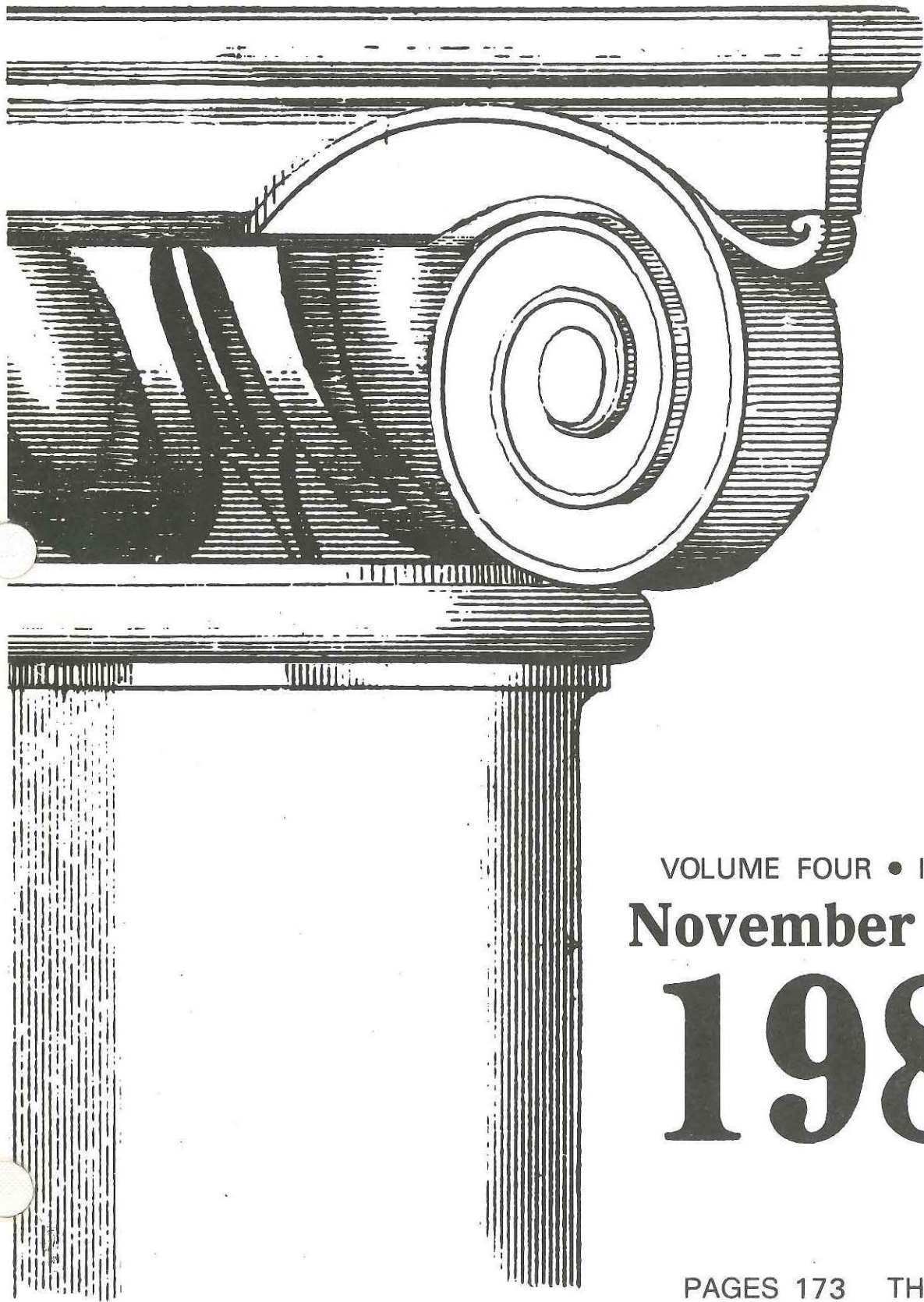


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# THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME FOUR • ISSUE THREE  
**November 9, 1987**

# 1987

PAGES 173 THROUGH 278

# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

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

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

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

## EMERGENCY REGULATIONS

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

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

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

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

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

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

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

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

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

**MATERIAL SUBMITTED BY**  
Noon Wednesday

**PUBLICATION DATE**

Volume 3 - 1987

July 1	July 20
July 15	Aug. 3
July 29	Aug. 17
Aug. 12	Aug. 31
Aug. 26	Sept. 14
Sept. 9	Sept. 28
Final Index - Vol. 3	

Volume 4 - 1987-88

Sept. 23	Oct. 12
Oct. 7	Oct. 26
Oct. 21	Nov. 9
Nov. 4	Nov. 23
Nov. 18	Dec. 7
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Dec. 16	Jan. 4, 1988
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# PROPOSED REGULATIONS

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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.

## AUCTIONEERS BOARD

**Title of Regulation:** VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board.

**Statutory Authority:** §§ 54-1.28, 54-824.9.1, and 54-824.9.3 of the Code of Virginia

**Public Hearing Date:** February 9, 1988 - 9 a.m.  
(See Calendar of Events section for additional information)

### Summary:

*The regulations govern the registration of auctioneers in Virginia and apply directly to approximately 1200 actively registered auctioneers, and indirectly to those individuals who utilize their services.*

*The board proposes to bring this regulation more in line with that of the Code of Virginia governing auctioneers. Amