partner, officer, director, trustee, employee, agent or otherwise?
☐ YES ☐ NO. If "YES", please explain below.

The appropriate signatory area *DOES NOT* have to be completed *UNLESS* this page is being submitted as an amendment.

MONTH DAY YEAR _____ SIGNATURE OF APPROPRIATE SIGNATORY

TYPE OR PRINT NAME OF APPROPRIATE SIGNATORY | CRD USE ONLY

FORM U-4
UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER
If there is an amendment to this page, complete only Item 23 and Items being amended.

(1) FIRM CRD # | SOCIAL SECURITY # | APPLICANT'S CRD # | FIRM NFA # | APPLICANT'S NFA #

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES", ATTACH A DETAILED EXPLANATION.

(2) *DEFINITIONS*
- a Charged — Accused of a crime in a formal complaint, information, or indictment.
- b Investment or Investment-Related — Pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to acting as or being associated with a broker-dealer, investment company, investment adviser, futures sponsor, bank, or savings and loan association).
- c Involved — Doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

		YES	NO	
22A.	Have you been convicted of or plead guilty or nolo contendere ("no contest") to:			
	(1) a felony or misdemeanor involving: investments or an investment-related business, fraud, false statements or omissions, wrongful taking of property, or bribery, forgery, counterfeiting or extortion?	☐	☒	1
	(2) gambling?	☐	☒	2
	(3) any other felony?	☐	☒	3
B.	Have you, or an organization over which you exercised management or policy control, ever been charged with any felony or charged with a misdemeanor specified in question A(1) or (2)?	☐	☒	4
C.	Has any court ever:			
	(1) enjoined you in connection with any investment-related activity?	☐	☒	5
	(2) found that you were involved in a violation of investment-related statutes or regulations?	☐	☒	6
D.	Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:			
	(1) found you to have made a false statement or omission?	☐	☒	7
	(2) found you to have been involved in a violation of investment-related regulations or statutes?	☐	☒	8
	(3) found you to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☒	9
	(4) entered an order denying, suspending or revoking your registration or disciplined you by restricting your activities?	☐	☒	10
E.	Has any other Federal regulatory agency or any state regulatory agency ever:			
	(1) found you to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☒	11
	(2) found you to have been involved in a violation of investment regulations or statutes?	☐	☒	12
	(3) found you to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☒	13
	(4) entered an order against you in connection with investment-related activity?	☐	☒	14
	(5) denied, suspended, or revoked your registration or license or otherwise prevented you from associating with an investment-related business, or disciplined you by restricting your activities?	☐	☒	15
	(6) revoked or suspended your license as an attorney, accountant or federal contractor?	☐	☒	16
F.	Has any self-regulatory organization or commodities exchange:			
	(1) found you to have made a false statement or omission?	☐	☒	17
	(2) found you to have been involved in a violation of its rules?	☐	☒	18
	(3) found you to have been the cause of an investment-related business having its authorization to do business denied, suspended, revoked or restricted?	☐	☒	19
	(4) disciplined you by expelling or suspending you from membership, barring or suspending your association with its members, or restricting your activities?	☐	☒	20
G.	Has any foreign government, court, regulatory agency, or exchange ever entered an order against you related to investments or fraud?	☐	☒	21
H.	Have you ever been the subject of an investment-related, consumer-initiated complaint or proceeding that:			
	(1) alleged compensatory damages of $10,000 or more, fraud, or wrongful taking of property?	☐	☒	22
	(2) was settled or decided against you for $5,000 or more, or found fraud or the wrongful taking of property?	☐	☒	23
I.	Are you now the subject of any complaint, investigation, or proceeding that could result in a "yes" answer to parts A-H of this item?	☐	☒	24
J.	Has a bonding company denied, paid out on, or revoked a bond for you?	☐	☒	25
K.	Do you have any unsatisfied judgments or liens against you?	☐	☒	26
L.	Have you or a firm that you exercised management or policy control over, or owned 10% or more of the securities of, failed in business, made a compromise with creditors, filed a bankruptcy petition or been declared bankrupt?	☐	☒	27
M.	Has a broker or dealer firm that you exercised management or policy control over, or owned 10% or more of the securities of, been declared bankrupt, had a trustee appointed under the Securities Investor Protection Act, or had a direct payment procedure initiated?	☐	☒	28
N.	Have you been discharged or permitted to resign because you were accused of:			
	(1) violating investment-related statutes, regulations, rules, or industry standards of conduct?	☐	☒	29
	(2) fraud or the wrongful taking of property?	☐	☒	30
	(3) failure to supervise in connection with investment-related statutes, regulations, rules or industry standards of conduct?	☐	☒	31

The applicant and appropriate signatory area *DOES NOT* have to be completed *UNLESS* this page is being submitted as an amendment.

MONTH DAY YEAR — SIGNATURE OF APPLICANT

TYPE OR PRINT NAME OF APPLICANT

MONTH DAY YEAR — SIGNATURE OF APPROPRIATE SIGNATORY

TYPE OR PRINT NAME OF APPROPRIATE SIGNATORY — CRD USE ONLY

FORM U-4
UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER
If there is an amendment to this page, complete only Item 23 and Items being amended.

(1) FIRM CRD # | SOCIAL SECURITY # | APPLICANT'S CRD # | FIRM NFA # | APPLICANT'S NFA #

THE APPLICANT MUST READ THE FOLLOWING VERY CAREFULLY

1. I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil or criminal penalties if I give false or misleading answers.
2. I hereby apply for registration with the organizations and states indicated in Item 10 as may be amended from time to time and, in consideration of such organizations and states receiving and considering my application, I submit myself to the jurisdiction of such states and organizations and hereby certify that I agree to abide by, comply with, and adhere to all the provisions, conditions and covenants of the statutes, constitutions, certificates of incorporation, by-laws and rules and regulations of the states and organizations as they are and may be adopted, changed or amended from time to time, and I agree to comply with, be subject to and abide by all such requirements and all rulings, orders, directives and decisions of, and penalties, prohibitions and limitations imposed by such states and organizations, subject to right of appeal as provided by law; and I agree that any decision of such states and organizations as to the results of any examination(s) that I may be required to pass will be accepted by me as final.
3. I further agree that neither the states or organizations nor their officers, employees, and others acting on their behalf shall be liable to me for action taken or omitted to be taken in official capacity or in the scope of employment, except as otherwise provided in the statutes, constitutions, certificates of incorporation, by-laws or the rules and regulations of such states and organizations.
4. I authorize the states and organizations to make available to any employer or prospective employer, or to any federal, state or municipal agency, or any securities or commodities industry self-regulatory organization any information they may have concerning me; and I release the states and organizations, their employees and agents, from any and all liability of whatever nature by reason of furnishing such information.
5. I agree to arbitrate any dispute, claim or controversy that may arise between me and my firm, or a customer, or any other person, that is required to be arbitrated under the rules, constitutions, or by-laws of the organizations with which I register, as indicated in Item 10 as may be amended from time to time.
6. I, the undersigned, for the purpose of complying with the laws of the State(s) designated in Item 10 as may be amended from time to time, relating to sale of securities or commodities, hereby irrevocably appoint the administrator, of each of those State(s), or such other person designated by law, and the successors in such office, my attorney in said State(s) upon which may be served any notice, process or pleading in any action or proceeding against me arising out of or in connection with the offer or sale of securities or commodities, or out of the violation or alleged violation of the aforesaid laws of said State(s) and I do hereby consent that any such action or proceeding against me may be commenced in any court of competent jurisdiction and proper venue within said State(s) by service of process upon said appointee with the same effect as if I were a resident in said States and had lawfully been served with process in said State(s). It is requested that a copy of any notice, process or pleading served hereunder be mailed to me at my residence.
7. I authorize and request any and all of my former employers and any other person to furnish to the agency, jurisdiction or organization with which this application is being filed, or any agent acting on its behalf, any information they may have concerning my credit worthiness, character, ability, business activities, education background, general reputation, together with, in the case of former employers, a history of my employment by them and the reasons for the termination thereof. Moreover, I hereby release each such employer and each such other person from any and all liability of whatever nature by reason of furnishing such information to the agency, jurisdiction or organization or any agent acting on its behalf. Further, I recognize that I may be the subject of an investigative consumer report ordered by the agency, jurisdiction, or organization with which this application is being filed, and as to which I hereby waive any requirement of prior notification. I understand that I have the right to request complete and accurate disclosure by such agency, jurisdiction or organization of the nature and scope of the investigation requested.
8. I understand and certify that the representations herein apply to all employers with whom I seek registration as shown in Items 4 and 9 of this form. I agree to update Form U-4 by causing an amendment to be filed on a timely basis whenever changes occur to answers previously reported on the form. Further, I represent that to the extent any information previously submitted is not amended, such information is currently accurate and complete.
9. If I have become temporarily registered as an agent, I acknowledge that this application for registration with the state(s) and/or organization(s) indicated in Item 10 is separate and distinct from any temporary registration already obtained with the state(s) and/or organization(s). I further understand that under the laws of the state(s) and/or the regulation(s) of the organization(s), my registration may be denied, suspended or revoked.

Month Day Year — SIGNATURE OF APPLICANT

TYPE OR PRINT NAME OF APPLICANT

THE FIRM MUST COMPLETE THE FOLLOWING

To the best of my knowledge and belief, the applicant is currently bonded where required, and, at the time of approval, will be familiar with the statute(s), constitution(s), rules and by-laws of the agency, jurisdiction or self-regulatory organization with which this application is being filed, and the rules governing registered persons, and will be fully qualified for the position for which application is being made herein. I agree that, notwithstanding the approval of such agency, jurisdiction or organization which hereby is requested, I will not employ the applicant in the capacity stated herein without first receiving the approval of any authority which may be required by law. This firm has communicated with all of the applicant's previous employers for the past three years (five years for commodities).

EMPLOYER	NAME OF PERSON CONTACTED	POSITION OF PERSON CONTACTED	EMPLOYED FROM	EMPLOYED TO	NUMERICAL CODE

IN ADDITION, I HAVE TAKEN APPROPRIATE STEPS TO VERIFY THE ITEMS AND ATTACHMENTS CONTAINED IN THIS APPLICATION.

THE APPROPRIATE SIGNATORY AREA *MUST BE* COMPLETED ON ALL INITIAL, TRANSFER OR AMENDMENT FILINGS.

MONTH DAY YEAR — SIGNATURE OF APPROPRIATE SIGNATORY

TYPE OR PRINT NAME OF APPROPRIATE SIGNATORY — CRD USE ONLY

FORM U-5

UNIFORM TERMINATION NOTICE FOR SECURITIES INDUSTRY REGISTRATION

Only items 12-15 may be amended. To amend, complete only item 1-4 and the item(s) being amended. Provide details on reverse side.

1 LAST NAME | JR./SR. etc. | FIRST NAME | MIDDLE NAME (Specify if none) | 5 CRD #

2 FIRM NAME | NFA # | SOC. SEC. #

3 FIRM MAIN ADDRESS | STREET | CITY | STATE | ZIP | (3) CRD # | NFA #

4 BRANCH I.D.# | 7 OFFICE OF EMPLOYMENT ADDRESS | STREET | CITY | STATE | ZIP

8 If this is a multiple termination with one or more firms under common ownership or control with the firm named in item 3 above, list all firm CRD numbers and the firm name(s).

Firm CRD # _____ Name of Firm _____

Firm CRD # _____ Name of Firm _____

Firm CRD # _____ Name of Firm _____

9 CHECK ONE: ☐ Full Termination ☐ Partial Termination (If partial termination, check appropriate box(es) in item 10.)

10 TO BE TERMINATED WITH THE FOLLOWING:

NYSE ☐ ASE ☐ CBOE ☐ CSE ☐ MSE ☐ NASD ☐ NFA ☐ NYSE ☐ PHLX ☐ PSE ☐ OTHER (Specify) _____

AL ☐ AK ☐ AZ ☐ AR ☐ CA ☐ CO ☐ CT ☐ DE ☐ DC ☐ FL ☐ GA ☐ HI ☐ ID ☐

IL ☐ IN ☐ IA ☐ KS ☐ KY ☐ LA ☐ ME ☐ MD ☐ MA ☐ MI ☐ MN ☐ MS ☐ MO ☐

MT ☐ NE ☐ NV ☐ NH ☐ NJ ☐ NM ☐ NY ☐ NC ☐ ND ☐ OH ☐ OK ☐ OR ☐ PA ☐

RI ☐ SC ☐ SD ☐ TN ☐ TX ☐ UT ☐ VT ☐ VA ☐ WA ☐ WV ☐ WI ☐ WY ☐ PR ☐

11 DATE TERMINATED _____ (Month / Day / Year) (Complete date of termination is required for full or partial termination.)

12 REASON FOR TERMINATION: (Check one)

- ☐ Voluntary
- ☐ Permitted to Resign
- ☐ Discharged
- ☐ Deceased
- ☐ Other

*Provide Brief Explanation. _____

13 WHILE EMPLOYED BY OR ASSOCIATED WITH YOUR FIRM, WAS THE INDIVIDUAL:

A. involved in any disciplinary action by a governmental body or self-regulatory organization with jurisdiction over investment-related business? Yes ☐ No ☐ 1

B. the subject of an investment-related, consumer-initiated complaint in:

(1) alleged compensatory damages of $10,000 or more, fraud, or the wrongful taking of property? Yes ☐ No ☐ 2

(2) was settled or decided against the individual for $5,000 or more or found fraud or the wrongful taking of property? Yes ☐ No ☐ 3

C. convicted of, or plead guilty or nolo contendere ("no contest") to:

(1) a felony or misdemeanor involving:

investments or an investment-related business, fraud, false statements or omissions, wrongful taking of property, or bribery, forgery, counterfeiting, or extortion, or gambling? Yes ☐ No ☐ 4

(2) any other felony? Yes ☐ No ☐ 5

14 Currently, or at termination, was the individual involved in an investigation or proceeding by a governmental body or self-regulatory organization with jurisdiction over investment-related businesses? Yes ☐ No ☐ 6

15 Currently, or at termination, was the individual under internal review for fraud or wrongful taking of property, or violating investment related statutes, regulations, rule or industry standards of conduct? Yes ☐ No ☐ 7

Furnish full details on the reverse side for all "YES" answers.

MONTH DAY YEAR SIGNATURE OF APPROPRIATE SIGNATORY

TYPE NAME OF APPROPRIATE SIGNATORY

PERSON TO CONTACT FOR FURTHER INFORMATION

TELEPHONE FOR PERSON TO CONTACT CRD USE ONLY

Rev. Form U-5 4/85 *See instructions on the reverse side.*

FORM U-4

UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER

ATTACHMENT SHEET

LAST NAME | JR./SR. etc. | FIRST NAME | MIDDLE NAME (Specify if none)

CRD # | NFA # | SOCIAL SECURITY # | FIRM CRD #

Use this Attachment Sheet to report details of affirmative responses or to continue an item from Form U-4.

Be sure to identify the item number you are referencing. Wherever this sheet is used, make sure the individual's identifying data is completed.

ITEM OF FORM (IDENTIFY #) | ANSWER

MONTH DAY YEAR SIGNATURE OF APPLICANT

Rev. Form U-4 4/85 *ATTACHMENT SHEET*

FORM U-5 INSTRUCTIONS

Definitions

1. For purposes of this form:
   (A) "Disciplinary Action" means a denial, revocation or suspension of a registration, or a censure, fine, cease and desist order or prohibition, temporary restraining order, injunction, bar or expulsion.
   (B) "Investment-Related" means pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment adviser, futures sponsor, bank, or savings and loan association).
   (C) Full Termination - is the termination of registration with all self-regulatory and state affiliations. To denote a full termination, check the appropriate box in item 9 and do not complete item 10.
   (D) Partial Termination - is the termination of registration with one or more state affiliations. To denote a partial termination, check the appropriate box in item 9 and only those state affiliations where registration is to be terminated in item 10.
   (E) Multiple Termination - applies when an individual is to be terminated with more than one firm under common ownership or control. To effect a multiple termination, list the primary firm in item 3 and all other affiliates with which the individual is registered under item 8. Multiple termination is available only to those firms who have reported such common ownership under item 9 of Form BD.
   (F) Date Terminated - is the actual date the individual ceased doing business for a broker-dealer or, in the case of a partial termination, the actual date the individual ceased doing business in the state affiliations noted in item 10. This item must be completed in all circumstances.
2. All information must be typed or neatly printed in BLACK INK.
3. For each question answered "Yes" in items 12, 14 and 15, supply below the following information in complete detail:
   1. who was involved (e.g., the parties to any proceeding);
   2. when it occurred;
   3. what the circumstances were, in your own words;
   4. what the final disposition was, if any, and the date on which that disposition was made;
   5. a copy of any applicable documents such as any complaint, plea, order, agreement of settlement, verdict or other findings made, and sanctions or sentences imposed.
4. Items 13-15 should be amended to report the disposition of items pending as of initial submission of the form. Amendments to other items are prohibited. To amend items 13-15, complete only items 1-4 and the item(s) being amended. Details should be provided below.

Note: When answering item 13 in the affirmative to report matters which have already been reported to the Central Registration Depository via a full or amended U-4 filing, a brief narrative disclosing the action is sufficient. Copies of documents need not be included in such cases.

* * * * * * * * *

Title of Regulation: **Rules for Real Estate Programs: Rule 602**

APPENDIX III.

I. INTRODUCTION.

A. Application.

1. The rules apply to registrations of real estate programs in the form of limited partnerships (herein sometimes called "PROGRAMS" or "partnerships") and will be applied by analogy to real estate programs in other forms. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown the Commission may allow exceptions to certain requirements of these rules where it is shown such exceptions are in the public interest and consistent with the objective of these rules.

2. Where the individual characteristics of specific PROGRAMS warrant modification from these standards they will be accommodated, insofar as possible, while still being consistent with the spirit of these rules. The Cross Reference Sheet in the form set forth in IX.H of this rule, "Real Estate Rules Cross Reference Sheet" shall be furnished with the application.

3. Where these rules conflict with requirements of the Securities and Exchange Commission, the rules will not apply.

B. Definitions.

1. ACQUISTION EXPENSES–expenses including but not limited to legal fees and expenses, travel and communications expenses, costs of appraisals, nonrefundable option payments on property not acquired, accounting fees and expenses, title insurance, and miscellaneous expenses related to selection and acquisition of properties, whether or not acquired.

COMMENT: The definition utilized in IV.C of this rule makes clear that all expenses incurred in acquiring properties for the PROGRAM be included in FRONT-END FEES.

2. ACQUISITION FEE–the total of all fees and commissions paid by any party in connection with the purchase or development of property by a PROGRAM, except a development fee paid to a PERSON not affiliated with a SPONSOR in connection with the actual development of a project after acquisition of the land by the PROGRAM. Included in the computation of such fees or commissions shall be any real estate commission, selection fee, development fee, nonrecurring management fee, or any fee of a similar nature, however designated.

3. ADMINISTRATOR–the entity administering the securities laws of the Commonwealth of Virginia.

4. AFFILIATE–means (i) any PERSON directly or indirectly controlling, controlled by or under common control with another PERSON (ii) any PERSON owning or controlling 10% or more of the outstanding voting securities of such other PERSON (iii) any officer, director, partner of such PERSON and (iv) if such other PERSON is an officer, director or partner, any company for which such PERSON acts in any such capacity.

5. ASSESSMENTS–additional amounts of capital which may be mandatorily required of or paid at the option of a PARTICIPANT beyond his subscription commitment, excluding MANDATORY DEFERRED PAYMENTS.

6. AUDITED FINANCIAL STATEMENTS–financial statements (balance sheet, statement of income, statement of partners' equity and statement of changes in financial position) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an unqualified opinion or an opinion containing no material qualification of an independent certified public accountant.

7. CAPITAL CONTRIBUTION–the gross amount of investment in a PROGRAM by a PARTICIPANT, or all PARTICIPANTS as the case may be. Unless otherwise specified, CAPITAL CONTRIBUTION shall be deemed to include principal amounts to be received on account of mandatory deferred payments.

8. CARRIED INTEREST–is an equity interest taken in a program by a PERSON other than the promotional interest provided for in IV.C.3(a), IV.E.1 and IV.E.2 of this rule, for which full consideration is not paid or to be paid.

9. CASH FLOW–PROGRAM cash funds provided from operations, including lease payments on net leases from builders and sellers, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements and replacements.

10. CASH AVAILABLE FOR DISTRIBUTION–CASH FLOW less amount set aside for restoration or creation of reserves.

11. COMPETITIVE REAL ESTATE COMMISSION–that real estate or brokerage commission paid for the purchase or sale of property which is reasonable, customary and competitive in light of the size, type and location of the property.

12. CONSTRUCTION FEE–a fee for acting as general contractor to construct improvements on a

PROGRAM's property either initially or at a later date.

13. CROSS REFERENCE SHEET–a compilation of the rule sections, referenced to the page of the PROSPECTUS, partnership agreement, or other exhibits, and justification of any deviation from the rule.

14. DEVELOPMENT FEE–a fee for the packaging of a PROGRAM's property, including negotiating and approving plans, and undertaking to assist in obtaining zoning and necessary variances and necessary financing for the specific property, either initially or at a later date.

15. FINANCING–shall be defined as: The indebtedness encumbering PROGRAM properties, the principal amount of which is scheduled to be paid over a period of not less than 48 months, and not more than 50 percent of the principal amount of which is scheduled to be paid during the first 24 months. Nothing in this definition shall be construed as prohibiting a bona-fide pre-payment provision in the financing agreement.

16. FRONT-END FEES–fees and expenses paid by any party for any services rendered during the PROGRAM's organizational or acquisition phase including ORGANIZATION AND OFFERING EXPENSES, ACQUISITION FEES, ACQUISITION EXPENSES, and any other similar fees, however designated by the SPONSOR.

17. INVESTMENT IN PROPERTIES–the amount of CAPITAL CONTRIBUTIONS actually paid or allocated to the purchase, development, construction or improvement of properties acquired by the PROGRAM (including the purchase of properties, working capital reserves allocable thereto (except that working capital reserves in excess of 5% shall not be included), and other cash payments such as interest and taxes but excluding FRONT-END FEES).

18. MANDATORY DEFERRED PAYMENTS–shall be payments on account of the purchase price of PROGRAM INTERESTS offered in accordance with 17 CFR 240.3a12-9.

19. NET WORTH–the excess of total assets over total liabilities as determined by generally accepted accounting principles, except that if any of such assets have been depreciated, then the amount of depreciation relative to any particular asset may be added to the depreciated cost of such asset to compute total assets, provided that the amount of depreciation may be added only to the extent that the amount resulting after adding such depreciation does not exceed the fair market value of such asset.

20. NON-SPECIFIED PROPERTY PROGRAMS–shall be PROGRAMS other than SPECIFIED PROPERTY PROGRAMS.

21. ORGANIZATION AND OFFERING EXPENSES–those expenses incurred in connection with and in preparing a PROGRAM for registration and subsequently offering and distributing it to the public, including sales commissions paid to broker-dealers in connection with the distribution of the PROGRAM and all advertising expenses.

COMMENT: All advertising expenses, except those related to PROGRAM property management, charged to a PROGRAM are included within the definition. Fees paid by the PROGRAM, directly or indirectly, to persons for acting as surety, guarantor or in some similar capacity in regard to MANDATORY DEFERRED PAYMENTS shall also be included within this definition.

22. PARTICIPANT–the holder of a PROGRAM INTEREST.

23. PERSON–any natural PERSON, partnership, corporation, association or other legal entity.

24. PROGRAM–a limited or general partnership, joint venture, unincorporated association or similar organization other than a corporation formed and operated for the primary purpose of investment in and the operation of or gain from an interest in real property.

25. PROGRAM INTEREST–the limited partnership unit or other indicia of ownership in a PROGRAM.

26. PROGRAM MANAGEMENT FEE–a fee paid to the SPONSOR or other PERSONS for management and administration of the PROGRAM.

27. PROPERTY MANAGEMENT FEE–the fee paid for day-to-day professional property management services in connection with a PROGRAM's real property projects.

28. PROSPECTUS–shall have the meaning given to that term by Section 2(10) of the Securities Act of 1933, including a preliminary PROSPECTUS; provided, however, that such term as used herein shall also include an offering circular as described in Rule 256 of the General Rules and Regulations under the Securities Act of 1933 or, in the case of an intrastate offering, any document by whatever name known, utilized for the purpose of offering and selling securities to the public.

29. PURCHASE PRICE OF PROPERTY–the price paid upon the purchase or sale of a particular property, including the amount of ACQUISITION FEES and all liens and mortgages on the property, but excluding points and prepaid interest.

30. SPONSOR–is any PERSON directly or indirectly instrumental in organizing, wholly or in part, a PROGRAM or any PERSON who will manage or participate in the management of a PROGRAM, and any AFFILIATE of any such person, but does not include a PERSON whose only relation with the PROGRAM is as that of an independent property manager, whose only compensation is as such. "SPONSOR" does not include wholly independent third parties such as attorneys, accountants, and underwriters whose only compensation is for professional services rendered in connection with the offering of syndicate interests.

31. SPECIFIED PROPERTY PROGRAM–a PROGRAM where, at the time a securities registration is ordered effective, more than 75% of the net proceeds from the sale of PROGRAM INTERESTS is allocable to the purchase, construction, or improvement of specific properties. Reserves shall be included in the nonspecified portion. Net proceeds shall include principal amounts to be received on account of MANDATORY DEFERRED PAYMENTS.

II. REQUIREMENTS OF SPONSORS.

A. Experience. The SPONSOR, the general partner or their chief operating officers shall have at least two years relevant real estate or other experience demonstrating the knowledge and experience to acquire and manage the type of assets being acquired, and any of the foregoing or any AFFILIATE providing services to the PROGRAM shall have had not less than four years relevant experience in the kind of service being rendered or otherwise must demonstrate sufficient knowledge and experience to perform the services proposed.

COMMENT: "Relevant real estate or other experience" should be interpreted to include actual direct experience by the chief executive officer, or other PERSONS at the management level, either as a principal or agent in performing the services to be provided to the PROGRAM. This would include acquiring and managing real estate for one's own account or acting as an agent in acquiring and managing real estate comparable to that which the PROGRAM will acquire. If the PROGRAM will be in the business of acquiring shopping centers and office buildings, "relevant real estate experience" would not include experience in buying or selling houses. It is apparent that a different level of sophistication and knowledge is required.

B. NET WORTH Requirement of SPONSOR. The financial condition of the SPONSOR liable for the debts of the PROGRAM must be commensurate with any financial obligations assumed in the offering and in the operation of the PROGRAM. As a minimum, such SPONSOR shall have an aggregate financial NET WORTH, exclusive of home, automobile and home furnishings, of the greater of either $50,000 or an amount at least equal to 5% of the gross amount of all offerings sold within the prior 12 months plus 5% of the gross amount of the current offering, to an aggregate maximum NET WORTH of such SPONSOR of $1,000,000. In determining NET WORTH for this purpose, evaluation will be made of contingent liabilities and the use of promissory notes, to determine the appropriateness of their inclusion in computation of NET WORTH.

COMMENT: The inclusion of promissory notes may be insufficient to satisfy the NET WORTH requirements where the maker of the notes is inadequately capitalized. The gross amount of offerings includes the principal amounts to be received on account of mandatory deferred payments.

C. Reports to ADMINISTRATOR. Each application for registration shall contain a commitment, executed by the SPONSOR, to submit to the ADMINISTRATOR upon request any report or statement required to be distributed to limited partners pursuant to VII.C.

COMMENT: The SPONSOR need not file with the ADMINISTRATOR all reports that will be filed with the limited partners, but should retain copies of such reports or information and make them available to the ADMINISTRATOR as required.

D. Liability and Indemnification.

(a) The partnership agreement shall not provide for indemnification of the SPONSOR for any liability or loss suffered by the SPONSOR, nor shall it provide that the SPONSOR be held harmless for any loss or liability suffered by the partnership, unless all of the following conditions are met:

(1) The SPONSOR has determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of the partnership, and

(2) such liability or loss was not the result of negligence or misconduct by the SPONSOR, and

(3) such indemnification or agreement to hold harmless is recoverable only out of the assets of the partnership and not from the limited partners.

(b) Indemnification of the SPONSORS or their affiliates will not be allowed for any liability imposed by judgment, and costs associated therewith, including attorneys' fees, arising from or out of a violation of state or federal securities laws associated with the offer and sale of partnership units. Indemnification will be allowed for settlements and related expenses of lawsuits alleging securities law violations, and for expenses incurred in successfully defending such lawsuits, provided that a court either:

(1) approves the settlement and finds that indemnification of the settlement and related costs

should be made, or

(2) approves indemnification of litigation costs if a successful defense is made.

Every application for registration must contain an undertaking that such parties seeking indemnification will apprise the court of the positions of the ADMINISTRATOR and the SEC with respect to indemnification for securities laws violations, before seeking court approval for indemnification.

The PROGRAM may not incur the cost of that portion of liability insurance which insures the SPONSOR for any liability as to which the SPONSOR is prohibited from being indemnified under this section.

E. Fiduciary Duty. The program agreement shall provide that the SPONSOR shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the program, whether or not in the SPONSOR's possession or control, and that the SPONSOR shall not employ, or permit another to employ such funds or assets in any manner except for the exclusive benefit of the PROGRAM.

In addition, the PROGRAM shall not permit the PARTICIPANT to contract away the fiduciary duty owed to the PARTICIPANT by the SPONSOR under the common law.

F. Terminated SPONSOR. Upon the occurrence of a terminating event, the partnership may be required to pay to the terminated SPONSOR all amounts then accrued and owing to the terminated SPONSOR. Additionally, the partnership may terminate the SPONSOR's interest in partnership income, losses, distributions, and capital by payment of an amount equal to the then present fair market value of the terminated SPONSOR's interest determined by agreement of the terminated SPONSOR and the partnership, or, if they cannot agree, by arbitration in accordance with the then current rules of the American Arbitration Association. The expense of arbitration shall be borne equally by the terminated SPONSOR and the partnership.

The method of payment to the terminated SPONSOR must be fair, and must protect the solvency and liquidity of the partnership. Where the termination is voluntary, the method of payment will be deemed presumptively fair where it provides for a noninterest bearing unsecured promissory note with principal payable, if at all, from distributions which the terminated SPONSOR otherwise would have received under the partnership agreement had the SPONSOR not terminated. Where the termination is involuntary, the method of payment will be deemed presumptively fair where it provides for an interest bearing promissory note coming due in no less than 5 years with equal installments each year.

III. SUITABILITY OF THE PARTICIPANT.

A. Standards to be Imposed. Given the limited transferability, the relative lack of liquidity, and the specific tax orientation of many real estate PROGRAMS, the SPONSOR and its selling representatives should be cautious concerning the PERSONS to whom such securities are marketed. Suitability standards for investors will, therefore, be imposed which are reasonable in view of the foregoing and of the type of PROGRAM to be offered. SPONSORS will be required to set forth in the PROSPECTUS the investment objectives as a PROGRAM, a description of the type of PERSON who could benefit from the PROGRAM and the suitability standards to be applied in marketing it. The suitability standards proposed by the SPONSOR will be reviewed for fairness by the ADMINISTRATOR in processing the application. In determining how restrictive the standards must be, special attention will be given to the existence of such factors as high leverage, tax implications, MANDATORY DEFERRED PAYMENTS, balloon payment financing, excessive investments in unimproved land, and uncertain or no CASH FLOW from PROGRAM property. As a general rule, PROGRAMS structured to give deductible tax losses of 50% or more of the CAPITAL CONTRIBUTION of the PARTICIPANT in the year of investment should be sold only to PERSONS in higher income tax brackets considering both state and federal income taxes.

PROGRAMS which involve more than ordinary investor risk should emphasize suitability standards involving substantial NET WORTH of the investor.

B. Sales to Appropriate PERSONS. The SPONSOR and each PERSON selling PROGRAM interests on behalf of the SPONSOR or PROGRAM shall make every reasonable effort to assure that those PERSONS being offered or sold the PROGRAM INTERESTS are suitable, in light of the standards set forth as required above, and the PROGRAM INTERESTS are appropriate for the customer's investment objectives and financial situations.

The SPONSOR or his representatives shall ascertain that the investor can reasonably benefit from the PROGRAM, and the following shall be evidence thereof:

1. The investor has the capacity of understanding the fundamental aspects of the PROGRAM, which capacity may be evidenced by the following:

(a) The nature of employment experience;

(b) Educational level achieved;

(c) Access to advice from qualified sources, such as, attorney, accountant and tax advisor;

(d) Prior experience with investments of a similar nature.

2. The SPONSOR or his representatives shall ascertain that the investor has apparent understanding:

(a) of the fundamental risks and possible financial hazards of the investment;

(b) of the lack of liquidity of this investment;

(c) that the investment will be directed and managed by the SPONSOR; and

(d) of the tax consequences of the investment.

3. The PARTICIPANT can reasonably benefit from the PROGRAM in view of his overall investment objectives and portfolio structure.

4. The PARTICIPANT is able to bear the economic risk of the investment. For purposes of determining the ability to bear the economic risk, unless the ADMINISTRATOR approves a lower suitability standard, PARTICIPANTS shall have a minimum annual gross income of $30,000 and a NET WORTH of $30,000, or in the alternative, a NET WORTH of $75,000. In high risk or principally tax oriented offerings, higher suitability standards may be required. In the case of sales to fiduciary accounts, the suitability standards shall be met by the fiduciary or by the fiduciary account or by a donor who directly or indirectly supplies the funds to purchase the PROGRAM INTERESTS. NET WORTH shall be determined exclusive of home, home furnishings and automobiles.

COMMENT: A modified suitability standard may be used where it is demonstrated to the ADMINISTRATOR that the potential risk to the investor justifies a decrease or increase in one or more of the suitability standards contained in III.B.4 of this Rule. For a PROGRAM offering MANDATORY DEFERRED PAYMENTS, suitability standards for PARTICIPANTS shall ordinarily require, at a minimum, annual gross income of $60,000 and a NET WORTH of $60,000 or, in the alternative, a NET WORTH of $225,000 with these amounts being increased or decreased as other circumstances indicate appropriate.

C. Maintenance of Records. The SPONSOR shall maintain a record of the information obtained to indicate that a PARTICIPANT meets the suitability standards employed in connection with the offer and sale of its interests and a representation of the PARTICIPANT that he is purchasing for his own account or, in lieu of such representation, information indicating that the PARTICIPANT for whose account the purchase is made meets such suitability standards. Such information may be obtained from the PARTICIPANT through the use of a form which sets forth the prescribed suitability standards in full and which includes a statement to be signed by the PARTICIPANT in which he represents that he meets such suitability standards and is purchasing for his own account. However, where the offering is underwritten or sold by a broker-dealer, the SPONSOR shall obtain a commitment from the broker-dealer to maintain the same record of information required of the SPONSOR.

IV. FEES–COMPENSATION–EXPENSES.

A. Fees, Compensation and Expenses to be Reasonable.

1. The total amount of consideration of all kinds which may be paid directly or indirectly to all parties shall be reasonable.

2. The PROSPECTUS must fully disclose and itemize all consideration which may be received from the PROGRAM directly or indirectly by the SPONSOR, its AFFILIATES and underwriters, what the consideration is for and how and when it will be paid. This shall be set forth in one location in tabular form.

B. ORGANIZATION AND OFFERING EXPENSES.

All ORGANIZATION AND OFFERING EXPENSES incurred in order to sell PROGRAM interests shall be reasonable.

C. INVESTMENT IN PROPERTIES.

1. The SPONSOR shall be required to commit a substantial portion of the PROGRAM'S CAPITAL CONTRIBUTIONS toward INVESTMENT IN PROPERTIES. The remaining CAPITAL CONTRIBUTIONS may be used to pay FRONT-END FEES. When ACQUISITION FEES are paid by the seller of properties, such fees shall not be included in satisfying the required minimum INVESTMENT IN PROPERTIES. Additionally, in determining the amount committed to INVESTMENT IN PROPERTIES, such calculation shall not take into account any FRONT-END FEES.

If CAPITAL CONTRIBUTIONS are paid on an installment basis, the FRONT-END FEE shall be paid to the SPONSOR pro rata as installments are paid.

2. At a minimum, the SPONSOR shall commit a percentage of the CAPITAL CONTRIBUTIONS to INVESTMENT IN PROPERTIES which is equal to the greater of:

(a) 80% of the CAPITAL CONTRIBUTIONS reduced by .1625% for each 1% of financing of PROGRAM properties; or

(b) 67% of the CAPITAL CONTRIBUTIONS.

3. If the SPONSOR enters into an INVESTMENT IN PROPERTIES commitment in excess of that specified in Section 2 above, the following mutually exclusive forms of compensation are viewed as not unreasonable alternatives to FRONT-END FEES:

(a) the SPONSOR may take an additional promotional interest in the net proceeds remaining from the sale or refinancing of the properties after payment of such proceeds to PARTICIPANTS in an

amount equal to 100% of CAPITAL CONTRIBUTIONS, equal to 1% for each 1% of additional INVESTMENT IN PROPERTIES; or

(b) the SPONSOR may take a CARRIED INTEREST which participates in the net proceeds remaining from the sale or refinancing of properties only after payment of such proceeds to PARTICIPANTS in an amount equal to 100% of CAPITAL CONTRIBUTIONS, equal to 1% for the first 2% of additional INVESTMENT IN PROPERTIES, plus 1% for the next 1.5% of additional INVESTMENT IN PROPERTIES, plus 1% for each 1% of additional INVESTMENT IN PROPERTIES thereafter; or

(c) the SPONSOR may take a fully participating CARRIED INTEREST equal to 1% for the first 2.5% of additional INVESTMENT IN PROPERTIES, 1% for the next 2% of additional INVESTMENT IN PROPERTIES, and 1% for each 1% of additional INVESTMENT IN PROPERTIES thereafter.

COMMENT: A CARRIED INTEREST may not be taken other than on the basis of the foregoing. In the case of PROGRAMS offering MANDATORY DEFERRED PAYMENTS, the compensation identified in IV.C.3 above as an alternative to FRONT-END FEES paid the SPONSOR shall be credited to the SPONSOR pro rata as installments are paid.

4. For PROGRAMS whose total CAPITAL CONTRIBUTIONS do not exceed $2 million, the ADMINISTRATOR may reduce the required amount of INVESTMENT IN PROPERTIES to that permitted by 2(b) above notwithstanding the level of indebtedness encumbering the PROGRAM'S properties.

COMMENT: The purpose of the section is to require the SPONSOR to invest a specified percentage of CAPITAL CONTRIBUTIONS in the acquisition of properties and use the balance for FRONT-END FEES in any manner he wishes, or defer a portion of the FRONT-END FEES to a promotional interest.

This will avoid the necessity of having to attempt to establish the reasonableness of the various FRONT-END FEES on an individual basis. However, the formula continues the tradition of the Rules For Real Estate Programs by allowing the SPONSOR'S fee to increase as leverage is employed to acquire properties. The PROSPECTUS should include an example demonstrating the mechanics of the formula.

To calculate the percent of financing of PROGRAM properties in Section 2, divide the amount of financing by the PURCHASE PRICE OF PROPERTY, excluding FRONT-END FEES. The quotient is multiplied by .1625% to determine the percentage to be deducted from 80%.

The following are examples of application of the formula using CAPITAL CONTRIBUTIONS of $1 million in each case:

(1) No financing–80% to be committed to INVESTMENT IN PROPERTIES.

(2) 50% financing–50 x .1625% = 8.125%
80% - 8.125% = 71.875%
to be committed to INVESTMENT IN PROPERTIES.

(3) 80% financing–80 x .1625% = 13%
80% - 13% = 67% to be committed to INVESTMENT IN PROPERTIES.

Notwithstanding the language in sub. 4 above, the 2 million dollar limitation is intended to be a benchmark figure and may be adjusted upward or downward by an ADMINISTRATOR based on the marketplace in his jurisdiction.

D. PROGRAM MANAGEMENT FEE.

1. A general partner of a PROGRAM owning unimproved land shall be entitled to annual compensation not exceeding 1/4 of 1% of the cost of such unimproved land for operating the PROGRAM until such time as the land is sold or improvement of the land commences by the limited partnership. In no event shall this fee exceed a cumulative total of 2% of the original cost of the land regardless of the number of years held.

2. A general partner of a PROGRAM holding property in government subsidized projects shall be entitled to annual compensation not exceeding 1/2 of 1% of the cost of such property for operating the PROGRAM until such time as the property is sold.

3. PROGRAM MANAGEMENT FEES other than as set forth above shall be prohibited.

E. Promotional Interest. An interest in the PROGRAM will be allowed as a promotional interest and PROGRAM MANAGEMENT FEE, provided the amount or percentage of such interest is reasonable. Such an interest will be considered presumptively reasonable if it is within the limitations expressed below:

1. An interest equal to 25% of cash to be distributed from the net proceeds remaining from the sale or refinancing of properties after payment to investors from such proceeds, an amount equal to 100% of CAPITAL CONTRIBUTIONS, plus an amount equal to 6% of CAPITAL CONTRIBUTIONS per annum cumulative (the 6% cumulative return may be reduced, but not below zero, by the aggregate amount of prior distributions to investors from CASH AVAILABLE FOR DISTRIBUTION); or

COMMENT: The SPONSOR should not participate in sale or refinancing proceeds until the PARTICIPANTS have

received a minimum return on their CAPITAL CONTRIBUTIONS.

However, the 6% subordination requirement may be waived in the situation where the PROGRAM invests more than 60% of its CAPITAL CONTRIBUTIONS in newly constructed or totally rehabilitated properties, including housing subsidized under the National Housing Act or similar such programs.

2. An interest equal to:

(i) 10% of distributions from CASH AVAILABLE FOR DISTRIBUTION; and

(ii) 15% of cash to be distributed from the net proceeds remaining from the sale or refinancing of properties after payment of investors from such proceeds, an amount equal to 100% of CAPITAL CONTRIBUTIONS, plus an amount equal to 6% of CAPITAL CONTRIBUTIONS per annum cumulative. The 6% cumulative return may be reduced, but not below zero, by the aggregate amount of prior distributions to investors from CASH AVAILABLE FOR DISTRIBUTION.

COMMENT: In addition to a 6% per annum cumulative return, investors in traditional equity real estate limited partnerships receive:

(i) Capital gains through product appreciation;

(ii) Federal income taxation deductions during the early years of property operations leading to all or a portion of cash distributions being treated as a return of capital for taxation purposes;

(iii) Equity buildup through a reduction of mortgage loans.

3. For purposes of this section, the CAPITAL CONTRIBUTION of the investors shall only be reduced by a cash distribution to investors of the proceeds from the sale or refinancing of properties. In addition, the cumulative return to each investor shall commence no later than the end of the calendar quarter in which his CAPITAL CONTRIBUTION is made.

4. Dissolution and liquidation of the partnership. The distribution of assets upon dissolution and liquidation of the partnership shall conform to the applicable subordination provisions of Sections 1 and 2(ii) herein, and appropriate language shall be included in the partnership agreement.

F. Real Estate Brokerage Commissions on Resale of Property. The total compensation paid to all PERSONS for the sale of a PROGRAM property shall be limited to a COMPETITIVE REAL ESTATE COMMISSION, not to exceed 6% of the contract price for the sale of the property. If the SPONSOR provides a substantial amount of the services in the sales effort, he may receive up to one-half of the COMPETITIVE REAL ESTATE COMMISSION, not to exceed 3%, and subordinated as in E above. If the SPONSOR participates with an independent broker on resale, the subordination requirement shall apply only to the commission earned by the SPONSOR.

COMMENT: If the SPONSOR provides a substantial amount of services in connection with the sale, he may then receive up to 1/2 of the brokerage commission, to a maximum of 3%, with the fee subordinated to a return of 100% of CAPITAL CONTRIBUTIONS plus a 6% annual cumulative return, regardless of the type of property acquired by the PROGRAM.

G. PROPERTY MANAGEMENT FEE. Should the SPONSOR or its AFFILIATES perform property management services permitted under section IV.A.1 of this rule, the fees paid to the SPONSOR or its AFFILIATES shall be the lesser of the maximum fees set forth in subsections 1 through 3 below or the fees which are competitive for similar services in the same geographic area. Included in such fees shall be bookkeeping services and fees paid to nonrelated persons for property management services.

1. In the case of a residential property, the maximum PROPERTY MANAGEMENT FEE (including all rent-up, leasing, and re-leasing fees and bonuses, and leasing related services, paid to any person) shall be 5% of the gross revenues from such property.

2. In the case of industrial and commercial property, except as set forth in 3 below, the maximum PROPERTY MANAGEMENT FEE from such leases shall be 6% of the gross revenues where the SPONSOR or its AFFILIATES includes leasing, re-leasing and leasing related services. Conversely the maximum PROPERTY MANAGEMENT FEE from such leases shall be 3% of the gross revenues where the SPONSOR or its AFFILIATES do not perform the leasing, re-leasing and leasing related services with respect to the property.

3. In the case of industrial and commercial properties which are leased on a long term (ten or more years) net (or similar) basis, the maximum PROPERTY MANAGEMENT FEE from such leases shall be 1% of the gross revenues, except for a one time initial leasing fee of 3% of the gross revenues on each lease payable over the first five full years of the original term of the lease.

COMMENT: This section provides a method to calculate the allowable fees for property management by the SPONSOR. The amount of the fee will be based upon, if competitive, the kinds of property management services performed by the SPONSOR for various types of rental properties and lease arrangements. This section prohibits the SPONSOR from receiving fees for the same service for

which the project has incurred costs to any other PERSON. The salary and fringe benefits of the on-site property personnel may be separately charged, as an operating expense, so long as such manager is not an officer, director, or controlling person of the SPONSOR.

This section is not intended to preclude the charging of a separate competitive fee for the onetime initial rent-up or leasing-up of a newly constructed property if such service is not included in the PURCHASE PRICE OF PROPERTY paid by the PROGRAM. New construction could include a total rehabilitation.

Under Section 3, the initial leasing fee may be taken during each of the first five years on any lease which may include exercised renewals during that period; however, no initial leasing fee may be collected beyond five years for renewals or extensions with the same tenant or tenant's assignee.

The fee limitation would be considered presumptively reasonable unless the SPONSOR can demonstrate, to the satisfaction of the ADMINISTRATOR, through empirical data that a higher competitive fee in the geographic area for the services rendered, the type of property to be acquired and the terms of the management contract is justified.

H. Insurance Services. The SPONSOR or its AFFILIATE may provide insurance brokerage services in connection with obtaining insurance on the PROGRAM'S property so long as the cost of providing such service, including cost of the insurance, is no greater than the lowest quote obtained from two unaffiliated insurance agencies and the coverage and terms are likewise comparable. In no event may such services be provided by the SPONSOR or his AFFILIATE unless he is independently engaged in the business of providing such services to other than AFFILIATES and at least 75% of his insurance brokerage service gross revenue is derived from other than AFFILIATES.

V. CONFLICTS OF INTEREST AND INVESTMENT RESTRICTIONS.

A. Sales, Leases and Loans.

1. Sales and Leases to PROGRAM.

A PROGRAM shall not purchase or lease property in which a SPONSOR has an interest unless:

(a) The transaction occurs at the formation of the PROGRAM and is fully disclosed in its PROSPECTUS or offering circular, and

(b) The property is sold upon terms fair to the PROGRAM and at a price not in excess of its appraised value, and

(c) The cost of the property and any improvements thereon to the SPONSOR is clearly established. If the SPONSOR's cost was less than the price to be paid by the program, the price to be paid by the PROGRAM will not be deemed fair, regardless of the appraised value, unless some material change has occurred to the property which would increase the value since the SPONSOR acquired the property. Material factors may include the passage of a significant amount of time (but in no event less than 2 years), the assumption by the promoter of the risk of obtaining a re-zoning of the property and its subsequent re-zoning, or some other extraordinary event which in fact increases the value of the property.

(d) The provisions of this subsection notwithstanding, the SPONSOR may purchase property in its own name (and assume loans in connection therewith) and temporarily hold title thereto for the purpose of facilitating the acquisition of such property or the borrowing of money or obtaining of financing for the PROGRAM, or completion of construction of the property, or any other purpose related to the business of the PROGRAM, provided that such property is purchased by the PROGRAM for the price no greater than the cost of such property to the SPONSOR, except compensation in accordance with Section IV, above, of this rule, and provided there is no difference in interest rates of the loans secured by the property at the time acquired by the SPONSOR and the time acquired by the PROGRAM, no any other benefit arising out of such transaction to the SPONSOR apart from compensation otherwise permitted by this rule.

2. Sales and Leases to SPONSOR. The PROGRAM will not ordinarily be permitted to sell or lease property to the SPONSOR except that the PROGRAM may lease property to the SPONSOR under a lease-back arrangement made at the outset and on terms no more favorable to the SPONSOR than those offered other persons and fully described in the PROSPECTUS.

3. Loans. No loans may be made by the PROGRAM to the SPONSOR or an AFFILIATE.

4. Dealing with Related PROGRAMS. A PROGRAM shall not acquire property from a PROGRAM in which the SPONSOR has an interest.

COMMENT: This provision prohibits transactions among PROGRAMS where the SPONSOR has an interest whereas V.A.1, above, relates to properties where the SPONSOR has an interest.

B. Exchange of Limited Partnership Interests. The PROGRAM may not acquire property in exchange for limited partnership interests, except for property which is described in the PROSPECTUS which will be exchanged immediately upon effectiveness. In addition, such exchange

shall meet the following conditions:

1. A provision for such exchange must be set forth in the partnership agreement, and appropriate disclosure as to tax effects of such exchange must be set forth in the PROSPECTUS;

2. The property to be acquired must come within the objectives of the PROGRAM;

3. The purchase price assigned to the property shall be no higher than the value supported by an appraisal prepared by an independent qualified appraiser;

4. Each limited partnership interest must be valued at no less than market value if there is a market or if there is no market, fair market value of the PROGRAM's assets as determined by an independent appraiser within the last 90 days, less its liabilities, divided by the number of interests outstanding;

5. No more than one-half of the interests issued by the PROGRAM shall have been issued in exchange for property;

6. No securities sales or underwriting commissions shall be paid in connection with such exchange.

C. Exclusive Agreement. A PROGRAM shall not give a SPONSOR an exclusive right to sell or exclusive employment to sell property for the PROGRAM.

D. Commissions on Reinvestment or Distribution. A PROGRAM shall not pay, directly or indirectly, a commission or fee (except as permitted under section IV) to a SPONSOR in connection with the reinvestment or distribution of the proceeds of the resale, exchange, or refinancing of PROGRAM PROPERTY.

COMMENT: This section clarifies that financing, refinancing, or servicing fees are subject to the limitations of IV.C, above.

E. Services Rendered to the PROGRAM by the SPONSOR.

1. Expenses of the PROGRAM.

(a) All expenses of the PROGRAM shall be billed directly to and paid by the PROGRAM. The SPONSOR may be reimbursed for the actual cost of goods and materials used for or by the PROGRAM and obtained from entities unaffiliated with the SPONSOR. The SPONSOR may be reimbursed for the administrative services necessary to the prudent operation of the PROGRAM provided that the reimbursement shall be at the lower of the SPONSOR'S actual cost or the amount the PROGRAM would be required to pay to independent parties for comparable administrative services in the same geographic location. No reimbursement shall be permitted for services for which the SPONSOR is entitled to compensation by way of a separate fee. Excluded from the allowable reimbursement (except as permitted under IV.C.1) shall be:

(i) rent or depreciation, utilities, capital equipment, other administrative items; and

(ii) salaries, fringe benefits, travel expenses, and other administrative items incurred or allocated to any controlling persons of the SPONSOR or AFFILIATES.

Controlling person, for purpose of this section, includes but is not limited to, any PERSON, whatever their title, who performs functions for the SPONSOR similar to those of:

(1) Chairman or member of the Board of Directors;

(2) Executive Management, such as the

(i) President,

(ii) Vice-President or Senior Vice-President,

(iii) Corporate Secretary,

(iv) Treasurer;

(3) Senior Management, such as the Vice-President of an operating division who reports directly to Executive Management; or

(4) Those holding 5% or more equity interest in the SPONSOR or a person having the power to direct or cause the direction of the SPONSOR, whether through the ownership of voting securities, by contract, or otherwise.

(b) The annual PROGRAM report must contain a breakdown of the costs reimbursed to the SPONSOR. Within the scope of the annual audit of the SPONSOR'S financial statement, the independent certified public accountants must verify the allocation of such costs to the PROGRAM. The method of verification shall at minimum provide:

(1) A review of the time records of individual employees, the costs of whose services were reimbursed;

(2) A review of the specific nature of the work performed by each such employee.

The methods of verification shall be in accordance with generally accepted auditing standards and shall accordingly include such tests of the accounting records and such other auditing procedures which the SPONSOR'S independent certified public accountants consider appropriate in the

circumstances. The additional costs of such verification will be itemized by said accountants on a PROGRAM by PROGRAM basis and may be reimbursed to the SPONSOR by the PROGRAM in accordance with this subsection only to the extent that such reimbursement when added to the cost for administrative services rendered does not exceed the competitive rate for such services as determined above.

The PROSPECTUS must disclose in tabular form an estimate of such proposed expenses for the next fiscal year together with a breakdown by year of such expenses reimbursed in each of the last five public PROGRAMS formed by the SPONSOR.

COMMENT: This section permits the SPONSOR to be reimbursed for a portion of the costs incurred in performing certain administrative functions for the PROGRAM provided the SPONSOR is both qualified to perform such functions and does so at a cost no greater to the PROGRAM than that which an unaffiliated PERSON would charge the PROGRAM. Regardless of the capacity in which controlling persons of the SPONSOR serve the PROGRAM, their salaries may not be allocated to the PROGRAM.

2. Other Services. No other services may be performed by the SPONSOR for the PROGRAM except in extraordinary circumstances fully justified to the ADMINISTRATOR. As a minimum, self-dealing arrangements must meet the following criteria:

(a) The compensation, price or fee therefore must be comparable and competitive with the compensation, price or fee of any other PERSON who is rendering comparable services or selling or leasing comparable goods which could reasonably be made available to the PROGRAMS and shall be on competitive terms, and

(b) The fees and other terms of the contract shall be fully disclosed, and

(c) The SPONSOR must be previously engaged in the business of rendering such services or selling or leasing such goods, independently of the PROGRAM and as an ordinary and ongoing business, and

(d) All services or goods for which the SPONSOR is to receive compensation shall be embodied in a written contract which precisely describes the services to be rendered and all compensation to be paid, which contract may only be modified by a vote of the majority of the limited partners. Said contract shall contain a clause allowing termination without penalty on 60 days notice.

COMMENT: Where the services are available elsewhere from unaffiliated parties, there would be a presumption that there are no extraordinary circumstances. Extraordinary circumstances would only be presumed where there is an emergency situation requiring immediate action by the SPONSOR, and the service is not immediately available from unaffiliated parties. Extraordinary circumstances shall, in no event, include general and administrative expenses, except as otherwise provided herein.

F. Rebates, Kickbacks and Reciprocal Arrangements.

1. No rebates or give-ups may be received by the SPONSOR nor may the SPONSOR participate in any reciprocal business arrangements which would circumvent this rule. Furthermore, the PROSPECTUS and PROGRAM charter documents shall contain language prohibiting the above as well as language prohibiting reciprocal business arrangements which would circumvent the restrictions against dealing with AFFILIATES or promoters.

2. No SPONSOR shall directly or indirectly pay or award any commissions or other compensation to any PERSON engaged by a potential investor for investment advice as an inducement to such advisor to advise the purchaser of interests in a particular PROGRAM; provided, however, that this clause shall not prohibit the normal sales commissions payable to a registered broker-dealer or other properly licensed PERSON for selling PROGRAM INTERESTS.

G. Commingling of Funds. The funds of a PROGRAM shall not be commingled with the funds of any other PERSON. Nothing contained in this section however, shall prohibit a SPONSOR from establishing a master fiduciary account pursuant to which separate subtrust accounts are established for the benefit of affiliated limited partnerships, provided, that PROGRAM funds are protected from claims of such other partnerships and/or creditors. The prohibition of this section shall not apply to investments meeting the requirements of Section V.H.

H. Investments in Other PROGRAMS.

1. Investments in limited partnership interests of another PROGRAM shall be prohibited; however, nothing herein shall preclude the investment in general partnerships or ventures which own and operate a particular property provided the PROGRAM acquires a controlling interest in such other ventures or general partnerships (except as permitted by subsection 3). In such event, duplicate property management or other fees shall not be permitted.

2. Such prohibitions shall not apply to PROGRAMS participating in the subsidized housing provisions of the National Housing Act or any similar programs that may be enacted, but unless prohibited by the applicable federal statute, such partnership (herein referred to as lower tier partnership) shall provide for its limited partners all of the rights and obligations required to be provided by the original PROGRAM in

Section VII of this rule.

COMMENT: The investment by a limited partnership in another limited partnership is restricted to investment in those PROGRAMS which have been organized and are regulated pursuant to the subsidized housing provisions of the National Housing Act, or similar state law. This position is based on the recognition that these PROGRAMS have strict compensation parameters outlined by the applicable legislation, and historically have been organized as multiple level limited partnerships. These PROGRAMS will continue to be monitored to determine that duplicative management or other fees are not being paid.

3. The PROGRAM shall be permitted to invest in joint venture arrangements with another PROGRAM formed by the SPONSOR if all the following conditions are met:

(a) The two PROGRAMS have substantially identical investment objectives.

(b) There are no duplicate property management or other fees.

(c) The SPONSOR compensation should be substantially identical in each PROGRAM.

(d) The PROGRAM must have a right of first refusal to buy if the other PROGRAM wishes to sell property held in the joint venture.

(e) The investment of each PROGRAM is on substantially the same terms and conditions.

(f) The PROSPECTUS must disclose the potential risk of impasse on joint venture decisions since neither PROGRAM controls and the potential risk that while one PROGRAM may buy the property from the other joint ventures, in the event of a sale, it may not have the resources to do so.

COMMENT: In certain situations, it would be to the advantage of the PROGRAM to be able to invest in a joint venture with another PROGRAM where neither PROGRAM has sufficient money to make the entire investment even if the PROGRAM does not acquire a controlling interest. However, in order to provide the necessary protections, there is a need to not only require full disclosure of the joint venture arrangements but also to set out substantive standards that must be adhered to in order to assure these protections.

For PROGRAMS which make or invest in mortgage loans, joint venture arrangements are permitted so long as joint venture arrangements with affiliates satisfy the requirements of V.A.3 herein.

I. Lending Practices.

1. On loans made available to the PROGRAM by the SPONSOR, the SPONSOR may not receive interest or similar charges or fees in excess of the amount which would be charged by unrelated lending institutions on comparable loans for the same purpose, in the same locality of the property if the loan is made in connection with a particular property. No prepayment charge or penalty shall be required by the SPONSOR on a loan to the PROGRAM secured by either a first or a junior or all-inclusive trust deed, mortgage or encumbrance on the property, except to the extent that such prepayment charge or penalty is attributable to the underlying encumbrance. The sponsor shall be prohibited from providing FINANCING for the PROGRAM, except as permitted by Section 2 of this section V.I.1.

2. An "all-inclusive" or "wrap-around" note and deed of trust (the "all-inclusive note" herein) may be used to finance the purchase of property by the PROGRAM only if the following conditions are complied with:

(a) The SPONSOR under the all-inclusive note shall not receive interest on the amount of the underlying encumbrance included in the all-inclusive note in excess of that payable to the lender on that underlying encumbrance;

(b) The PROGRAM shall receive credit on its obligation under the all-inclusive note for payments made directly on the underlying encumbrance, and

(c) A paying agent, ordinarily a bank, escrow company, or savings and loan, shall collect payments (other than any initial payment of prepaid interest or loan points not to be applied to the underlying encumbrance) on the all-inclusive note and make disbursements therefrom to the holder of the underlying encumbrance prior to making any disbursement to the holder of the all-inclusive note, subject to the requirements of subsection (a) above, or, in the alternative, all payments on the all-inclusive and underlying note shall be made directly by the PROGRAM.

J. Development or Construction Contract. The SPONSOR will not be permitted to construct or develop properties, or render any services in connection with such development or construction unless all of the following conditions are satisfied:

1. The transactions occur at the formation of the PROGRAM.

2. The specific terms of the development and construction of identifiable properties are ascertainable and fully disclosed in the PROSPECTUS.

3. The purchase price to be paid by the PROGRAM is based upon a firm contract price which in no event can exceed the sum of the cost of the land and the SPONSOR's cost of construction. For the purposes of

this section, cost of construction includes the contractor or CONSTRUCTION FEE customarily paid for services as a general contractor, provided, however, that any overhead of the general contractor is not charged to the PROGRAM or included in the cost of construction.

4. In the case of construction, the only fees paid to the SPONSOR in connection with such project shall consist of a CONSTRUCTION FEE for action as a general contractor, which fees must be comparable and competitive with the fees of disinterested PERSONS rendering comparable services (excluding, however, any overhead of the contractor) and a real estate commission in connection with the acquisition of the land, if appropriate under the circumstances. Any such real estate commission shall be subject to the provisions of IV.C, above.

5. The SPONSOR demonstrates the presence of extraordinary circumstances as required by Section 2 of V.E and otherwise complies with subsections (b), (c), and (d) thereunder.

K. Completion Bond Requirements.

(a) The completion of property acquired which is under construction shall be guaranteed at the price contracted by an adequate completion bond or other satisfactory arrangements.

(b) For purposes of this section, satisfactory arrangements include, but are not limited to, the following:

(1) A written guarantee of completion by a PERSON, supported by financial statements demonstrating sufficient net worth or adequately collateralized by other real or personal properties or other PERSONS' guarantees.

(2) A retention of a reasonable portion of the purchase consideration as a potential offset to such purchase consideration in the event the seller does not perform in accordance with the purchase and sale agreement.

(c) Other satisfactory arrangements to guarantee completion may be made, provided they are disclosed in the PROSPECTUS and the prior written approval of the ADMINISTRATOR has been obtained.

L. Requirement for Real Property Appraisal. All real property acquisitions must be supported by an appraisal prepared by a competent, independent appraiser. The appraisal shall be maintained in the SPONSOR's records for at least five years, and shall be available for inspection and duplication by any PARTICIPANT. The PROSPECTUS shall contain notice of this right.

VI. NON-SPECIFIED PROPERTY PROGRAMS. The following special provisions shall apply to NON-SPECIFIED PROPERTY PROGRAMS:

A. Minimum Capitalization. A NON-SPECIFIED PROPERTY PROGRAM shall provide for minimum cash gross proceeds from the offering of not less than $1,000,000.00 to be available for INVESTMENT IN PROPERTIES.

B. Experience of SPONSOR. For NON-SPECIFIED PROPERTY PROGRAMS, the SPONSOR or at least one of its principals must establish that he has had the equivalent of not less than five years experience in the real estate business in an executive capacity and two years experience in the management and acquisition of the type of properties to be acquired or otherwise must demonstrate to the satisfaction of the ADMINISTRATOR that he has sufficient knowledge and experience to acquire and manage the type of properties proposed to be acquired by the NON-SPECIFIED PROPERTY PROGRAM.

C. Statement of Investment Objectives. A NON-SPECIFIED PROPERTY PROGRAM shall state types of properties in which it proposes to invest, such as first-user apartment projects, subsequent-user apartment projects, shopping centers, office buildings, unimproved land, etc., and the size and scope of such projects shall be consistent with the objectives of the PROGRAM and the experience of the SPONSORS. As a minimum the following restrictions on investment objectives shall be observed.

1. Unimproved or non-income producing property shall not be acquired except in amounts and upon terms which can be financed by the PROGRAM's proceeds or from cash available for distribution from operations. Investments in such property shall not exceed 10% of the gross proceeds of the offering. Properties which are expected to produce income within a reasonable period of time shall not be considered non-income producing. For purposes of this section, two years shall be deemed to be presumptively reasonable.

2. Investments in junior trust deeds and other similar obligations shall be prohibited, except for junior trust deeds which arise from the sale of PROGRAM properties.

3. The manner in which acquisitions will be financed including the use of an all-inclusive note or wrap-around, and the leveraging to be employed shall all be fully set forth in the statement of investment objectives.

4. The statement shall indicate whether the PROGRAM will enter into joint venture arrangements and the projected extent thereof.

D. Period of Offering and Expenditure of Proceeds. No offering of securities in a NON-SPECIFIED PROPERTY

PROGRAM may extend for more than one year from the date of effectiveness. While the proceeds of an offering are awaiting investment in real property, the proceeds may be temporarily invested in short-term highly liquid investments where there is appropriate safety of principal, such as U.S. Treasury Bonds or Bills. Any proceeds of the offering of securities not invested within the later of two years from the date of effectiveness or, if allowed by the ADMINISTRATOR, six months from the last scheduled MANDATORY DEFERRED PAYMENT date (except for necessary operating capital) shall be distributed pro rata to the partners as a return of capital so long as the adjusted INVESTMENT IN PROPERTIES is in compliance with IV.C, above.

E. Multiple Programs. The method for the allocation of the acquisition of properties by two or more PROGRAMS of the same SPONSOR seeking to acquire similar types of properties shall be reasonable. The method also shall be described in the PROSPECTUS.

VII. RIGHTS AND OBLIGATIONS OF PARTICIPANTS.

A. Meetings. Meetings of the PROGRAM may be called by the SPONSOR or by the PARTICIPANTS holding more than 10% of the then outstanding limited partnership interests, for any matters for which the PARTICIPANTS may vote as set forth in the limited partnership agreement. A list of the names and addresses of all PARTICIPANTS shall be maintained as part of the books and records of the limited partnership and shall be made available on request to any PARTICIPANT or his representative at his cost. Upon receipt of a written request either in PERSON or by certified mail stating the purpose(s) of the meeting, the SPONSOR shall provide all PARTICIPANTS within ten days after receipt of said request, written notice (either in PERSON or by certified mail) of a meeting and the purpose of such meeting to be held on a date not less than fifteen nor more than sixty days after receipt of said request, at a time and place convenient to PARTICIPANTS.

B. Voting Rights of Limited Partners.

To the extent the law of the state of the limited partnership's organization is not inconsistent, the limited partnership agreement must provide that a majority of the then outstanding limited partnership interests may, without the necessity for concurrence by the SPONSOR, vote to: (1) amend the limited partnership agreement, (2) dissolve the PROGRAM, (3) remove the SPONSOR and elect a new SPONSOR, and (4) approve or disapprove the sale of all or substantially all of the assets of the PROGRAM. The agreement should provide for a method of valuation of the SPONSOR interest, upon removal of the SPONSOR, that would not be unfair to the PARTICIPANTS. The agreement should also provide for a successor SPONSOR where the only SPONSOR of the PROGRAM is an individual.

C. Reports to Holders of Limited Partnership Interest.

The partnership agreement shall provide that the SPONSOR shall cause to be prepared and distributed to the holders of PROGRAM INTERESTS during each year the following reports:

1. In the case of a PROGRAM registered under Section 12(g) of the Securities Exchange Act of 1934, within sixty days after the end of each quarter of the PROGRAM, a report containing:

(i) A balance sheet, which may be unaudited.

(ii) A statement of income for the quarter then ended, which may be unaudited.

(iii) A CASH FLOW statement for the quarter then ended, which may be unaudited.

(iv) Other pertinent information regarding the PROGRAM and its activities during the quarter covered by the report.

2. In the case of all PROGRAMS, within 75 days after the end of each PROGRAM's fiscal year, all information necessary for the preparation of the limited partners' federal income tax returns;

3. In the case of all PROGRAMS, within 120 days after the end of each PROGRAM's fiscal year, an annual report containing: (i) a balance sheet as of the end of its fiscal year and statements of income, partners' equity, and changes in financial position and a CASH FLOW statement, for the year then ended, all of which, except the CASH FLOW statement, shall be prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion of an independent certified public accountant, (ii) a report of the activities of the PROGRAM during the period covered by the report, and (iii) where forecasts have been provided to the holders of limited partnership interests, a table comparing the forecasts previously provided with the actual results during the period covered by the report. Such report shall set forth distributions to limited partners for the period covered thereby and shall separately identify distributions from: (a) CASH FLOW from operations during the period, (b) CASH FLOW from operations during a prior period which had been held as reserves, (c) proceeds from disposition of property and investments, (d) lease payments on net leases with builders and sellers, and (e) reserves from the gross proceeds of the offering originally obtained from the limited partners.

4. Where ASSESSMENTS have been made during any period covered by any report required by Sections 1, 2, and 3 hereof, then such report shall contain a detailed statement of such ASSESSMENTS and the application of the proceeds derived from such ASSESSMENTS.

5. Where PROGRAM INTERESTS have been purchased on a MANDATORY DEFERRED PAYMENT basis, on which there remains an unpaid balance during any period covered by any report required by Sections 1, 2, and 3, hereof, then such report shall contain a detailed statement of the status of all MANDATORY DEFERRED PAYMENTS, actions taken by the PROGRAM in response to any defaults, and a discussion and analysis of the impact on capital requirements of the PROGRAM.

D. Access to Records. Every limited partner shall at all times have access to the records of the partnership and may inspect and copy any of them. A list of the names and addresses, of all of the limited partners shall be maintained as part of the books and records and shall be mailed to any limited partner upon request. A reasonable charge for copy work may be charged by the PROGRAM.

E. Admission of PARTICIPANTS. Admission of PARTICIPANTS to the PROGRAM shall be subject to the following:

1. Admission of Original PARTICIPANTS. Upon the original sale of partnership units by the PROGRAM, the purchasers should be admitted as limited partners not later than 15 days after the release from impound of the purchaser's funds to the PROGRAM, and thereafter purchasers should be admitted into the PROGRAM not later than the last day of the calendar month following the date their subscription was accepted by the PROGRAM. Subscriptions shall be accepted or rejected by the PROGRAM within 30 days of their receipt; if rejected, all funds should be returned to the subscribers within ten (10) business days thereafter.

2. Admission of Substituted Limited Partners and Recognition of Assignees. The PROGRAM shall amend the certificate of limited partnership at least once each calendar quarter to effect the substitution of substituted PARTICIPANTS, although the SPONSOR may elect to do so more frequently. In the case of assignments, where the assignee does not become a substituted limited partner, the PROGRAM shall recognize the assignment not later than the last day of the calendar month following receipt of notice of assignment and required documentation.

3. Except where deemed inappropriate by the ADMINISTRATOR, PERSONS holding PROGRAM INTERESTS by assignment from entities holding limited partnership interests in a PROGRAM for the purpose of assigning all or a portion of such interests to PERSONS investing in such PROGRAM (hereinafter the "Assignor") shall be expressly granted the same rights as if they were limited partners except as prohibited by applicable local law, including but not limited to, the rights enumerated under VII of this rule. The assignment agreement and PROSPECTUS shall provide that the Assignor's management shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the assignees, whether or not in the Assignor management's possession or control, and that the management of the Assignor shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the assignees. In addition, the agreement shall not permit the assignees to contract away the fiduciary duty owed to the assignees by the Assignor's management under the common law of agency.

F. Redemption of PROGRAM INTERESTS. Ordinarily, the PROGRAM and the SPONSOR may not be mandatorily obligated to redeem or repurchase any of its PROGRAM INTERESTS, although the PROGRAM and the SPONSOR may not be precluded from purchasing such outstanding interests if such purchase does not impair the capital or the operation of the PROGRAM. Notwithstanding the foregoing, a real estate PROGRAM may provide for mandatory redemption rights under the following necessitous circumstances:

1. Death or legal incapacity of the PARTICIPANT, or

2. A substantial reduction in the PARTICIPANT's NET WORTH or income provided that: (i) the PROGRAM has sufficient cash to make the purchase, (ii) the purchase will not be in violation of applicable legal requirements, and (iii) not more than 15% of the outstanding units are purchased in any year. Where the purchase price is not mutually agreed upon, the matter shall be submitted to arbitration.

G. Transferability of PROGRAM INTERESTS. Restrictions on assignment of limited partnership interests will not be allowed. Restrictions on the substitution of a limited partner are generally disfavored and will be allowed only to the extent necessary to preserve the tax status of the partnership and any restriction must be supported by opinion of counsel.

H. ASSESSMENTS and Defaults.

1. ASSESSMENTS. ASSESSMENTS will not be allowed for NON-SPECIFIED PROGRAMS. In the case of SPECIFIED PROGRAMS, ASSESSMENTS shall be permitted only when specific circumstances demonstrate a need. If the anticipated CASH FLOW from property (after payment of debt service and all operating expenses) is not sufficient to pay taxes and/or special ASSESSMENTS imposed by governmental or quasi-governmental units, the PROGRAM agreement may include a provision for assessability to meet such deficiencies. Assessability must be limited to the foregoing obligations, and all amounts derived from such ASSESSMENTS must be applied only to satisfaction of said obligations.

2. Defaults on ASSESSMENTS. In the event of a default in the payment of ASSESSMENTS by a

PARTICIPANT his interests shall not be subject to forfeiture, but may be subject to a reasonable penalty for failure to meet his commitment. Provided that the arrangements are fair, this may take the form of reducing his proportionate interest in the PROGRAM, subordinating his interest to that of nondefaulting partners, a forced sale complying with applicable procedures for notice and sale, the lending of the amount necessary to meet his commitment by the other PARTICIPANTS or a fixing of the value of his interest by independent appraisal or other suitable formula with provision for a delayed payment to him for his interest not beyond a reasonable period, but a debt security issued for such interest should not have a claim prior to that of the other investors in the event of liquidation.

COMMENT: A limited partner will be reinstated to his full status as a limited partner upon payment of the delinquent ASSESSMENT with interest at the maximum rate allowed by law, within 30 days of the date of default. Default would be the failure to pay the ASSESSMENT within 30 days of the date of notice requesting the ASSESSMENT.

I. Dividend Reinvestment Plans. A PROGRAM may offer participants the opportunity to elect to have cash distributions reinvested in the PROGRAM or subsequent PROGRAMS if the following conditions are met:

1. The PROGRAM and subsequent PROGRAMS in which the PARTICIPANTS reinvest are registered or exempted under Virginia's Securities Act.

2. Counsel for the PROGRAM submits an opinion that the pooling of the funds for reinvestment is not in itself a security.

3. The subsequent PROGRAM has substantially identical investment objectives as the original PROGRAM.

4. The PARTICIPANTS are free to elect or revoke reinvestment within a reasonable time and such right is fully disclosed in the offering documents.

5. Prior to each reinvestment the PARTICIPANTS receive a current updated disclosure document which contains at a minimum the following information:

(a) The minimum investment amount.

(b) The type or source of proceeds (e.g., cash distributions from operations or the sale or disposition of properties) which may be reinvested.

(c) The tax consequences of the reinvestment to the PARTICIPANTS.

6. The broker-dealer or the issuer assumes responsibility for blue sky compliance and performance of due diligence responsibilities and has contacted the PARTICIPANTS to ascertain whether they continue to meet Virginia's suitability standard for participation in each reinvestment.

7. If a broker-dealer is involved it shall obtain in writing an agreement from the PARTICIPANT by which the PARTICIPANT agrees to payment of compensation to the broker-dealer in connection with individual reinvestment.

J. Within 60 days after the end of each quarter during which there has been real property acquisitions, a "Special Report" (which may be part of the quarterly report) shall be sent to all PARTICIPANTS until the proceeds of the offering are committed or returned to the investors. The report shall contain the following information:

(a) The location and a description of the general character of all materially important real properties acquired or presently intended to be acquired by or leased to the PROGRAM, during the quarter.

(b) The present or proposed use of such properties and their suitability and adequacy for such use.

(c) The terms of any material lease affecting the properties.

(d) The proposed method of financing, including estimated down payment, leverage ratio, prepaid interest, balloon payment(s), prepayment penalties, due-on-sale or encumbrance clauses and possible adverse effects thereof and similar details of the proposed financing plan.

(e) A statement that title insurance and any required construction, permanent or other financing and performance bonds or other assurances with respect to builders have been or will be obtained on all properties acquired.

VIII. DISCLOSURE AND MARKETING REQUIREMENTS.

A. Sales Promotional Efforts.

1. Sales Literature. Sales literature, sales presentations (including prepared presentations to prospective investors at group meetings) and advertising used in the offer or sale of partnership interests shall conform in all applicable respects to requirements of filing, disclosure and adequacy currently imposed on sales literature, sales presentations and advertising used in the sale of corporate securities.

2. Group Meetings. All advertisements of and oral or written invitations to "seminars" or other group meetings at which PROGRAM INTERESTS are to be described, offered or sold shall clearly indicate that the purpose of such meeting is to offer such PROGRAM INTERESTS for sale, the minimum purchase price thereof, and the name of the

SPONSOR, underwriter or selling agent. No cash, merchandise or other item of value shall be offered as an inducement to any prospective PARTICIPANT to attend any such meeting. In connection with the offer or sale of PROGRAM INTERESTS, no general offer shall be made of "free" or "bargain price" trips to visit property in which the PROGRAM or proposed PROGRAM has invested or intends to invest.

All written or prepared audio-visual presentations (including scripts prepared in advance for oral presentations) to be made at such meetings must be submitted in advance to the ADMINISTRATOR not less than three business days prior to the first use thereof. The foregoing Sections 1 and 2 shall not apply to meetings consisting only of representatives of securities broker-dealers.

B. Contents of PROSPECTUS. The PROSPECTUS shall meet the requirements of Guide 5 of the Securities and Exchange Commission. The description of the method for the allocation of the acquisition of properties by two or more programs of the same SPONSOR shall meet the requirements of VI.E. The PROSPECTUS shall contain a full description of any terms, consequences, and risks to investors and the PROGRAM of any MANDATORY DEFERRED PAYMENTS. The ADMINISTRATOR may require additional disclosure if, in the ADMINISTRATOR's opinion, specific facts concerning the offering require it.

COMMENT: Where the ADMINISTRATOR deems it appropriate, offering materials may be required to comment on the ability of investors to rely on tax benefits and cash flow from the PROGRAM to satisfy future obligations on MANDATORY DEFERRED PAYMENTS, the inappropriateness of treating such obligations as options or warrants, possible liability to third-party creditors of the PROGRAM as a result of such unpaid obligations, and/or possible tax consequences of the use of such payment methods.

C. Forecasts.

1. Use of Forecasts. The presentation of predicted future results of operations of real estate PROGRAMS shall be permitted but not required for specified property PROGRAMS investing primarily in improved property and shall be prohibited for NON-SPECIFIED PROPERTY PROGRAMS or specified property PROGRAMS investing primarily in unimproved land. The covers of the PROSPECTUS must contain in bold face language one of the following statements:

(i) For SPECIFIED PROPERTY PROGRAMS:

FORECASTS ARE CONTAINED IN THIS PROSPECTUS (OFFERING CIRCULAR). ANY PREDICTIONS AND REPRESENTATIONS, WRITTEN OR ORAL, WHICH DO NOT CONFORM TO THOSE CONTAINED IN THE PROSPECTUS (OFFERING CIRCULAR) SHALL NOT BE PERMITTED.

(ii) For NON-SPECIFIED PROPERTY and unimproved land programs:

THE USE OF FORECASTS IN THIS OFFERING IS PROHIBITED. ANY REPRESENTATIONS TO THE CONTRARY AND ANY PREDICTIONS, WRITTEN OR ORAL, AS TO THE AMOUNT OR CERTAINTY OF ANY PRESENT OR FUTURE CASH BENEFIT OR TAX CONSEQUENCE WHICH MAY FLOW FROM AN INVESTMENT IN THIS PROGRAM IS NOT PERMITTED.

Forecasts for specified property PROGRAMS shall be included in the PROSPECTUS, offering circular or sales material of the PROGRAM only if they comply with the following requirements:

a. General. Forecasts shall be realistic in their predictions and shall clearly identify the assumptions made with respect to all material features of the presentation. Forecasts should be examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements as promulgated by the American Institute of Certified Public Accountants, and that person or firm should be identified in the PROSPECTUS or offering circular as being responsible for the examination of the forecasts. No forecasts shall be permitted in any sales literature which do not appear in the PROSPECTUS or offering circular. If any forecasts are included in the sales literature, all forecasts must be presented.

COMMENT: If predicted future results of operations are used, they shall be prepared in the form of a forecast by an expert using standard criteria and format.

b. Material Information. Forecasts shall include all the following information:

(1) Annual predicted revenue by source; including the occupancy rate used in predicting rental revenue;

(2) Annual predicted expenses;

(3) Mortgage obligation–annual payments for principal and interest, points and financing fees, shown as dollars, not percentages;

(4) The required occupancy rate in order to meet debt service and all expenses;

(5) Predicted annual CASH FLOW; stating assumed occupancy rate;

(6) Predicted annual depreciation and amortization with full description of methods to be used;

(7) Predicted annual taxable income or loss and a simplified explanation of the tax treatment of such results; assumed tax brackets may not be used;

(8) Predicted construction costs–including disclosure regarding contracts;

(9) Accounting policies–e.g., with respect to points, financing costs and depreciation.

c. Presentation.

(1) Caveat. Forecasts shall prominently display a statement to the effect that they represent a mere prediction of future events based on assumptions which may or may not occur and may not be relied upon to indicate the actual results which will be obtained.

(2) Additional Guidelines. Explanatory notes describing assumptions made and referring to risk factors should be integrated with tabular and numerical information.

(3) Sale-leasebacks. When a sale-leaseback is employed, the statement that the seller is assuming the operating risk and consequently may have charged a higher price for the property must be included.

d. Additional Disclosures and Limitations.

(1) Forecasts shall be for a period at least equivalent to the anticipated holding period for the property, or 10 years, whichever is shorter, and project a resale occurrence, including depreciation recapture, if applicable. The forecasted resale price must be reasonable.

(2) Adequate disclosure shall be made of the changing economic effects upon the limited partners resulting principally from federal income tax consequences over the life of the partnership property, e.g., substantial tax losses in early years followed by an increasing amount of taxable income in later years.

(3) Forecasts shall disclose all possible undesirable tax consequences of an early sale of the PROGRAM property (such as, depreciation recapture or the failure to sell the property at a price which would return sufficient cash to meet resulting tax liabilities of the PARTICIPANTS).

(4) In computing the return to investors, no appreciation, so called "equity buildup", or any other benefits from unrealized gains or value shall be shown or included.

2. Unimproved Land. Forecasts shall not be allowed for unimproved land. Instead, a table of deferred payments specifying the various holding costs, (i.e., interest, taxes, and insurance) shall be inserted. However, where the PROGRAM intends to develop and sell the land as its primary business, a detailed CASH FLOW statement showing the timing of expenditures and anticipated revenues shall be required. Additionally, the consequences of a delayed selling PROGRAM shall be shown.

IX. MISCELLANEOUS PROVISIONS.

A. Deferred Payments. Deferred payments or similar arrangements on account of the purchase price of PROGRAM INTERESTS shall not be allowed except as set forth below:

1. MANDATORY DEFERRED PAYMENTS may be allowed in the case of SPECIFIED PROPERTY PROGRAMS to the extent such payments bear a reasonable and demonstrable relationship to the capital needs and objectives of the PROGRAM as described in the presentation of the business development plan in the investor disclosure document, but in any event such arrangements shall be subject to the following conditions:

(a) A minimum of 50% of the purchase price of the PROGRAM INTERESTS must be paid by the investor at the time of sale, with the remainder to be paid within three years of the earlier of the completion of the offering or one year following the effective date of the offering or such shorter period as the ADMINISTRATOR, under the circumstances, deems appropriate.

(b) MANDATORY DEFERRED PAYMENTS shall be evidenced by a promissory note of the investor. Such notes shall be with recourse, shall not be negotiable and shall be assignable only subject to defenses of the maker. Such notes shall not contain a provision authorizing a confession of judgment. In any event, the notes shall provide for venue in the jurisdiction of the investor.

(c) The PROGRAM shall not sell or assign the MANDATORY DEFERRED PAYMENT note at a discount.

(d) Selling commissions for PROGRAM INTERESTS sold on a MANDATORY DEFERRED PAYMENT basis are payable pro rata only from cash payments made by the PARTICIPANT.

(e) In the event of default in the payment of MANDATORY DEFERRED PAYMENTS by a PARTICIPANT, the PARTICIPANT's interest may be subject to a reasonable reduction as set forth in the PROSPECTUS and as acceptable to the ADMINISTRATOR. Responses to defaults should be designed to protect the capital requirements of the PROGRAM and the best interests of the

non-defaulting PARTICIPANTS while being fair to the defaulting PARTICIPANT.

(f) The PROGRAM may take a security interest in the PARTICIPANT's PROGRAM INTERESTS in the amount of the unpaid portion of the note provided that proceedings to enforce the security interest may not be commenced earlier than 30 days after default and notice of intent to foreclose on the security interest. Security interests on PROGRAM INTERESTS that have been fully paid up shall be dissolved promptly.

(g) Unless MANDATORY DEFERRED PAYMENTS are guaranteed by the SPONSOR or by a surety bond or other arrangement satisfactory to the ADMINISTRATOR at the start of the offering, the SPONSOR shall not be allowed to purchase PROGRAM INTERESTS recovered as a result of default in MANDATORY DEFERRED PAYMENTS unless, after recovery, such PROGRAM INTERESTS have first been offered to the non-defaulting PARTICIPANTS.

(h) Any certificates evidencing PROGRAM INTERESTS purchased on a MANDATORY DEFERRED PAYMENT basis shall so indicate.

(i) Upon receipt of any request to assign or transfer PROGRAM INTERESTS purchased on a MANDATORY DEFERRED PAYMENT basis and having an unpaid balance, the SPONSOR, before the assignment or transfer, at its own cost, shall notify the proposed assignee/transferee of the material terms of the MANDATORY DEFERRED PAYMENT obligation, including: the schedule of payments, the status of payments, the status of any encumbrance held by the PROGRAM on the PROGRAM INTEREST, the terms of default, the consequences thereof, and the terms of curing the default. In lieu of such notification the SPONSOR may accept a written statement containing such information and signed by the assignee/transferee.

(j) A default would be the failure to make a scheduled payment on the MANDATORY DEFERRED PAYMENT obligation note before 30 days after its due date. A PARTICIPANT shall be allowed to cure a default and avoid any reduction in his interest in the PROGRAM if within a minimum of 30 days from default and notice thereof the PARTICIPANT makes the delinquent payment with interest at the rate set forth in the PROSPECTUS for the curing of defaulted payments.

COMMENT: Default provisions should have as a priority the integrity of the PROGRAM's capital. Depending on the circumstances, examples of arrangements which may be appropriate include: 1) a reduction in the PARTICIPANT's percentage interest in PROGRAM revenues based on the ratio of the cost to the PROGRAM of his unpaid MANDATORY DEFERRED PAYMENT obligation to all CAPITAL CONTRIBUTIONS; 2) a reallocation of the defaulting PARTICIPANT's right to receive revenues from the PROGRAM and application of such revenues to make up the cost to the PROGRAM of his unpaid MANDATORY DEFERRED PAYMENT obligations; 3) a reallocation of the defaulting PARTICIPANT's right to receive revenues from the PROGRAM to those non-defaulting PARTICIPANTS who have voluntarily paid the defaulting PARTICIPANT's obligation until such time as such non-defaulting PARTICIPANTS have recovered from this reallocation 200% of the proportionate amount of the defaulted payment which they forwarded; 4) a forced sale of the PROGRAM INTEREST complying with applicable procedures for notice and sale; 5) a delayed buy-out of the defaulting PARTICIPANT's interest; or 6) a foreclosure on the security interest held by the PROGRAM. "Cost to the PROGRAM" shall be defined in the PROSPECTUS and may include the reasonable costs to the PROGRAM of collecting unpaid installments, reselling the interests, and/or additional financing costs caused by the default.

2. MANDATORY DEFERRED PAYMENTS shall not be allowed in the case of NON-SPECIFIED PROPERTY PROGRAMS except where the SPONSOR is able to satisfy the ADMINISTRATOR that the MANDATORY DEFERRED PAYMENTS bear a reasonable and demonstrable relationship to the capital needs and objectives of the PROGRAM as described in the business development plan in the investor disclosure document. In any event, such arrangements shall be subject to the following conditions:

(a) A minimum of 50% of the purchase price of the PROGRAM INTERESTS must be paid by the investor at the time of sale, with the remainder to be paid within two years of the earlier of the completion of the offering or one year following the effective date of the offering or such shorter period as the ADMINISTRATOR, under the circumstances, deems appropriate.

(b) The PROGRAM shall otherwise comply with the provisions of IX.A.1(b) through (j).

COMMENT: A plan that merely states that money will be invested as installments are received or at specified intervals will not be considered a sufficient business development plan.

3. Warrants or options (or their equivalents) to purchase PROGRAM INTERESTS will be allowed only at the discretion of the ADMINISTRATOR but, in any event, must be identified as such and be accompanied with a clear statement of their nature and effect. PROGRAM INTERESTS acquired by their exercise may not differ from the stated terms of PROGRAM INTERESTS otherwise acquired. Any penalty for non-exercise will ordinarily be viewed with disfavor.

B. Reserves. Provision should be made for adequate

reserves in the future by retention of a reasonable percentage of proceeds from the offering and regular receipts for normal repairs, replacements and contingencies. Normally, not less than 3% of the offering proceeds will be considered adequate.

C. Reinvestment of CASH FLOW (excluding proceeds resulting from a disposition or refinancing of property) shall not be allowed. The partnership agreement and the PROSPECTUS shall set forth that reinvestment of proceeds resulting from a disposition or refinancing will not take place unless sufficient cash will be distributed to pay any state or federal income tax (assuming investors are in a specified tax bracket) created by the disposition or refinancing of property. Such a prohibition must be contained in the PROSPECTUS.

D. Financial Information Required on Application. In any offering of interests by a PROGRAM, the PROGRAM shall provide as an exhibit to the application the following financial information:

1. Cash Flow Statement. If the PROGRAM has been formed and owns assets, an unaudited CASH FLOW statement for each of the last three fiscal years shall be part of the PROSPECTUS. If the PROGRAM has operated less than three fiscal years, the statement(s) shall cover the period from organization to a current date.

2. Financial Statements of Program. The PROSPECTUS shall include an audited balance sheet of the PROGRAM as of the end of its most recent fiscal year.

3. Balance Sheet of Corporate Sponsor. A balance sheet of any corporate SPONSORS as of the end of their most recent fiscal year, examined and reported upon by an independent certified public accountant and prepared in accordance with generally accepted accounting principles. An unaudited balance sheet as of a date not more than one hundred thirty-five days prior to the date of filing should also be prepared. Such statements shall be included in the PROSPECTUS.

4. Other SPONSORS. A balance sheet for each non-corporate SPONSOR (including individual partners or individual joint ventures of a SPONSOR) as of a time not more than one hundred thirty-five days prior to the date of filing an application; such balance sheet shall be examined and reported upon by an independent certified public accountant under the limited review standards set forth by the American Institute of Certified Public Accountants, and shall be signed and sworn to by such SPONSORS. A representation of the amount of such NET WORTH must be included in the PROSPECTUS, or in the alternative, a representation that such SPONSOR meets the NET WORTH requirements of II.B, above.

COMMENT: It is not intended that financial statements of affiliates of the SPONSOR be required to be disclosed unless appropriate in order to comply with the NET WORTH requirements of II.B.

COMMENT: IX.E.4 requires a balance sheet for each non-corporate SPONSOR prepared by an independent certified public accountant under the limited review standards set forth by the AICPA. This will add consistency to the form and structure of non-corporate SPONSOR balance sheets. Currently, unaudited financial statements for non-corporate SPONSORS vary in style and content, making consistent evaluation difficult. Applying limited review standards will give uniformity to such financial statements, making evaluation of a SPONSOR's financial condition more constant. More importantly, limited review standards offer a higher analysis of a non-corporate SPONSOR's financial condition. Concern has been expressed by ADMINISTRATORS over the validity and reliability of unaudited balance sheets currently being submitted by non-corporate SPONSORS. Limited review standards will allow for greater reliability of this financial information which is needed in determining whether a SPONSOR meets the NET WORTH requirements of II.B.

5. Interim Financial Information. Where the audited balance sheet is as of a date more than 90 days prior to the date of filing, an unaudited balance sheet as of a date not more than 90 days prior to the date of filing shall also be provided. Interim unaudited statements of income, partners' equity, and changes in financial position shall also be provided with the unaudited balance sheet in instances where such statements are required as part of the audited financial statements for the last fiscal year. When a program has operated less than one fiscal year, audited financial information is not required unless requested by the ADMINISTRATOR.

6. Filing of Other Statements. The ADMINISTRATOR may permit the omission of one or more of the statements referred to above and the filing (in substitution thereof) of appropriate statements verifying financial information having comparable relevance to an investor in determining whether to invest in the PROGRAM. Such substitution will only be allowed where the ADMINISTRATOR finds this would be consistent with the protection of investors.

E. Opinions of Counsel. The application for registration shall contain a favorable ruling from the Internal Revenue Service or an opinion of independent counsel to the effect that the issuer will be taxed as a "partnership" and not as an "association" for federal income tax purposes. An opinion of counsel shall be in form and substance satisfactory to the ADMINISTRATOR and shall be unqualified except to the extent permitted by the ADMINISTRATOR. However, an opinion of counsel may be based on reasonable assumptions, such as: (1) facts or proposed operations as set forth in the offering circular or PROSPECTUS and organizational documents; (2) the

absence of future changes in applicable laws; (3) the securities offered are paid for; (4) compliance with certain procedures such as the execution and delivery of certain documents and the filing of a certificate of limited partnership or an amended certificate; and (5) the continued maintenance of or compliance with certain financial, ownership, or other requirements by the issuer or SPONSOR. The ADMINISTRATOR may request from counsel as supplemental information such supporting legal memoranda and an analysis as he shall deem appropriate under the circumstances. To the extent the opinion of counsel or Internal Revenue Service ruling is based on the maintenance of or compliance with certain requirements or conditions by the issuer or SPONSOR, the offering circular or PROSPECTUS shall contain representations that such requirements or conditions will be met and the partnership agreement shall, to the extent practicable, contain provisions requiring such compliance.

This application shall also contain an opinion of independent counsel to the effect that the securities being offered are duly authorized or created and validly issued interests in the issuer, and that the liability of the public investors will be limited to their respective total agreed upon investment in the issuer.

The ADMINISTRATOR may request an opinion of counsel concerning tax aspects when this appears necessary for the protection of investors.

F. Provisions of Partnership Agreement. The requirements and/or provisions of appropriate portions of the following parts of this rule shall be included in a partnership agreement: II.C; II.D; II.E; II.F; IV.C; IV.D; IV.E; IV.F; IV.G; IV.H; IV.I; V.A; V.B; V.C; V.D; V.E; V.F; V.G; V.H; V.I; V.L; VI.C; VI.D; VII.A; VII.B; VII.C; VII.D; VII.E; VII.F; VII.H; VII.J; IX.A; IX.B; and IX.C.

G. Intentionally left blank.

H. General Instructions–Real Estate Rules Cross Reference Sheet

1. The Cross Reference Sheet must be submitted with the application for registration.

2. Provisions of this rule which are not applicable should be noted as such.

3. Provisions of the PROGRAM which vary from the provisions of this rule must be explained by footnote; for example, if the PROGRAM uses a defined term which is different from the rule definition, the variance must be explained. Footnotes should be numbered sequentially in the column designated "Footnotes" and should be presented on a rider identified as "Footnotes" with each footnote on the rider numerically corresponding to the footnote identified on the Cross Reference Sheet.

4. A section is provided at the bottom of each page of the Cross Reference Sheet for additional or supplemental Cross References. Lines are provided in the event additional Cross References are needed with respect to subsections of this rule not specifically identified on the top of the page, or in the event there were insufficient lines to present all relevant cross references with respect to an item appearing on that page.

5. The last page of the Cross Reference Sheet should be executed by the preparer.

6. These General Instructions should be removed before filing with the Administrator.

REAL ESTATE RULES CROSS REFERENCE SHEET

[Page 1]

Name of Applicant _____

Footnote See Instruction 3.	Page Number Prospectus	Section Number Partnership Agreement	Guideline Section
			I. B. *Definitions*
			1. Acquisition expenses
			2. Acquisition fee
			5. Assessments
			7. Capital contribution
			9. Cash flow
			10. Cash available for distribution
			12. Construction fee
			14. Development fee
			16. Front-end fees
			17. Investment in properties
			18. Mandatory deferred payments
			20. Non-specified property program
			21. Organization and offering expenses
			25. Program interest
			26. Program management fee
			27. Property management fee
			29. Purchase price of property
			31. Specified property program
			II. *Requirements of Sponsors*
			A. Experience
			B. Net worth
			C. Reports to administrators
			D. Liability
			E. Fiduciary duty
			F. Termination
			III. *Suitability of the Participant*
			B. Standards
			C. Maintenance of records
			IV. *Fees—Compensation—Expenses*
			B. Organization & offering expenses
			C. Investment in properties
			D. Program management fee
			E. Promotional interest
			2. (i) Interest in cash available for distribution
			(ii) Interest in sale or refinancing proceeds

Additional or Supplemental Cross References

Name of Applicant: _____

3. Definition of capital contributions and date for commencement of calculating the preferred return
4. Dissolution and liquidation

F. Real estate brokerage commissions on resale of property

G. Property management fee

H. Insurance services

V. *Conflicts of Interest and Investment Restrictions*

A. 1. Sales and leases to program
2. Sales and leases to sponsor
3. Loans
4. Dealing with related programs

B. Exchange of limited partnership interests

C. Exclusive agreements

D. Commissions on reinvestment or distribution

E. Services rendered to the program by the sponsor
1. (a) Expenses billed to program
(b) Annual program report
2. Other services

F. Rebates, kickbacks and reciprocal arrangements

G. Commingling of funds

H. Investments in other programs

I. Lending practices

J. Development or construction contracts

K. Completion bond requirements

L. Appraisals

M. Mortgage loan programs

Additional or Supplemental Cross References

[Page 3]

VI. *Non-Specified Property Programs*
- A. Minimum capitalization
- B. Sponsor experience
- C. Investment Objectives
  - 1. Unimproved or non-income producing property program
  - 2. Junior trust deeds
  - 3. Financing
  - 4. Joint ventures
- D. Offering period
- E. Multiple programs

VII. *Rights and Obligations of Participants*
- A. Meetings
- B. Voting rights
- C. Reports
  - 1. 12(g) programs, quarterly reports
  - 2. Limited partners tax information
  - 3. Annual report
  - 4. Assessment reports
  - 5. Mandatory deferred payment reports
- D. Access to records
- E. Admission of participants
  - 1. Original participants
  - 2. Substitute limited partners
  - 3. Assignor limited partnership
- F. Redemption of program interests
- G. Transferability of program interests
- H. 1. Assessments
  - 2. Defaults on assessments
- I. Dividend Reinvestment Plan
- J. Special reports

[VIII. Not officially reflected.]

IX. *Miscellaneous Provisions*
- A. Deferred payments
- B. Reserves
- C. Reinvestment of cash flow

Additional or Supplemental Cross References

Response to this cross reference sheet has been prepared by:

Name: _____

Title: _____

EXECUTIVE ORDER NUMBER TWENTY-THREE (86)

STANDARD CLASSIFICATION OF EXECUTIVE BRANCH COLLEGIAL BODIES CREATED BY EXECUTIVE ORDER

By virtue of the authority vested in me as Governor by Sections 2.1-51.35 and 9-6.25 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matter, I hereby establish a standard classification for certain executive branch collegial bodies created by executive order before July 1, 1986.

The General Assembly has expressed its desire through the enactment of Section 9-6.25 of the Code of Virginia that effective July 1, 1986, every collegial body created by law or executive order within the executive branch of state government shall be classified according to its level of authority as advisory, policy or supervisory. The law specifically requires that classification for commissions created by executive order shall be designated by the executive order. According to Section 2.1-51.35 of the Code of Virginia, a commission created by the Governor is defined as any temporary study group, task force, blue ribbon panel or any similar collegial body.

Several collegial bodies that were created by executive orders effective before July 1, 1986 but that are continued after that date are not classified in the executive orders which created them. To comply with the requirements of Section 9-6.25 of the Code of Virginia, this Executive Order classifies those previously unclassified collegial bodies as follows:

Title	Created by Executive Order	Classification
Council on Physical Fitness and Sports	Executive Order Number 10 (82)	Advisory
Governor's Job Training Coordinating Council	Executive Order Number 34 (83)	Advisory
Patrick Henry Memorial Commission	Executive Order Number 56 (85)	Advisory
Virginia River Basin Citizens Advisory Committees for the Chesapeake Bay	Executive Order Number 62 (85)	Advisory
Governor's Commission on Efficiency in Government	Executive Order Number 2 (86)	Advisory
Advisory Committees on Transportation	Executive Order Number 6 (86)	Advisory
Governor's Economic Advisory Council	Executive Order Number 7 (86)	Advisory
Governor's Commission on Excellence in Education	Executive Order Number 8 (86)	Advisory
Governor's Commission on Federal Funding of State Domestic Programs	Executive Order Number 9 (86)	Advisory
Virginia-Israel Commission	Executive Order Number 11 (86)	Advisory
Governor's Advisory Board of Economists	Executive Order Number 12 (86)	Advisory

This Executive Order will become effective upon its signing and will remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 15th day of August, 1986.

/s/ Gerald L. Baliles
Governor

EXECUTIVE ORDER NUMBER TWENTY-FIVE (86) REVISED

CONTINUING CERTAIN EXECUTIVE ORDERS NECESSARY FOR THE EFFICIENT ADMINISTRATION OF STATE GOVERNMENT

By virtue of the authority vested in me as Governor by Sections 2.1-39.1, 2.1-51.8:1, 2.1-51.14, 2.1-51.17, 2.1-51.20, 2.1-51.26, and 2.1-51.33 of the Code of Virginia and subject always to my continuing, ultimate authority and responsibility to act in such matters and to reserve powers, I hereby continue the following executive orders which are necessary for the efficient administration of state government:

1. Executive Order Number 47 (84) (Revised), Authority and Responsibility of the Governor's Secretaries, issued by Charles S. Robb on October 26, 1984; and

2. Executive Order Number 48 (84) (Revised), Delegation of Authority for Certain Actions Affecting Management of the Commonwealth, issued by Charles S. Robb on October 26, 1984.

In addition, I hereby delegate to the Secretary of Administration the authority conferred by Section 2.1-526.8:1 of the Code of Virginia to approve insurance plans administered for political subdivisions, constitutional officers and other specified entities.

This Executive Order will become effective on November 15, 1986 and will remain in full force and effect until December 31, 1986, unless amended or rescinded by further executive order.

This Executive Order supersedes and replaces Executive Order Number 25 (86), issued September 15, 1986.

Given under my hand and under the seal of the Commonwealth of Virginia this 14th day of November, 1986.

/s/ Gerald L. Baliles
Governor

EXECUTIVE ORDER NUMBER TWENTY-SEVEN (86)

ESTABLISHING THE VIRGINIA MILITARY ADVISORY COMMISSION

By virtue of the authority vested in me as Governor by Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Virginia Military Advisory Commission.

Virginia has long served as the home base for a significant proportion of the nation's military forces. The presence of federal military installations directly and dramatically affects the Commonwealth's economy, employment, transportation systems, and schools. Because of this prominent military presence in, and impact on, the Commonwealth, there is a need to maintain a cooperative and constructive relationship with both the national military leadership and the military commanders stationed in Virginia.

The Virginia Military Advisory Commission shall, therefore, have the ongoing responsibility to identify and review issues of mutual concern to the Commonwealth and the military, and to advise the Governor accordingly. Such issues shall include exclusive and concurrent jurisdiction, educational quality and the future of federal impact aid, transportation problems and needs, alcohol beverage law enforcement, alcohol and drug abuse, social service needs, possible expansion and growth of military facilities in Virginia, and such other issues as the Governor or the Commission may determine to be appropriate subjects of joint interest and study.

The Commission shall be composed of not more than twenty-five members, including such representatives as may from time to time be designated by the Secretaries of the several Armed Forces of the United States and including at least four members appointed by the Governor and serving at his pleasure.

The Commission shall meet at least twice a year, once at the Capitol in Richmond and once at one of the military installations in Virginia.

Members of the Commission shall serve without compensation or reimbursement for expenses incurred in the discharge of their official duties.

The Commission is classified as an advisory commission, as defined in Section 9-6.25 of the Code of Virginia.

Such staff support as is necessary for the conduct of the Commission's business during the term of its existence shall be furnished by the Office of the Governor, the Office of the Secretary of Transportation and Public Safety, the Department of Military Affairs, and such other executive agencies as the Governor may designate. Such funding as is necessary for the term of the Commission's existence shall be provided from such sources, both public and private, authorized by Section 2.1-51.37 of the Code of Virginia.

This Executive Order shall become effective on the date of its signing and shall remain in full force and effect until October 22, 1987, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 22nd day of October, 1986.

/s/ Gerald L. Baliles
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9 of the Code of Virginia)

OFFICE OF THE GOVERNOR

May 20, 1987

DEPARTMENT OF HEALTH

Title of Regulation: **VR 355-34-02. Sewage Handling and Disposal Regulations.**

Dr. C. M. G. Buttery
Commissioner
Department of Health
109 Governor Street
Richmond, Virginia 23219

I have reviewed the Sewage Handling and Disposal Regulations (VR 355-34-02) under the procedures of Executive Order Number Five (86).

The regulations appear carefully drawn to accommodate the alternative methods of septage disposal authorized by the recent changes in the Code of Virginia while providing adequate safeguards to address health and environmental concerns. Because of the positive impact and policy considerations addressed by these regulations, I have no objections to these proposals as presented; however, I encourage the Department to monitor carefully the environmental impact of these amendments. I would also urge you to consult with the Department of Waste Management to ensure consistency in definitions and substantive provisions in those instances where there may be an overlap in regulatory authority.

/s/ Gerald L. Baliles
Governor

Symbol Key †
† Indicates entries since last publication of the Virginia Register

STATE BOARD OF ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Accountancy intends to consider promulgating, amending, or repealing regulations entitled: **VR 105-01-2. State Board of Accountancy Rules and Regulations.**

The purpose of the proposed action is to amend the fees charged for examination and reexamination and other changes which may be deemed appropriate to the State Board of Accountancy Rules and Regulations.

Statutory Authority: § 54-84 of the Code of Virginia.

Written comments may be submitted until June 25, 1987.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, Va. 23230, telephone (804) 257-8505 (toll-free 1-800-552-3016 (Virginia only))

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Rules and Regulations for the Enforcement of the Phosphate Cleaning Agents Law.** The purpose of the proposed regulation is to establish exceptions for cleaning agents containing phosphorus that the act creates a significant hardship on the user or where the act may be unreasonable because of the lack of an adequate substitute cleaning agent.

Statutory Authority: §§ 62.1-193.2 and 62.1-193.3 of the Code of Virginia.

Written comments may be submitted until July 10, 1987, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank Street, Richmond, Virginia 23209.

Contact: C. Kermit Spruill, Director, Division of Dairy and Food, P.O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-8899

VIRGINIA FIRE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Fire Services Board and the Department of Fire Programs intends to consider amending regulations entitled: **Training Courses and Programs for Fire Marshals (Fire Investigators) and Their Assistants.**

The purpose of the proposed amendments is to amend the training courses and programs required for local fire marshals and their assistants.

Statutory Authority: §§ 9-155 and 27-34.2:1 of the Code of Virginia.

Written comments may be submitted until August 31, 1987, to Robert A. Williams, Department of Fire Programs, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia 23219.

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Fl., Richmond, Va. 23219, telephone (804) 225-2681

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Rules and Regulations for the Licensure of Hospitals in Virginia.**

The purpose of the proposed amendments is to require each hospital that provides an obstetrical service to have a protocol for admitting or transferring any woman in labor that presents herself at the hospital; to require each licensed hospital to establish a protocol for organ and tissue procurement.

Statutory Authority: § 32.1-127 of the Code of Virginia.

Written comments may submitted until June 22, 1987.

Contact: Mary V. Francis, Director, Division of Licensure and Certification, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-2084

VIRGINIA BOARD OF HEARING AID DEALERS AND FITTERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Hearing Aid Dealers and Fitters intends to consider promulgating, amending, or repealing regulations entitled: **Virginia Board for Hearing Aid Dealers and Fitters.**

The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the agency's public participation guidelines and § 54-524.110 of the Code of Virginia.

Statutory Authority: §§ 54-1.28 and 54-524.110 of the Code of Virginia.

Written comments may be submitted until June 25, 1987.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505 (toll-free 1-800-552-3016 (Virginia only))

VIRGINIA BOARD OF OPTOMETRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Optometry intends to consider amending regulations entitled: **Regulations of the Virginia Board of Optometry Regarding the Continuing Education Approval Fee Aspect.**

It is proposed to delete a singie, minor requirement to the rules for a $10 fee for review and approval of a continuing education course. Besides the fee all other aspects of the continuing education regulations are proposed to be retained unchanged.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until July 8, 1987.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

VIRGINIA DEPARTMENT OF REHABILITATIVE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Rehabilitative Services intends to consider promulgating regulations entitled: **Annual State Plan to comply with the Code of Federal Regulations, Parts 361, 365 and 370 "State Vocational Rehabilitation and Independent Living Rehabilitation Programs."** The purpose of the proposed regulations is to update the annual State Plan in compliance with the 1986 amendments to the Rehabilitation Act of 1973.

Statutory Authority: § 51.01-9 of the Code of Virginia.

Written comments may be submitted until September 6, 1987, to Charles H. Merritt, P. O. Box 11045, Richmond, Virginia 23230.

Contact: James L. Hunter, Agency Regulatory Coordinator, 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 the the Department of Social Services intends to consider promulgating regulations entitled: **Fees for Services Provided by Local Departments of Social Services Related to Court Actions.**

Law requires when the court directs the appropriate local Department of Social Services to conduct an investigation regarding a child's custody, visitation or support, and the court shall assess a fee. The State Board of Social Services shall establish regulations and fee schedules. Fees will be determined by petitioner's ability to pay and the statewide average cost of services.

Statutory Authority: §§ 14.1-114, 16.1-274 and 63.1-236.1 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: Mary Saul, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va.

23229-8699, telephone (804) 281-9431

DEPARTMENT OF TAXATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to consider amending regulations entitled: **VR 630-3-323. Excess Cost Recovery (Corporation Income Tax); VR 630-2-323. Excess Cost Recovery (Individual Income Tax).** The Virginia Tax Reform Act (HB 1119, Chapter 9) added § 58.1-323.1 which eliminates the excess cost recovery program over the five year period 1988-1992.

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

Written comments may be submitted until July 24, 1987.

Contact: Danny M. Payne, Director, Tax Policy Division, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to consider amending regulations entitled: **VR 630-2-490.1. Definitions (Declaration of Estimated Income Tax By Individuals); VR 630-2-490.2. Declarations of Estimated Tax (Declaration of Estimated Income Tax By Individuals); VR 630-2-492. Failure By Individual to Pay Estimated Tax (Declaration of Estimated Income Tax By Individuals).** These regulations are being amended to conform to the change made by the 1987 General Assembly to §§ 58.1-490 and 58.1-492 (Chapter 599, SB 421). These code sections were amended to increase the threshold for filing a declaration of estimated income tax and to increase the percentage of individual income tax that must be remitted by means of estimated and/or withholding payments for individuals from 80% to 90%.

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

Written comments may be submitted until July 24, 1987.

Contact: Danny M. Payne, Director, Tax Policy Division, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-5-490. Declaration and Payment of Estimated Tax by Estates and Trusts (Fiduciary Income Tax).** Senate Bill 554 (Chapter 484) amended §§ 58.1-490, 58.1-492 and 58.1-493 to require that estimated tax payments be made by all trusts and by every estate with respect to any taxable year ending two or more years after the date of death of the decedent.

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

Written comments may be submitted until July 24, 1987.

Contact: Danny M. Payne, Director, Tax Policy Division, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

COMMONWEALTH TRANSPORTATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending three separate sets of regulations now in use into a single regulation entitled: **Hazardous Materials Transportation Regulations at Tunnel, Ferry and Bridge Facilities Throughout the Commonwealth of Virginia.** The purpose of the proposed amendments is to provide new rules and regulations including operating requirements for the transportation of hazardous materials through tunnels, on bridges and on ferries in form and content consistent with the Commonwealth's regulations and in conformance with the federal Department of Transportation regulations, as identified in the Code of Federal Regulations (Title 49).

Statutory Authority: §§ 33.1-12 and 33.1-13 of the Code of Virginia.

Written comments may be submitted until July 13, 1987.

Contact: John I. Butner, Engineering Programs Supervisor, Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2878

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Upper James River Basin Water Quality Management Plan.**

The proposed amendments would revise the five-day

biochemical oxygen demand (BOD5) loading and alternately require seasonal nitrification for the Rivanna Water and Sewer Authority Moores Creek Sewage Treatment Plant.

Basis and Statutory Authority: Section 62.1-44.15(3) and (10) of the Code of Virginia authorizes the State Water Control Board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such standards and policies.

Section 62.1-44.15(13) of the Code of Virginia authorizes the establishment of policies and programs for area and basinwide water quality control and management.

Purpose: Water Quality Management Plans set forth those measures to be taken by the State Water Control Board in order to reach and maintain applicable water quality goals both in general terms and also establishing numeric loadings for five-day biochemical (BOD5) or nitrogenous oxygen demand (NOD5). The purpose of this proposal is to amend the Upper James River Basin Water Quality Management Plan's BOD5 loading for the Rivanna Water and Sewer Authority's Moores Creek Plant in Charlottesville, Virginia, from 503.5 kg/day to 852 kg/day and to alternately provide for seasonal nitrification of the plant effluent.

Estimated Impact: Federal and state law require that NPDES permits be in compliance with appropriate area or basinwide water quality management plans. The proposed amendment would revise the BOD5 loading upward and alternately provide for seasonal nitrification of the Rivanna Water and Sewer Authority's Moores Creek plant effluent. The proposal will ensure that contravention of water quality standards will not occur and possibly reduce capital and operation and maintenance costs for the Moores Creek facility.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: Charles T. Mizell, Supervisor, Water Resources Development, State Water Control Board, P. O. Box 268, Bridgewater, Va. 22812, telephone (703) 828-2595

GENERAL NOTICES

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice to the Public

Pursuant to its public participation guidelines contained in § 5.1 of VR 125-01-1, the board intends to consider the amendment or adoption of regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. §§ 1.7, 1.14, 2.5 and 2.9 of VR 125-01-1 - **Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations.**

a. **Subject of Proposal** - Amend regulations pertaining to Rules of Practice and Procedure to provide that notices from the board, including Notices of Hearings, Notices of Continuances, Notices of Decisions and other notices during the hearings process may be given by first class United States mail, postage prepaid to the licensees, complainants, objectors or applicants' last known mailing address or principal place of business.

b. **Entities Affected** - Manufacturers, wholesalers, retailers and other persons involved in administrative hearings before the board.

c. **Purpose of Proposal** - To permit the giving of notice by first class United States mail, postage prepaid, instead of giving such notices by certified or registered mail, and to reduce costs and expenses incurred in sending notices by certified mail.

d. **Issues Involved** - Should the board change its current practice of sending notices by certified or registered mail and begin a new practice of giving notice by first class mail only?

e. **Applicable Laws or Regulations** - §§ 4-7(j), 4-11(a), 4-31(b), 4-37 B., 4-105(5)(c), 4-114(b), 4-118.31 B., 4-118.11 B., 9-6.14:12 of the Code of Virginia.

2. Part III of VR 125-01-1 - **Wine and Beer Franchise Acts.**

a. **Subject of Proposal** - Amend Part III of regulation to provide that the board may issue subpoenas for the production of documents, attendance of witnesses, requests for admissions, interrogatories, depositions and other forms of discovery.

b. **Entities Affected** - Manufacturers, importers and wholesale wine and beer distributors.

c. **Purpose of Proposal** - To provide for discovery in Wine and Beer Franchise cases as provided in changes to §§ 4-118.11 and 4-118.31 of the Code of Virginia, at the 1987 General Assembly.

d. **Issues Involved** - This is a procedural change mandated by statutory amendment passed by the 1987 General Assembly, HB 1532.

e. **Applicable Laws or Regulations** - §§ 4-7(j), (k) and (l), 4-10, 4-11(a), Chapter 2.1 (4-1183 et seq.), Chapter 2.2 (4-118.21 et seq.) of Title 4 and Chapter 1.1:1 (9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

3. § 1 of VR 125-01-2 - **Advertising Generally; Cooperative Advertising; Federal Laws; Beverages and Cider; Exceptions; Restrictions.**

a. **Subject of Proposal** - Amend regulation to eliminate the prohibition against the use of advertising of any present or former athlete or athletic team.

b. **Entities Affected** - Manufacturers of spirits, wine and beer, wholesalers and retailers.

c. **Purpose of Proposal** - To permit the alcoholic beverage industry to use athletes or athletic teams in their advertising.

d. **Issues Involved** - Will the removal of this proscription encourage impressionable persons under the legal drinking age to purchase or consume alcoholic beverages?

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

4. § 2 of VR 125-01-2 - **Advertising; Interior; Retail Licensees; Show Windows.**

a. **Subject of Proposal** - To amend regulation to permit retailers to have interior advertising of any brand of alcoholic beverages sold in this Commonwealth, provided, however, that such advertising materials are not furnished by manufacturers or wholesalers of alcoholic beverages.

b. **Entities Affected** - Retail licensees of the board.

c. **Purpose of Proposal** - To eliminate the proscription of interior advertising by retailers to any reference to any brand or manufacturer of alcoholic beverages.

d. **Issues Involved** - Should retailers be permitted to advertise brands of alcoholic beverages in the interior if such advertising materials are furnished by the retailer?

e. **Applicable Laws of Regulations** - §§ 4-1(l), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia.

5. § 2 of VR 125-01-2 - **Advertising; Interior; Retail Licensees; Show Windows.**

a. **Subject of Proposal** - Amend regulation to permit point-of-sale materials on contests and sweepstakes in retail establishments as long as no purchase is required and point-of-sale restricted to cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers of beer and wine and the general public.

c. **Purpose of Proposal** - This would provide another source for the public to enter and participate in contests and sweepstakes.

d. **Issues Involved** - Should the board permit this additional point-of-sale material in retail outlets which is currently permitted in the print media?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia.

6. § 6 of VR 125-01-2 - **Advertising; Novelties and Specialties.**

a. **Subject of Proposal** - Amend regulation to permit order blanks at the point-of-sale for novelty and specialty items on cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers, retailers and the general public.

c. **Purpose of Proposal** - To permit the general public another means, other than the print media, to obtain novelty and specialty items from suppliers.

d. **Issues Involved** - Should brand identified novelty and specialty items be made more readily available to the public?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14, of the Code of Virginia.

7. § 9 of VR 125-01-2 - **Advertising; Coupons.**

a. **Subject of Proposal** - Amend regulations to define "normal retail price."

b. **Entities Affected** - Manufacturers of spirits, wine and beer.

c. **Purpose of Proposal** - To define "normal retail price" and insert example in amended language.

d. **Issues Involved** - Merely to clarify "normal retail price" for industry.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

8. § 9 of VR 125-01-2 - **Advertising; Coupons.**

a. **Subject of Proposal** - Amend regulation to eliminate the prohobition against the use of discount coupons.

b. **Entities Affected** - Manufacturers of spirits, wine and beer, retailers and general public.

c. **Purpose of Proposal** - To permit the use of discount coupons as is presently permitted for refund coupons.

d. **Issues Involved** - Should manufacturers be permitted to offer discount coupons?

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

9. **§ 10 of VR 125-01-2 - Advertising; Sponsorship of Public Events; Restrictions and Conditions.**

a. **Subject of Proposal** - Amend regulation to eliminate the restriction that events must be of a limited duration.

b. **Entities Affected** - Manufacturers and wholesalers of alcoholic beverages and banquet licensees.

c. **Purpose of Proposal** - Deregulation of restriction governing sponsorship of public events.

d. **Issues Involved** - Should manufacturers and wholesalers of alcoholic beverages be permitted to sponsor public events without time restrictions?

e. **Applicable Laws or Regulations** - §§ 5-7(l), 4-11(a) and 4-69 of the Code of Virginia.

10. **§ 10 of VR 125-01-2 - Advertising; Sponsorship of Public Events; Restrictions and Conditions.**

a. **Subject of Proposal** - Amend regulation to permit sponsorship of events on an amateur, semi-professional or intercollegiate level by wineries, distilleries and breweries and expand the scope of public events to include cultural events.

b. **Entities Affected** - Wineries, distilleries, breweries and the general public.

c. **Purpose of Proposal** - To permit sponsorship by wineries and distilleries of certain types of events presently permitted by breweries and to authorize sponsorship of cultural events only.

d. **Issues Involved** - Should all manufacturers of alcoholic beverages be allowed to sponsor the same types of public events?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a) and 4-69 of the Code of Virginia.

This requested by Brown-Forman Company.

11. **§ 8 of VR 125-01-3 - Solicitation of Mixed Beverage Licensees Generally; Disqualifying Factors.**

a. **Subject of Proposal** - Amend regulation to permit a representative of a distillery to solicit mixed beverage licensees.

b. **Entities Affected** - Mixed Beverage licensees and manufacturers of distilled spirits.

c. **Purpose of Proposal** - To remove present prohibition of the solicitation of mixed beverage licensees by representatives of a distillery.

d. **Issues Involved** -

(1) Should distillery representatives be permitted to solicit mixed beverage licensees?

(2) What control would the board have over such a representative who holds no license or permit from this agency?

e. **Applicable Laws or Regulations** - §§ 4-98.14 and 4-98.16 of the Code of Virginia.

This requested by Brown-Forman Company.

12. **§ 9 of VR 125-01-3 - Inducements to Retailers; Tapping Equipment; Bottle or Can Openers; Banquet Licenses; Cut Case Cards; Clip-ons and Table Tents.**

a. **Subject of Proposal** - Amend regulation to permit three-dimensional printed matter for wine or beer cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers and retailers of alcoholic beverages.

c. **Purpose of Proposal** - To remove the present restriction on cut case cards of two-dimensional printed matter.

d. **Issues Involved** - To permit manufacturers, bottlers or wholesalers to furnish to retailers interior advertising of a more substantial nature.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

13. **§ 9 of VR 125-01-3 - Inducements to Retailers; Tapping Equipment; Bottle or Can Openers; Banquet Licenses; Cut Case Cards; Clip-ons and Table Tents.**

a. **Subject of Proposal** - Amend regulation to permit manufacturers and wholesalers of beer to furnish

retail licensees beer table tents and beer clip-ons.

b. **Entities Affected** - Manufacturers, wholesalers of beer, and retailers.

c. **Purpose of Proposal** - To comply with change in § 4-79 of the Code of Virginia, as amended at the 1987 session of the General Assembly, effective July 1, 1987, HB 1415.

d. **Issues Involved** - Amendment will permit manufacturers and wholesalers of beer to furnish to retailers beer table tents and beer clip-ons as manufacturers and wholesalers of wine are now authorized.

e. **Applicable Laws of Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

14. **§ 2 of VR 125-01-4 - Wines; Qualifying Procedures; Disqualifying Factors; Samples; Exceptions.**

a. **Subject of Proposal** - Amend regulation to eliminate subsection dealing with approval of wines to which fruit juice, or artificial flavoring has been added.

b. **Entities Affected** - Manufacturers, wholesalers and retailers of wine products.

c. **Purpose of Proposal** - Deregulation of approval by the board relating to wines containing fruit juice, artificial coloring and sangria-type wines.

d. **Issues Involved** -

(1) The rescission of this subsection would remove an undue burden on the manufacturers, as the product has the approval of the appropriate federal agency.

(2) The current market trend involves more of these types of wines.

e. **Applicable Laws or Regulations** - §§ 4-7(h) and (l) and 4-11(a) of the Code of Virginia.

15. **§ 1 of VR 125-01-5 - Restrictions Upon Sale and Consumption of Alcoholic Beverages and Beverages.**

a. **Subject of Proposal** - Amend regulation to prohibit the sale and consumption of beer by a person under the age of 21 years.

b. **Entities Affected** - Retail licensees and the general public.

c. **Purpose of Proposal** - To conform with the statutory provisions effective July 1, 1987 raising the legal drinking age to 21 for all alcoholic beverages.

d. **Issues Involved** - To clarify the regulation that a person must be 21 years of age to purchase and consume all alcoholic beverages.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-37(a)(l)(j), 4-62, 4-103(b) and 4-112, of the Code of Virginia.

16. **§ 2 of VR 125-01-5 - Determination of Legal Age of Purchaser.**

a. **Subject of Proposal** - Amend regulation deleting any reference to "Virginia operator's or chauffeur's licenses, or such licenses issued by any other state" and amend language referring to Virginia Division of Motor Vehicles to "Department of Motor Vehicles."

b. **Entities Affected** - Wholesale wine and beer distributors, retail licensees and the general public.

c. **Purpose of Proposal** - Merely housekeeping in nature to clarify types of identification accepted as proof of legal age to purchase alcoholic beverages issued by the Virginia Department of Motor Vehicles.

d. **Issues Involved** - To provide licensees of the board clarification as to bona fide evidence of legal drinking age.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-62, 4-98.14 and 4-103(b) of the Code of Virginia.

17. **§ 6 of VR 125-01-5 - Procedures for Mixed Beverage Licensees Generally; Mixed Beverage Restaurant Licensees; Sale of Spirits in Closed Containers; Employment of Minors.**

a. **Subject of Proposal** - Amend regulation to permit premixing of spirits drinks.

b. **Entities Affected** - Mixed beverage restaurant licensees and mixed beverage caterers.

c. **Purpose of Proposal** - To allow mixed beverage licensees to premix spirits drinks prior to a patron's order.

d. **Issues Involved** -

1. Should mixed beverage licensees be permitted to premix spirits drinks prior to a patron's order?

2. Would the removal of this restriction ensure that the customer receives the drink ordered?

e. **Applicable Laws or Regulations** - §§ 4-7(a), (b),

(h) and (l), 4-11(a), 4-98.10, 4-98.11 and 4-98.14 of the Code of Virginia.

18. **§ 10 of VR 125-01-5 - Definitions and Qualifications for Retail Off-Premises Wine Beer Licenses and Off-Premises Beer Licenses; Exceptions; Further Conditions; Temporary Licenses.**

a. **Subject of Proposal** - Amend Regulation to change monetary requirements for monthly sales and inventory.

b. **Entities Affected** - Specialty shop licensees.

c. **Purpose of Proposal** - To reduce the monetary qualifications for monthly sales and inventory from $2,000 to $750.

d. **Issues Involved** - Should the board lower the qualifications for a specialty shop classification with respect to the inventory and sales of the required cheese and gourmet foods?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-25(jl) and 4-31(a) of the Code of Virginia.

19. **§ 11 of VR 125-01-5 - Definitions and Qualifications For Retail On-Premises and On-and-Off Premises Licenses Generally; Mixed Beverage Licensee Requirements; Exceptions; Temporary Licenses.**

a. **Subject of Proposal** - Amend regulation to clarify the definition of designated room to include room "or area" to be approved by the board.

b. **Entities Affected** - Retail licensees.

c. **Purpose of Proposal** - To incorporate the current interpretation dealing with the definition of "room."

d. **Issues Involved** - To expand the privileges of the license in rooms or other areas.

e. **Applicable Laws or Regulations** - §§ 4-2(8), 4-7(l), 4-11(a), 4-25, 4-98.2 and 4-98.14 of the Code of Virginia.

20. **§ 18 of VR 125-01-5 - Adopt a New Section Concerning Volunteer Fire Stations and Rescue Squads.**

a. **Subject of Proposal** - Adopt a new regulation permitting volunteer fire departments/rescue squads to exercise the privileges of banquet facility licenses on the premises other than their stations and under the control of the fire department/rescue squad.

b. **Entities Affected** - Volunteer fire departments or rescue squads.

c. **Purpose of Proposal** - To clarify and set forth conditions by the board for the locations to be used for functions under the control of the fire department or rescue squad while the privileges of the license are being exercised as provided by a change in § 4-25(pl) of the Code of Virginia, as by the 1987 General Assembly, HB 1268.

d. **Issues Involved:** - To comply with statutory changes and provide guidance and clarification.

e. **Applicable Laws or Regulations** - § 4-7(l), 4-11(a), 4-25(pl) and 4-103(b) of the Code of Virginia.

21. **§ 2 of VR 125-01-6 - Wines; Purchase Orders Generally; Wholesale Wine Distributors.**

a. **Subject of Proposal** - Amend regulation to remove the proscription against wholesale wine distributors peddling wine.

b. **Entities Affected** - Wholesale wine distributors and retail licensees.

c. **Purpose of Proposal** - To permit wholesale wine distributors to peddle wine.

d. **Issues Involved** - Should wine wholesalers be permitted to peddle wine, as is presently permitted wholesale beer distributors?

e. **Applicable Laws or Regulations** - §§ 4-7(a), (b) and (l), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

This requested by Loveland Distributing Co. and Guiffre Distributing Co.

22. **§ 2 of VR 125-01-6 - Wines; Purchase Orders Generally; Wholesale Wine Distributors.**

a. **Subject of Proposal** - Amend regulation to eliminate requirement of taking an actual physical inventory monthly and change such inventory to a quarterly basis.

b. **Entities Affected** - Wholesale wine distributors.

c. **Purpose of Proposal** - To relieve wholesale distributors an economic burden of taking actual monthly physical inventories monthly.

d. **Issues Involved** - Should the regulation be amended eliminating monthly physical inventories and would a change be detrimental to collecting state wine tax?

e. **Applicable Laws or Regulations** - §§ 4-7(a), (b) and (l), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

This requested by the Virginia Wine Wholesalers Association.

23. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(1), 4-11(a), 4-98.14, 4-103(b), 4-6.14 and 9-6.4:1 et seq. of Title 9 of the Code of Virginia.

24. The board requests that all persons interested in the above described subjects please submit comments in writing by **June 25, 1987** to the undersigned, **P. O. Box 27491, Richmond, Virginia 23261** or attend the public meeting scheduled below.

25. **The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia at 10 a.m. on June 25, 1987.**

Contact Robert N. Swinson, if you have questions, at 2901 Hermitage Road, Richmond, Va. 23227 or by phone at **(804) 257-0616.**

DEPARTMENT OF HEALTH

Notice to the Public

A new methodology for projecting nursing home bed need was adopted March 18, 1987, by the Virginia Statewide Health Coordinating Council and became effective June 1, 1987. As a result, certain information on pages 38, 56, and 57 of the 1987 State Medical Facilities Plan is no longer applicable. These pages, and Appendix D containing a detailed inventory of licensed or approved nursing home beds, have been revised and are available at a price of $2.00 per set including postage. To place an order, send your name and address, plus a check in the proper amount payable to the Virginia Department of Health, Division of Health Planning, 1010 Madison Building, 109 Governor Street, Richmond, Virginia 23219.

STATEWIDE HEALTH COORDINATING COUNCIL

† Notice to the Public

Consistent with § 32.1-120 of the Code of Virginia, the Statewide Health Coordinating Council is reviewing the contents of its State Health Plan to determine the nature and extent of revisions it should plan to undertake in the near future.

The State Health Plan primarily consists of background information and policy guidance (long-term goals and objectives, plus recommended actions to achieve them) for improving the extent to which the Virgina health and medical care systems meet the identified needs of Virginians. In addition, portions of the State Health Plan contain regulatory material pertaining to the evaluation of certificate of public need applications required under § 32.1-102 of the Code of Virginia.

In conjunction with its review of the State Health Plan, the council would like to receive suggestions from interested parties regarding major topics, issues, or problems that should be considered for inclusion. Suggestions should be submitted in writing, by June 30, 1987, to John P. English, Acting Director, Division of Health Planning, 1010 Madison Building, 109 Governor Street, Richmond, Virginia 23219.

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Deputy Registrar of Regulations, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

FORMS:

PROPOSED (Transmittal Sheet) - RR01
FINAL (Transmittal Sheet) - RR02
NOTICE OF MEETING - RR03
NOTICE OF INTENDED REGULATORY ACTION - RR04
NOTICE OF COMMENT PERIOD - RR05
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

ERRATA

STATE BOARD OF ACCOUNTANCY

Title of Regulation: **VR 105-01-2. Rules and Regulations of the State Board of Accountancy.**

Publication: VA.R. 3:17, p 1764, May 25, 1987

The correct language should be as follows:

§ 3.26. Practice inspection and continuing professional education.

In lieu of, or in addition to, any remedy provided in § 3.25, the board may require an inspection of a firm's practice or a completion of specified continuing education.

CALENDAR OF EVENTS

Symbols Key
† Indicates entries since last publication of the Virginia Register
♿ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

July 16, 1987 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ♿

The council will discuss the work of Virginia's Long-Term Care Ombudsman Program and hear interim reports from various subcommittees.

Contact: Virginia Dize, Department for the Aging, 101 N. 14th St., 18th Floor, Richmond, Va. 23219-2797, telephone (804) 225-2271/3141

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 28, 1987 - 2 p.m. – Public Hearing
Washington Building, Board Room, 2nd Floor, 1100 Bank Street, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-15. Rules and Regulations for the Registration of Poultry Dealers.** The proposed regulations would require that poultry dealers doing business in Virginia keep records of their transactions as a means of tracing poultry disease to its source. They also would require that poultry dealers maintain a regimen of sanitation in their dealings.

Statutory Authority: §§ 3.1-726, 3.1-735 and 3.1-736 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: A. J. Roth, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Virginia Department of Agriculture and Consumer Services, Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

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September 28, 1987 - 3 p.m. – Public Hearing
Washington Building, Board Room, 2nd Floor, 1100 Bank Street, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds Into Virginia.** The proposed amendment to the above-referenced regulation would set health requirements for the admission of South American camelids of the genus lama into Virginia.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until June 29, 1987.

Contact: A. J. Roth, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Virginia Department of Agriculture and Consumer Services, Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

STATE AIR POLLUTION CONTROL BOARD

† **July 9, 1987 - 7:30 p.m.** – Open Meeting
W.W. Robinson Elementary School, Gymnasium, 1231 Susan Avenue, Woodstock, Virginia

Allow public comment on a request for a permit from Mountain View Rendering Company to construct and

operate a rendering plant adjacent to the Rocco Farms Foods, Inc., facility at Columbia Furnace in Shenandoah County.

Contact: Mr. Lewis Baumann, Springfield Towers, Suite 502, 6320 Augusta Dr., Springfield, Va. 22150, telephone (703) 644-0311

July 27, 1987 - 9 a.m. – Open Meeting
General Assembly Building, Senate Room A, Richmond, Virginia.

This is a general meeting of the board.

Contact: Dick Stone, State Air Pollution Control Board, P. O. Box 10089, Richmond, Virginia 23240, telephone (804) 786-5478

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July 29, 1987 - 10 a.m. – Public Hearing
Town of Abingdon Municipal Building, Council Chambers, 133 West Main Street, Abingdon, Virginia

July 29, 1987 - 10 a.m. – Public Hearing
West Central Regional Office, State Water Control Board, Executive Office Park, 5312 Peters Creek Road, N.W., Roanoke, Virginia

July 29, 1987 - 10 a.m. – Public Hearing
Lynchburg Library, 2315 Memorial Avenue, Lynchburg, Virginia

July 29, 1987 - 1 p.m. – Public Hearing
Chesterfield Public Library, 9501 Lori Road, Chesterfield, Virginia

July 29, 1987 - 10 a.m. – Public Hearing
Hampton Roads Regional Office, State Air Pollution Control Board, Old Greenbriar Village, Suite A, 2010 Old Greenbriar Road, Chesapeake, Virginia

July 29, 1987 - 10 a.m. – Public Hearing
National Capital Regional Office, State Air Pollution Control Board, Springfield Towers, Suite 502, 6320 Augusta Drive, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia and the requirements of § 110(a)(1) of the Federal Clean Air Act that the State Air Pollution Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution: Permits for New and Modified Sources (Part VIII).** The regulations establish limits for sources of air pollution to the extent necessary to attain and maintain levels of air quality as will protect human health and welfare.

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

Written comments may be submitted until July 29, 1987.

Contact: Robert A. Mann, Director of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5789

ALCOHOLIC BEVERAGE CONTROL BOARD

June 25, 1987 - 10 a.m. – Open Meeting
2901 Hermitage Road, Main Offices, 1st Floor, Richmond, Virginia.

Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines for Adoption or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the board will conduct a public meeting on June 25, 1987, at 10 a.m. in the Hearing Room, 1st Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of board regulations. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation.

June 30, 1987 - 9:30 a.m. – Open Meeting
July 14, 1987 - 9:30 a.m. – Open Meeting
July 28, 1987 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia.

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, 2901 Hermitage Road, P. O. Box 27491, Richmond, Virginia 23261, telephone (804) 257-0617

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

Virginia State Board of Certified Landscape Architects

June 22, 1987 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting to (i) approve minutes of March 12, 1987; (ii) review applications; (iii) conduct regulatory review; and (iv) grade exams.

Virginia State Board of Professional Engineers

June 23, 1987 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th

Floor, Richmond, Virginia.

A meeting to (i) approve minutes of March 10, 1987 meeting; (ii) review applications; (iii) conduct regulatory review; and (iv) discuss enforcement cases.

Contact: Joan L. White, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8512

AUCTIONEERS BOARD

† **July 7, 1987 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

An open board meeting to conduct (i) review of complaints; (ii) discussion of revenue and expenditures; (iii) regulatory review; and (iv) election of officers.

Contact: Mr. Geralde W. Morgan, Assistant Director, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230-4917, telephone (804) 257-8508

August 4, 1987 - 10 a.m. – Open Meeting
August 5, 1987 - 10 a.m. – Open Meeting
August 6, 1987 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

A meeting to conduct a formal administrative hearing regarding Virginia Auctioneers Board vs. Valentine Auction and Storage Company.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **July 17, 1987 - 10 a.m.** – Open Meeting
† **August 21, 1987 - 10 a.m.** – Open Meeting
Fourth Street State Office Building, 2nd Floor Conference Room, 205 North Fourth Street, Richmond, Virginia.
(Interpreter for deaf provided if requested)

A meeting to consider requests for interpretation of the Virginia Uniform Statewide Building Code; to consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code, and to approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

BOARD OF COMMERCE

June 22, 1987 - 9 a.m. – Public Hearing
Hotel Roanoke, 19 North Jefferson Street, Roanoke, Virginia.

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

June 22, 1987 - 1:30 p.m. – Public Hearing
Hotel Roanoke, 19 North Jefferson Street, Roanoke, Virginia.

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

June 29, 1987 - 9 a.m. – Public Hearing
City Hall Building, Council Chambers, 810 Union Street, Norfolk, Virginia

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

June 29, 1987 - 1:30 p.m. – Public Hearing
City Hall Building, Council Chambers, 810 Union Street, Norfolk, Virginia

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Outdoor Recreation Advisory Board

† **June 23, 1987 - 9:30 a.m.** – Open Meeting
Fairfax County Park Authority Headquarters, Annandale Community Park Conference Room, 4030 Hummer Road, Annandale, Virginia

A quarterly business meeting to review matters pertaining to statewide recreation and state park matters.

Contact: Art Buehler, Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-5046

Virginia Soil and Water Conservation Board

July 8, 1987 - 2 p.m. – Open Meeting

Blacksburg Marriott Inn, 900 Prices Fork Road, N.W., Blacksburg, Virginia.

A regular bimonthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219-2094, telephone (804) 786-2064

STATE BOARD FOR CONTRACTORS

June 24, 1987 - 10 a.m. – Open Meeting
City Hall Building, 801 Crawford Street, Portsmouth, Virginia

A meeting to conduct a formal administrative hearing regarding State Board for Contractors vs. Timothy Paige.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

STATE BOARD OF CORRECTIONS

July 21, 1987 - 1 p.m. – Open Meeting
Omni Hotel, Norfolk, Virginia.

August 12, 1987 - 10 a.m. – Open Meeting
September 16, 1987 - 10 a.m. – Open Meeting
Department of Corrections, 4615 West Broad Street, Richmond, Virginia.

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

VIRGINIA BOARD OF COSMETOLOGY

July 30, 1987 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

A meeting to conduct a formal administrative hearing regarding Virginia Board of Cosmetology vs. Flair Beauty Institute No. 2.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD FOR RIGHTS OF THE DISABLED

July 29, 1987 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Rights of the Disabled intends to adopt regulations entitled: **VR 602-01-1. Public Participation Guidelines.** These guidelines will enable the board to carry out its responsibility to promulgate regulations under § 51.01-40 of the Code of Virginia regarding nondiscrimination under state grants and programs. The board desires maximum public participation when promulgating regulations.

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

Written comments may be submitted until August 1, 1987.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, 101 N. 14th St., 17th Fl., Richmond, Va., telephone (804) 225-2042 (toll-free 1-800-552-3962)

STATE BOARD OF EDUCATION

July 23, 1987 - 9 a.m. – Open Meeting
July 24, 1987 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, 1st Floor, Richmond, Virginia.

The Board of Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, James Monroe Bldg., 101 N. 14th St., 25th Fl., Richmond, Va., telephone (804) 225-2540

STATE BOARD OF ELECTIONS

June 23, 1987 - 10 a.m. – Open Meeting
Ninth Street Office Building, Ninth and Grace Streets, Room 101, Richmond, Virginia.

Canvass June 9, 1987, Primary Election and hear oral presentations from voting machine reports.

Contact: M. Debra Mitterer, Ninth Street Office Bldg., Room 101, Richmond, Va. 23219, telephone (804) 786-6551

COUNCIL ON THE ENVIRONMENT

† **June 23, 1987 - 10 a.m.** – Open Meeting
Stratford Hall, Westmoreland County, Virginia

A working meeting of the collegial body of the Council on the Environment concerning land use topics.

Contact: Gwen Jones, Council on the Environment, Room 903, Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-4500

VIRGINIA FIRE SERVICES BOARD

August 14, 1987 - 10 a.m. – Public Hearing
Holiday Inn, 1815 West Mercury Boulevard, Hampton, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Fire Services Board and the Department of Fire Programs intend to adopt regulations entitled: **Regulations Establishing Certification Standards for Fire Investigators.** These regulations are standards to qualify fire investigators as provided for in § 27-34.2:1 of the Code of Virginia.

Statutory Authority: § 9-155 of the Code of Virginia.

Written comments may be submitted until August 31, 1987.

Contact: Carl N. Cimino, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681

BOARD OF FORESTRY

June 24, 1987 - 10 a.m. – Open Meeting
National Resources Building, Alderman and McCormick Roads, Charlottesville, Virginia

A regular meeting of the board to conduct general business.

Contact: Harold L. Olinger, Department of Forestry, P. O. Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

DEPARTMENT OF FORESTRY

July 1, 1987 - 10 a.m. – Public Hearing
Department of Forestry, 2229 East Nine Mile Road, Sandston Office, Sandston, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to adopt regulations entitled: **Public Participation Guidelines.** Guidelines to be followed by the Department of Forestry to obtain public participation in development of regulations.

Statutory Authority: § 10-31.2 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: Harold L. Olinger, Chief, Administration, Department of Forestry, Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

June 26, 1987 - 9 a.m. – Open Meeting
Omni International Hotel, 777 Waterside Drive, Norfolk, Virginia

The board will give its annual report, have an exhibition booth, and have a general open session in conjunction with the Virginia Mortician Association.

June 30, 1987 - 9 a.m. – Open Meeting
July 1, 1987 - 9 a.m. – Open Meeting
Marriott Hotel, 500 East Broad Street, Richmond, Virginia

The board will give its annual report, have an exhibition booth, and have a general open session in conjunction with the Virginia Funeral Directors Association.

† **June 30, 1987 - 2 p.m.** – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia

A general board meeting to discuss regulations.

Informal Conference Committee

† **July 1, 1987 - 1 p.m.** – Open Meeting
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia

A meeting to conduct disciplinary matters.

Contact: Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

COMMISSION OF GAME AND INLAND FISHERIES

June 26, 1987 - 9:30 a.m. – Open Meeting
Game Commission Offices, 4010 West Broad Street, Richmond, Virginia.

The commission will consider (i) game and fish regulations; (ii) reports of the Finance and License Agents Committees, and (iii) general administrative matters.

Contact: Norma G. Adams, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 257-1000

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

July 10, 1987 - 10 a.m. – Open Meeting
Virginia Museum of Fine Arts, Main Conference Room, Richmond, Virginia.

The board will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Rancorn, Wildman & Krause, Architects and City Planning Consultants, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

Consolidated Laboratory Services Advisory Board

June 26, 1987 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia.

The advisory board will discuss issues, concerns, and programs that impact the Division of Consolidated Laboratory Services and its user agencies.

Contact: Dr. A. W. Tiedemann, Jr., Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-7905

DEPARTMENT OF HEALTH (BOARD OF)

† **August 28, 1987 - 10 a.m.** – Public Hearing
Henrico Government Center, Administration Building Board of Supervisors Room, Parham and Hungary Springs Road, 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: **Rules and Regulations of the Board of Health Governing Restaurants.**

STATEMENT

Subject: Amendments to the Rules and Regulations of the Board of Health Governing Restaurants.

Substance: The substance of the amendments is as follows:

1. Revise the definitions of commissary, potentially hazardous food, and safe materials.

2. Delete requirement that new owners of short order restaurants are to install public handwashing and toilet facilities.

3. Add a requirement that permits are not transferable from one location to another location.

4. Clarify the requirement that all refrigerated facilities, including freezers, are to be provided with thermometers.

5. Specify the temperature at which frozen food is stored should be 0°F.

6. Add a temperature requirement of 45°F or below for maintaining individual service nondairy, whitening or whipping agents.

7. Add a requirement that prohibits reuse of soiled tableware by self-service consumers.

8. Clarify the requirements for grease traps and public and employee toilet facilities with respect to Virginia Uniform Statewide Building Code.

9. Include properly sealed concrete as an approvable floor construction.

10. Clarify the requirement on carpeting to prohibit use in food preparation, equipment and utensil-washing areas.

11. Add a requirement that a utility facility be provided with hot and cold running water.

12. Reclassify storage categories of poisonous or toxic materials.

13. Clarify the requirement that prohibits traffic of unnecessary persons in a food preparation facility.

14. Specify the requirements for domestic restaurant operations.

15. Include footnote references instead of the text of Food, Drug and Cosmetic Act and the Code of Federal Regulations.

Purpose: The department's purpose in amending the Rules and Regulations Governing Restaurants is to update the regulations with current format, technology changes and current food protection practices and principles.

Basis: The legal basis for the intended regulations is Chapter 2, § 35.1-11 et. seq., Title 35.1 of the Code of Virginia.

Issues: The issue is whether to leave the regulation as is, and thus, fail to address certain valid public health protection needs identified by users of the regulations, or address the needs identified by amending the regulations.

Statutory Authority: §§ 35.1-11 and 35.1-14 of the Code of Virginia.

Written comments may be submitted until August 28, 1987.

Contact: John E. Benko, M.P.H., Director, Bureau of Food and General Environmental Services, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559.

COUNCIL ON HEALTH REGULATORY BOARDS

† **July 21, 1987 - 11 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. &

A regular quarterly meeting of the council. Agenda items include review of the biennial budget request of the Department of Health Regulatory Boards, consideration of a plan for the evaluation of the health professional enforcement system and other matters. An agenda will be provided one week in advance of the meeting upon request.

Committee on Scopes and Standards of Practice

† **July 20, 1987 - 7:30 p.m.** – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

† **July 21, 1987 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. &

The committee will meet to continue its study of the need to regulate hypnosis/hypnotherapy in Virginia.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9918

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

June 24, 1987 - 9 a.m. – Open Meeting
July 22, 1987 - 9 a.m. – Open Meeting
Johnston-Willis Hospital, 1401 Johnston-Willis Drive, Richmond, Virginia. &

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va., telephone (804) 786-6371

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

July 20, 1987 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. & (Interpreter for deaf provided if requested) ☎

A public hearing to afford interested persons and groups an opportunity to submit data, views and arguments regarding the proposed adoption of:

1. A 1987 Edition of the Virginia Amusement Device Regulations.

2. A 1987 Edition of the Virginia Public Building Safety Regulations to amend and replace the 1984 edition.

3. A 1987 Edition of the Virginia Statewide Fire Prevention Code.

4. A 1987 Edition of the Virginia Industrialized Building and Mobile Home Safety Regulations to amend and replace the 1984 edition.

5. A 1987 Edition of the Virginia Liquefied Petroleum Gas Regulations to amend and replace the 1984 edition.

6. A 1987 Edition of the Virginia Certification of Tradesmen Standards to amend and replace the 1984 edition.

7. A 1987 Edition of the Virginia Uniform Statewide Building Code - Volume I - New Construction Code to amend and replace the 1984 edition.

8. A 1987 Edition of the Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code to amend and replace the 1987 edition.

Anyone wishing to speak or offer written statements relating to the proposed regulations will be given an opportunity to do so on the day of the hearing. Written statements may be prefiled with the agency if received by July 30, 1987.

Copies of the proposals may be obtained from the Division of Building Regulatory Services, Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

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

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July 20, 1987 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Interpreter for deaf provided if requested)

A hearing to provide a forum for public comment and testimony concerning the proposed Virginia Private Activity Bond Regulations. The regulations have been proposed pursuant to §§ 15.1-1399.10 through 15.1-1399.17 of the Code of Virginia to provide the policies and procedures for the allocation of tax exempt private activity bond authority in the Commonwealth.

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† **July 20, 1987 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

Notice is hererby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to adopt regulations entitled: **Virginia Private Activity Bond Regulations.** The purpose of these regulations is to provide the policies and procedures of the Commonwealth for the allocation of private activity bond authority.

Statutory Authority: §§ 15.1-1399.15 and 15.1-1399.16 of the Code of Virginia.

Written comments may be submitted until August 10, 1987.

Contact: Paul J. Grasewicz, Associate Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-7893

July 20, 1987 - 1 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Interpreter for deaf provided if requested)

The board's regular formal business meeting to (i) review and approve the minutes from the prior meeting; (ii) provide an opportunity for public comments; (iii) review the report of the director on the operation of the Department of Housing and Community Development since the last board meeting; (iv) hear reports of the committees of the board; and (v) consider other matters as deemed necessary. The planned agenda of the meeting will be available at the following address one week prior to the date of the meeting.

Contact: Neal J. Barber, 205 North Fourth Street, 7th Fl., Richmond, Va. 23219, telephone (804) 786-1575

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

June 29, 1987 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

The board will meet to consider the following: (i) Virginia Field Sanitation Standard, 1928.10; (ii) Virginia Confined Space Standard for Telecommunications, 1910.268(t); (iii) corrections and Extension of Stay of Asbestos Standard for General Industry and Construction Industry, 1910.1001, 1910.1101, 1926.58; and (iv) correction to Hazardous Waste Operations and Emergency Response Standard, 1910.120.

Contact: Jay W. Withrow, Occupational Safety and Health Technical Services Director, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-4300

VIRGINIA STATE LIBRARY BOARD

June 23, 1987 - 11 a.m. – Open Meeting
Virginia State Library, Supreme Courtroom, 3rd Floor, 11th Street and Capitol Square, Richmond, Virginia.

A regular meeting to discuss administrative matters.

Automated Systems and Networking Committee

June 23, 1987 - 9:30 a.m. – Open Meeting
Virginia State Library, Conference Room B, 3rd Floor, 11th Street and Capitol Square, Richmond, Virginia.

A meeting to discuss automated systems and networking committee matters.

Contact: Jean K. Reynolds, Virginia State Library, 11th Street and Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

LONGWOOD COLLEGE

Board of Visitors

† **July 16, 1987 - 10 a.m.** – Open Meeting

† **July 17, 1987 - 3 p.m.** – Open Meeting
Longwood College, Virginia Room, Farmville, Virginia.

Annual meeting of the governing board of the institution.

Contact: Janet D. Greenwood, President, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 (SCATS 265-4211)

MARINE RESOURCES COMMISSION

† **July 7, 1987 - 9:30 a.m.** – Open Meeting
Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia.

The Marine Resources Commission meets on the first Tuesday of each month, at 9:30 a.m. in Newport News City Council Chambers, located at 2400 Washington Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing; environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Patricia A. Leonard, Acting Secretary to the Commission, 2401 West Ave., P.O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2206

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

June 8 - July 7, 1987 – Public comment period

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend **The State Plan for Medical Assistance with regard to Return on Equity Capital.** These amendments will disallow, as a reimbursable cost, equity capital for proprietary hospitals and nursing homes.

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

Written comment may be submitted until July 7, 1987.

Contact: Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7931

COMMISSION ON MEDICAL CARE FACILITIES

July 13, 1987 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia.

By Executive Order 31 (86) Governor Baliles created an advisory commission with two responsibilities: (i) to examine the effectiveness of the Certificate of Public Need program in controlling medical care costs while making good quality, accessible health care available to all Virginians; and (ii) if this examination demonstrates that the Commonwealth's existing health planning process no longe effectively meets these objectives, the commission shall assess alternatives and recommend revisions to the existing Certificate of Public Need process.

Contact: E. George Stone, State Health Department, James Madison Bldg., 109 Governor St., Room 1010, Richmond, Va. 23219, telephone (804) 786-6970

VIRGINIA STATE BOARD OF MEDICINE

July 23, 1987 - 8 a.m. – Open Meeting
July 24, 1987 - 8 a.m. – Open Meeting
July 25, 1987 - 8 a.m. – Open Meeting
July 26, 1987 - 8 a.m. – Open Meeting
Pavilion Tower Hotel, 1900 Pavilion Drive, Conference Center, Virginia Beach, Virginia.

The board will meet to review reports, interview licensees and make decisions on discipline matters. At 8 a.m. on Sunday, July 26, 1987, the full board will meet in open session to conduct general board business and discuss any other items which may come before the board.

Advisory Board on Physical Therapy

July 24, 1987 - 8 a.m. – Open Meeting
July 25, 1987 - 8 a.m. – Open Meeting
Pavilion Tower Hotel, 1900 Pavilion Drive, Conference Center, Virginia Beach, Virginia.

A meeting to conduct general board business and respond to correspondence. There will be a two day work session for the board to review applications for licensure, regulations for foreign trained physical therapy graduates and the quiz regarding the Code and regulations for physical therapy. They will also discuss any other items which may come before the advisory board.

Informal Conference Committee

June 25, 1987 - noon – Open Meeting

Department of Health Regulatory Boards, Surry Building, 1601 Rolling Hills Drive, Board Room 1, 2nd Floor, Richmond, Virginia.

June 26, 1987 - noon – Open Meeting
Holiday Inn South, U. S. Route 1 and I-95, Fredericksburg, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Holiday Inn South - There will also be a formal hearing at 12:30 p.m. regarding a matter before the board.

† **August 21, 1987 - 12:30 p.m.** – Open Meeting
Department of Health Regulatory Boards, Surry Building, Board Room No. 2, 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 of the Code of Virginia.

Podiatry Examination Committee

June 26, 1987 - 9 a.m. – Open Meeting
Springfield Hilton, 6550 Loisdale Road, Springfield, Virginia.

The committee will meet to review and evaluate the examination questions for the board's June podiatry examination to develop cut scores for that exam.

Contact: Eugenia K. Dorson, Board Administrator, Surry Bldg., 2nd Floor, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9925

VIRGINIA STATE BOARDS OF MEDICINE AND NURSING

Joint Meeting

June 30, 1987 - 12:30 p.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia.
(Interpreter for deaf provided if requested)

A committee meeting of the joint boards to consider a final draft of proposed regulations governing the certification of nurse practitioners in preparation for publication for public comment and to address other matters related to the certification and practice of nurse practitioners.

Contact: Corinne F. Dorsey, R. N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

June 24, 1987 - 10 a.m. – Open Meeting
Rappahannock Area Community Services Board, Fredericksburg, Virginia.

A regular monthly meeting. The agenda will be published on June 17 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, Secretary, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

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July 14, 1987 - 1 p.m. & 7 p.m. – Public Hearing
W. T. Woodson High School, 9525 Main Street, Auditorium, Fairfax, Virginia

July 14, 1987 - 1 p.m. & 7 p.m. – Public Hearing
Olin Theater on the grounds of Roanoke College, Center for Community Education and Special Events, Salem, Virginia

July 14, 1987 - 1 p.m. & 7 p.m. – Public Hearing
Scope, Exhibition Hall, 201 Brambleton Avenue, Norfolk, Virginia

July 14, 1987 - 1 p.m. – Public Hearing
Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia

July 14, 1987 - 7 p.m. – Public Hearing
James Madison University, Chandler Hall, Harrisonburg, Virginia

July 15, 1987 - 1 p.m. & 7 p.m. – Public Hearing
Arthur Ashe Center, Richmond, Virginia

July 15, 1987 - 1 p.m. & 7 p.m. – Public Hearing
Hampton University, Ogden Hall, Hampton, Virginia

July 15, 1987 - 1 p.m. & 7 p.m. – Public Hearing
Averett College, Dining Room, Danville, Virginia

July 15, 1987 - noon – Public Hearing
Ramada Inn, U.S. 58, 421 West, Duffield, Virginia

July 15, 1987 - 6 p.m. – Public Hearing
Virginia Highlands Community College, Abingdon, Virginia

Regional public hearings on the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan, 1988-1994 and the Action Plan to Meet Housing Needs of Mentally Disabled Citizens Through the End of the Century (HJR 287, 1987)

Conact: Charline Davidson, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va., telephone (804) 786-3904

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July 21, 1987 - 10 a.m. – Public Hearing
James Monroe Building, Conference Room E, 101 North 14th Street, Richmond, Virginia.

July 28, 1987 - 10 a.m. – Public Hearing
Roanoke City Hall, Municipal Building, Room 450, 215 Church Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations and adopt new regulations entitled: **VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.** The proposed regulations will establish the minimun requirements for the licensure of outpatient facilities.

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

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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July 21, 1987 - 10 a.m. – Public Hearing
James Monroe Building, Conference Room E, 101 North 14th Street, Richmond, Virginia.

July 28, 1987 - 10 a.m. – Open Meeting
Roanoke City Hall, Municipal Building, Room 450, 215 Church Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations and adopt new regulations entitled: **VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.** The proposed regulations will establish the minimum requirements for the licensure of residential facilities.

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

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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NOTICE: The State Mental Health and Mental Retardation Board proposes to REPEAL the two regulations listed below:

July 21, 1987 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

July 28, 1987 - 1 p.m. – Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations entitled: **VR 470-02-04. Rules and Regulations for the Licensure of Group Homes and Halfway Houses.**

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

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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July 21, 1987 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

July 28, 1987 - 10 a.m. – Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal regulations entitled: **VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.**

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

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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July 21, 1987 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

July 28, 1987 - 10 a.m. – Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to adopt regulations entitled: **VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Shelter Facilities.** The proposed action establishes minimum requirements for the licensure of supported residential programs and residential respite care/emergency shelter facilities.

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

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

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July 21, 1987 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia

July 28, 1987 - 10 a.m. – Public Hearing
Roanoke City Hall, Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

Notice is hereby give in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to adopt regulations entitled: **VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.** These regulations propose minimum requirements for the licensure of day support programs.

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

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

State Human Rights Committee

† **June 25, 1987 - 4 p.m.** – Open Meeting
† **June 26, 1987 - 9 a.m.** – Open Meeting
James Madison Building, 13th Floor Conference Room, Richmond, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items listed prior to meeting.

Contact: Elsie D. Little, A.C.S.W., P.O. Box 1797, Richmond, Va., telephone (804) 786-3988

DEPARTMENT OF MOTOR VEHICLES

June 23, 1987 - 9:30 a.m. – Open Meeting
Dulles Holiday Inn, 1000 Sully Road, Sterling, Virginia

June 23, 1987 - 2:30 p.m. – Open Meeting
James Madison University, Chandler Hall, Shenandoah Room, Harrisonburg, Virginia

June 24, 1987 - 9:30 a.m. – Open Meeting
Roanoke Airport Marriott, Roanoke, Virginia

June 24, 1987 - 2:30 p.m. – Open Meeting
Virginia Department of Transportation Auditorium, 870 Bonham Road, Bristol, Virginia

June 29, 1987 - 9:30 a.m. – Open Meeting
South Hill Municipal Building, 117 West Atlantic Street, Town Council Meeting Room, South Hill, Virginia

June 29, 1987 - 2:30 p.m. – Open Meeting
Hilton (next to airport), Norfolk, Virginia

June 30, 1987 - 9:30 a.m. – Open Meeting
Richmond DMV Headquarters, 2300 West Broad Street, Agecroft Room, Richmond, Virginia

A meeting to discuss proposed revisions to the Dealer Licensing Act. The existing act was adopted in 1944 and does not adequately reflect the changes which have occurred in the industry since that time. A committee comprised of industry, consumer, administrative and judicial representatives drafted a rewrite of the Act.

DMV is conducting public meetings throughout the Commonwealth for the purpose of presenting the draft and to allow interested parties to give their comments and suggestions. Copies of the draft may be obtained by contacting the DMV employee listed below.

DMV's goal is to submit proposed legislation to the 1988 session of the General Assembly with an implementation date of January 1, 1990.

Written comments will be accepted by the below listed contact person until June 19, 1987.

Contact: Kevin R. Dunne, Vehicle Services Administrator, P. O. Box 27412, Room 521, Richmond, Va. 23269, telephone (804) 257-1832

VIRGINIA STATE BOARD OF NURSING

June 25, 1987 - 8:30 a.m. – Open Meeting
Department of Health Regulatory Boards, Koger Center, Surry Building, Conference Room 2, Richmond, Virginia.

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

† **July 7, 1987 - 9:30 a.m.** – Public Hearing
City Hall, Council's Chambers, 441 Market Street, Suffolk, Virginia.

A formal hearing on Anita A. Perry, R.N., will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

† **July 9, 1987 - 9:30 a.m.** – Public Hearing
Springfield Hilton, Room 220, 6550 Loisdale Road, Springfield, Virginia.

Formal Hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated, on: Marcel F. Taylor, R.N. at 9:30 a.m. and Mary L. Kernan, R.N., at 1 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

VIRGINIA BOARD OF OPTOMETRY

July 13, 1987 - 8 a.m. – Open Meeting
Egyptian Building, 1223 East Marshall Street, Baruch Auditorium, Richmond, Virginia

Administer the Virginia Practical Examination and Diagnostic Pharmaceutical Agents Examination.

July 14, 1987 - 9 a.m. – Open Meeting
July 15, 1987 - 9 a.m. – Open Meeting
Koger Center, 1601 Rolling Hills Drive, Surry Building, Conference Room 1, Richmond, Virginia.

A general business meeting.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

DEPARTMENT OF PERSONNEL AND TRAINING

State Employees Combined Charitable Campaign

† **July 7, 1987 - 1:30 p.m.** – Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia.

Per Executive Order 41 (87), there will be a public hearing on the Virginia State Employees Combined Charitable Campaign to hear oral or receive written comments on the procedures as developed by the Governor's Secretary of Administration to implement the campaign.

The campaign procedures are available from the Campaign State Coordinator, Mr. Bruce Meador, Department of Personnel and Training, Office of Community Services, James Monroe Building - 13th Floor, 101 North 14th Street, Richmond, Va. 23219, (804) 225-2015. After the July 7 public hearing, written comments on the procedures will be accepted by the Campaign State Coordinator until August 14, 1987.

Contact: Bruce Meador, State Government Community Services Liaison, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2131

STATE BOARD OF PHARMACY

June 23, 1987 - 7:45 a.m. – Open Meeting
June 24, 1987 - 7:45 a.m. – Open Meeting
NOTE CHANGE OF MEETING PLACE
George Washington Inn, 500 Merrimac Trail, Williamsburg, Virginia.

A regular board meeting and board examinations on both days.

Contact: J. B. Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9921

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† **August 12, 1987 - 10 a.m.** – Public Hearing
State Capitol, House Room 4, Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Pharmacy intends to adopt new regulations and repeal existing regulations entitled: **VR 530-01-1. Virginia State Board of Pharmacy Regulations.**

STATEMENT

Basis: Chapter 15 (§§ 54-524.16 and 54-524.17) of Title 54 of the Code of Virginia authorizing the board to adopt

regulations.

Purpose: The regulations proposals provide fees for licenses or registrations, standards for those who enter the practice of pharmacy, standards for various types of pharmacy practice and standards for drug business in which the dispensing, manufacturing or wholesale of drugs and devices occur.

Estimated Impact: A. Regulated entities. Affected annually are approximately 160 applicants for licensure as pharmacists, 1,375 pharmacies, 5,400 pharmacists, 46 manufacturers, 85 wholesalers, 65 humane societies, 17 physicians licensed to dispense, 100 pharmacy students, and 175 applicant pharmacists who are licensed in other states.

B. Projected costs to the regulated:

1. § 1.3(A). Increase in examination fee: The regulation increases the examination fee by $100. This establishes the same fee as that charged to pharmacists from other states who are licensed in this Commonwealth on the basis of their credentials held in another state.

The increase will annually affect approximately 175 applicants.

2. § 2.4(c). Additional practical experience required after three examination failures: This regulation precludes admission to the licensing examination after three previous failures and requires the applicant to gain an additional six months of practical experience before readmission to the examination.

This requirement may affect approximately one or two applicants annually and cost each applicant $21,000 in lost wages. A June examination applicant who failed the subsequent September and June examination, must wait until the following June examination and be employed at a clerical rate of pay for at least six months.

3. § 3.3. Notification required when a pharmacy ceases business activity: In the majority of cases, the owner of the pharmacy advises the board of the closing of a pharmacy; however, some do not.

Approximately 20 pharmacy owners annually will bear the cost of a letter or a telephone call to the board office to give notice of closing, estimated at $10 for each pharmacy.

4. § 3.4(A)(1). Fourteen day inspection notice required for proposed pharmacies: The board proposes that the owner of a new pharmacy allow a 14-day notice for scheduling the inspection required prior to the opening of the pharmacy.

Approximately 85 new pharmacies will be affected annually.

This regulation will not have a significant impact. It implements existing policy that requires sufficient time for the orderly scheduling of inspections.

5. § 3.5(B). Limited access through dispensing area in new pharmacies: The regulation provides that the dispensing area of new pharmacies not have an access through the area to stock rooms or rest rooms. Approximately 85 new pharmacies will be affected annually. The proposal will not have a significant impact since necessary arrangements can be provided for when plans are drawn.

6. § 3.7. Laminar airflow device: The requirement adds a laminar airflow device for filtering air to the minimum equipment presently required in a pharmacy. Approximately four pharmacies will be affected annually. The cost of the device will vary, depending on a choice of size, and can be obtained at a cost of approximately $1,000-$6,000.

7. § 3.9. Special security requirements: The board proposes that a burglar alarm be installed in the dispensing area, or that the dispensing area be completely enclosed when it is closed and the remainder of the business area is open.

The cost for one pharmacy would be approximately $250 for an additional alarm device or $1,000 for floor to ceiling enclosures of the area using glass and regular building materials. It is difficult to determine precisely the number of pharmacies which would be affected; however, it is estimated that 137 pharmacies will be affected.

8. § 3.10(A)(3). Special security requirements: The requirement provides that doors to the pharmacy dispensing area extend from the floor and be at least as high as the adjacent or adjoining counters.

In pharmacies which do not have the described door for the dispensing area, the proposal will mean that a full door must be installed at an approximate cost of $125 per door. Approximately 20%, or 375 pharmacies will be affected on a one-time bases.

9. § 3.15. Expired drugs: The board proposes that expired drugs be separated from the drug stock maintained for dispensing.

In most pharmacies, shelves in the dispensing area are routinely scanned for expired drugs; however, in some pharmacies, this is not done. Review of the drug stock will cost approximately $36 for each of the 1,375 pharmacies that will be affected.

10. § 3.16. Destruction of drugs in pharmacies: The requirement provides an option for a pharmacist to use in clearing the pharmacy of expired or unwanted Schedule II-V drugs.

The annual cost to a pharmacy owner for the in-house

disposal of drugs by destruction will be approximately $50 for each of the approximately 680 pharmacies that the board estimates will annually use this option.

11. § 5.3. Requiring records and labeling information for drug repackaging: This proposal, which is now a requirement for hospital pharmacies, would require that a record of repackaging be made in any pharmacy in which drugs may be repackaged in unit-of-use quantities with temporary labeling prior to dispensing.

The cost to pharmacists who may engage in this activity will not be significant.

12. § 10.5(B). Records for floor stocked drugs in hospitals: This proposal requires a recordkeeping system for Schedule II-V drugs issued as floor stock for administration to patients in hospitals.

Approximately 116 hospital pharmacies will be affected at a cost of approximately $173 annually on the basis of handling one record of a drug on a daily basis.

13. § 10.8. Separate licenses required for out-patient hospital pharmacies: The proposal requires a separate pharmacy to provide pharmacy services to out-patients when a hospital chooses to provide such services.

Approximate construction and drug equipment costs for a 240-square-foot pharmacy is $60,000. To stock the pharmacy with the most widely used drugs will require approximately $47,000.

14. § 11.2(H). Patient drug regimen review: The board proposes that a pharmacist review the drug regimen on a monthly basis for each nursing home patient that he serves. The present regulation requires review only for patients in skilled care facilities (SCF) and not for patients in intermediate care facilities (ICF).

There are approximately 19,155 ICF beds. A survey of pharmacists serving large segments of the nursing home population revealed that charges range from $0-$5 monthly for a drug regimen review, depending on other services and business considerations which are negotiated between the pharmacist and a nursing home. It was also found that the present review process not only covers the skilled care patients as required, but also extends to a majority of all patients in ICF. The American Society of Consulting Pharmacists estimates that the actual review now being performed by pharmacists in any type of a facility costs approximately $2.30 for each patient.

The pharmacist's monthly review of the drug regimen will cost approximately $230 per 100 patients.

C. Projected cost to the agency: The changes will not increase costs to the agency because the large number of requirements deleted will offset any additional costs which may occur due to the relatively few additional requirements proposed.

D. Source of funds: The source of funds for the regulatory activities will be from the fees imposed on the persons and businesses licensed by the board, which is approximately $697,000 in revenue on an annual basis.

Statutory Authority: §§ 54-524.16 and 54-524.17 of the Code of Virginia.

Written comments may be submitted until August 24, 1987

Contact: Jack B. Carson, Executive Director, State Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

July 16, 1987 - 10 a.m. – Open Meeting
Hasler and Company, 212 Tazewell Street, Norfolk, Virginia

The board will meet to conduct routine business at its regular quarterly meeting.

Contact: David E. Dick 3600 W. Broad St., Richmond, Va. 23220, telephone (804) 257-8515 or William L. Taylor, 3327 Shore Dr., Virginia Beach, Va. 23451, telephone (804) 496-0995

VIRGINIA BOARD OF PSYCHOLOGY

July 8, 1987 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Psychology intends to adopt new regulations and repeal existing regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The proposed regulations were developed as a part of the comprehensive review of regulations initiated by Governor Charles S. Robb.

Statutory Authority: § 54-929 of the Code of Virginia.

Written comments may be submitted until August 10, 1987.

Contact: Stephanie A. Sivert, Executive Director, Board of Psychology, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

VIRGINIA REAL ESTATE BOARD

July 8, 1987 - 10 a.m. – Open Meeting
Waynesboro District Court, 250 South Wayne Avenue, Waynesboro, Virginia

A meeting to conduct a formal administrative hearing regarding Virginia Real Estate Board vs. William L. Hausrath.

July 14, 1987 - 10 a.m. – Open Meeting
July 15, 1987 - 10 a.m. – Open Meeting
Charlottesville Hilton Hotel, 2350 Seminole Trail, Charlottesville, Virginia

A meeting to conduct a formal administrative hearing regarding Virginia Real Estate Board vs. Martha K. Hogshire.

July 23, 1987 - 10 a.m. – Open Meeting
Rockingham Juvenile and Domestic Relations Court, 181 South Liberty Street, Harrisonburg, Virginia

A meeting to conduct a formal administrative hearing regarding Virginia Real Estate Board vs. Great North Mountain, Inc.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD OF REHABILITATIVE SERVICES

June 26, 1987 - 9:30 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested) ☎

A meeting to (i) review comments and recommendations on independent living regulations, (ii) consider financial and budgetary reports, (iii) consider other policy recommendations, (iv) consider new board initiatives and priorities and (v) conduct the business of the board.

Evaluation and Analysis Committee

June 25, 1987 - 1 p.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested) ☎

A meeting to (i) review and evaluate proposed policies and procedures and (ii) develop recommendations for presentation to the Board of Rehabilitative Services.

Finance Committee

June 25, 1987 - 3 p.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested) ☎

A meeting to (i) review department financial reports, (ii) develop fiscal policies for recommendation to the Board of Rehabilitative Services and (iii) discuss other budgetary matters.

Program Committee

June 25, 1987 - 9 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested) ☎

A meeting to review comments and recommendations on proposed independent living regulations received at the public hearing April 22, 1987 and other comments received through the public comment period ended June 1, 1987 for recommendations to the board toward consideration and adoption of final regulations.

Contact: James L. Hunter, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-6446 (toll-free 1-800-552-5019)

VIRGINIA RESOURCES AUTHORITY

† **July 14, 197 - 9 a.m.** – Open Meeting
Cavalier Hotel, 42nd and Ocean Front Avenue, Virginia Beach, Virginia

A meeting to (i) approve minutes of the May 12, 1987 meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., P.O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

July 8, 1987 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ♿

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permits.

Contact: David D. Effert, James Madison Bldg., 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-1750

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

July 24, 1987 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-50-4. Family Based Social Services.** These regulations establish a philosophy and requirements of a family based social service delivery approach by local social service agencies.

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

Written comments may be submitted until July 24, 1987.

Contact: Linda N. Booth, Administrative Planning Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9638 (toll-free 1-800-552-7091)

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July 10, 1987 - 2 p.m. – Public Hearing
Blair Building, 8007 Discovery Drive, Conference Room A, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-08-1. Virginia Fuel Assistance Program.**

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

Written comments may be submitted until July 9, 1987.

Contact: Charlene Chapman, Supervisor, Energy and Emergency Assistance, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Va. 23229-8699, telephone (804) 281-9050 (toll-free number 1-800-552-7091)

COMMONWEALTH TRANSPORTATION BOARD

July 16, 1987 - 10 a.m. – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, 3rd Floor, Richmond, Virginia. ⊡ (Interpreter for deaf provided if requested) ☎

A monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

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August 19, 1987 - 1:30 p.m. – Public Hearing
Department of Transportation Auditorium, 1221 East Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to adopt regulations entitled: **VR 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** These regulations set forth the requirements for transporting hazardous materials through tunnels, bridges, and ferries in Virginia.

Statutory Authority: §§ 33.1-12 and 33.1-13 of the Code of Virginia.

Written comments may be submitted until August 19, 1987.

Contact: John L. Butner, Engineering Programs Supervisor, Traffic Engineering Division, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2878

BOARD FOR THE VISUALLY HANDICAPPED

† **July 8, 1987 - 11 a.m.** – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ⊡ (Interpreter for deaf provided if requested)

A quarterly meeting to review policy and procedures of the Department for the Visually Handicapped. The board reviews and approves department's budget, executive agreement, and operating plan.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145 (TTD number 264-3140)

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† **June 29, 1987 - 2 p.m.** – Public Hearing
† **June 29, 1987 - 7 p.m.** – Public Hearing
Virginia Rehabilitation Center for the Blind, Assembly Room, 401 Azalea Avenue, Richmond, Virginia.

Public hearing on the 1988 Title I Vocational Rehabilitation State Plan Amendment.

Contact: James Taylor, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3111

Advisory Committee on Services

July 18, 1987 - 10:30 a.m. – Open Meeting

Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested) ☎

A quarterly meeting to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145 (TTD number 264-3140)

VIRGINIA WASTE MANAGEMENT BOARD

June 26, 1987 - 10 a.m. – CANCELLED
James Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ♿

The general business meeting and election of officers has been cancelled.

Contact: Cheryl Cashman, Information Officer, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219, telephone (804) 225-2667, or the Hazardous Waste Hotline 1-800-552-2075

STATE WATER CONTROL BOARD

† **July 6, 1987 - 7 p.m.** – Public Hearing
George D. English Sr. Memorial Building, Board Room, Polk Street, Montross, Virginia

A hearing to receive comments on the proposed National Pollutant Discharge Elimination System (NPDES) Permit for the Town of Montross Sewage Treatment System. This proposed permit would allow the discharge of treated domestic wastewater into a tributary of Cat Point Creek. The discharge would originate in Westmoreland County and flow approximately one mile before entering and continuing through Richmond County.

† **July 8, 1987 - 7 p.m.** – Public Hearing
Prince Edward County Courthouse, Board of Supervisors Room, 124 North Main Street, Farmville, Virginia

A hearing to receive comments on the proposed National Pollutant Discharge Elimination System (NPDES) Permit for G.I.H. Car Wash to be located in Rice, Virginia. This proposed permit would allow the discharge of wastewater into Bacon Branch, a tributary of the James River.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

August 12, 1987 - 2 p.m. – Public Hearing
Prince William County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia

August 13, 1987 - 1 p.m. – Public Hearing
Roanoke County Administrative Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia

August 14, 1987 - 10 a.m. – Public Hearing
Williamsburg/James City Courthouse Council Chambers, 321-45 Court Street-West, Williamsburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards.** The proposed amendments to the Water Quality Standards are to make necessary revisions to comply with the requirement that the standards be reviewed every three years. Water quality standards consist of narrative statements and numerical limits which describe water quality necessary for reasonable beneficial uses.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until August 21, 1987, to Doneva Dalton, Hearing Reporter.

Contact: Stu Wilson, Water Resources Ecologist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0387

THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

June 26, 1987 - 10 a.m. – Open Meeting
Ash Lawn-Highland, Route 6, Box 37, Charlottesville, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: Office of University Relations, James Blair Hall, College of William and Mary, Room 308, Williamsburg, Va. 23185, telephone (804) 252-4226

LEGISLATIVE

HOUSE APPROPRIATIONS COMMITTEE

† **July 20, 1987 - 9:30 a.m.** – Open Meeting
General Assembly Building, 9th Floor Committee Meeting Room, Capitol Square, Richmond, Virginia. &

A regular monthly meeting of the full committee.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

VIRGINIA STATE CRIME COMMISSION

Standard Uniform and Car Markings Subcommittee

† **June 29, 1987 - 10 a.m.** – Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. &

An organizational meeting and briefing by the staff on initial staff study. A public hearing will be at 10:30 a.m.. A work session of the subcommittee will be held at 1:30 p.m.

Law Enforcement Compensation Subcommittee

June 30, 1987 - 9 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. &

An organizational meeting and briefing by staff on initial staff study. At 10:30 a.m. a public hearing will be held in House Room C. A work session at 1:30 to consider recommendations.

Contact: Laura Armstrong, Research Intern, P. O. Box 3-AG, General Assembly Bldg., 2nd Floor, Room 230, Richmond, Va. 23208, telephone (804) 225-4534

JOINT SUBCOMMITTEE STUDYING THE SUPPORTED EMPLOYMENT PROGRAM

† **June 24, 1987 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. &

An organizational meeting to set out agenda and plans for this study. HJR 308

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING HATE AND VIOLENCE IN THE COMMONWEALTH

† **July 2, 1987 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. &

Organizational meeting to establish agenda for 1987 interim. HJR 339

Contact: Oscar Brinson, Staff Attorney OR Mary Geisen, Research Assistant, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 768-3591

SUBCOMMITTEE INVESTIGATING THE EXTENT OF UNFAIR COMPETITION BETWEEN NONPROFIT ORGANIZATIONS AND SMALL FOR-PROFIT BUSINESSES IN VIRGINIA

† **July 7, 1987 - 10 a.m.** – Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. &

A public hearing to receive testimony regarding specific accounts of unfair competition. HJR 303

Contact: Terry Barrett Mapp, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ALTERNATIVES FOR IMPROVING WASTE REDUCTION AND RECYCLING EFFORTS

† **June 29, 1987 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. &

An organizational meeting to plan agenda for interim, as well as working session for state agency testimony. HJR 292/SJR 132

Contact: Michael D. Ward, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

COMMISSION ON VETERANS' AFFAIRS

July 11, 1987 - 10 a.m. – Public Hearing
Clarke County Circuit Court, Main Court Room, Berryville,

Virginia.

August 8, 1987 - 10 a.m. – Public Hearing
Rappahannock Community College (North Campus), Main Lecture Hall, Warsaw, Virginia.

September 11, 1987 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

The commission will conduct a public hearing, taking testimony from individual veterans, representatives of veterans' organizations, and the general public on any matters concerning Virginia's veterans.

Contact: Alan Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

June 22
Certified Landscape Architects, Virginia State Board of

June 23
† Conservation and Historic Resources, Department of
† - Outdoor Recreation Advisory Board
Elections, State Board of
† Environment, Council on the
Library Board, Virginia State
- Automated Systems and Networking Committee
Motor Vehicles, Department of
Pharmacy, State Board of
Professional Engineers, Virginia State Board of

June 24
Contractors, State Board for
Forestry, Board of
Health Services Cost Review Council, Virginia
Mental Health and Mental Retardation Board, State
Motor Vehicles, Department of
Pharmacy, State Board of
† Supported Employment Program, Joint Subcommittee Studying the

June 25
Alcoholic Beverage Control Board
Medicine, Virginia State Board of
- Informal Conference Committee
† Mental Health and Mental Retardation, Department of
† - State Human Rights Committee
Nursing, Virginia State Board of
Rehabilitative Services, Board of
- Evaluation and Analysis Committee
- Finance Committee
- Program Committee

June 26
Funeral Directors and Embalmers, Virginia Board of
Game and Inland Fisheries, Commission of
General Services, Department of
- Consolidated Laboratory Services Advisory Board
Medicine, Virginia State Board of
- Informal Conference Committee
- Podiatry Examination Committee
† Mental Health and Mental Retardation, Department of
† - State Human Rights Committee
Rehabilitative Services, Board of
William and Mary, College of
- Board of Visitors

June 29
† Alternatives for Improving Waste Reduction and Recycling Efforts, Joint Subcommittee Studying
Labor and Industry, Department of
- Safety and Health Codes Board
Motor Vehicles, Department of

June 30
Alcoholic Beverage Control Board
† Funeral Directors and Embalmers, Virginia Board of
Medicine and Nursing, Virginia State Boards of
Motor Vehicles, Department of

July 1
Funeral Directors and Embalmers, Virginia Board of
† - Informal Conference Committee

July 2
† Hate and Violence in the Commonwealth, Joint Subcommittee Studying

July 7
† Auctioneers Board
† Marine Resources Commission

July 8
Conservation and Historic Resources, Department of
- Virginia Soil and Water Conservation Board
Real Estate Board, Virginia
Sewage Handling and Disposal Appeals Review Board, State
† Visually Handicapped, Board for the

July 9
† Air Pollution Control Board, State

July 10
General Services, Department of
- Art and Architectural Review Board

July 13
Medical Care Facilities, Commission on

Optometry, Virginia Board of

July 14
Alcoholic Beverage Control Board
Optometry, Virginia Board of
Real Estate Board, Virginia
† Resources Authority, Virginia

July 15
Optometry, Virginia Board of
Real Estate Board, Virginia

July 16
Aging, Department for the
- Long-Term Care Ombudsman Program Advisory Council
† Longwood College, Board of Visitors
Pilots, Board of Commissioners to Examine
Transportation Board, Commonwealth

July 17
† Building Code Technical Review Board, State
† Longwood College, Board of Visitors

July 18
Visually Handicapped, Department for the
- Advisory Committee on Services

July 20
† Appropriations Committee, House
† Health Regulatory Boards, Council on
- Committees on Scopes and Standards of Practice
Housing and Community Development, Board of

July 21
Corrections, State Board of
† Health Regulatory Boards, Council on
† - Committees on Scopes and Standards of Practice

July 22
Health Services Cost Review Council, Virginia

July 23
Education, State Board of
Medicine, Virginia State Board of
Real Estate Board, Virginia

July 24
Education, State Board of
Medicine, Virginia State Board of
- Advisory Board on Physical Therapy

July 25
Medicine, Virginia State Board of
- Advisory Board on Physical Therapy

July 26
Medicine, Virginia State Board of

July 27
Air Pollution Control Board, State

July 28
Alcoholic Beverage Control Board

July 30
Cosmetology, Virginia Board of

August 4
Auctioneers Board

August 5
Auctioneers Board

August 6
Auctioneers Board

August 12
Corrections, State Board of

August 21
† Building Code Technical Review Board, State
† Medicine, Virginia State Board of
† - Informal Conference Committee

September 16
Corrections, State Board of

PUBLIC HEARINGS

June 22
Commerce, Board of

June 29
Commerce, Board of
† Crime Commission, Virginia State
Standard Uniform and Car Markings Subcommittee
† Visually Handicapped, Department for the

June 30
Crime Commission, Virginia State
- Law Enforcement Compensation Subcommittee

July 1
Forestry, Department of

July 6
† Water Control Bord, State

July 7
† Nursing, Virginia State Board of
† Personnel and Training, Department of
† - State Employees Combined Charitable Campaign
† Unfair Competition Between Nonprofit Organizations and Small For-Profit Businesses in Virginia, Subcommittee Investigating the Extent of

July 8
Psychology, Virginia Board of
† Water Control Board, State

July 9
† Nursing, Virginia State Board of

July 10
Social Services, Department of

July 11
Veterans' Affairs, Commission on

July 14
Mental Health, Mental Retardation and Substance Abuse Services Board, State

July 15
Mental Health, Mental Retardation and Substance Abuse Services Board, State

July 20
† Housing and Community Development, Board of

July 21
Mental Health and Mental Retardation Board, State

July 28
Mental Health and Mental Retardation Board, State

July 29
Air Pollution Control Board, State
Disabled, Board for Rights of the

August 8
Veterans' Affairs, Commission on

August 12
† Pharmacy, State Board of
Water Control Board, State

August 13
Water Control Board, State

August 14
Fire Services Board, Virginia
Water Control Board, State

August 19
Transportation Board, Commonwealth

August 28
† Health, Department of

September 11
Veterans' Affairs, Commission on

September 28
Agriculture and Consumer Services, Department of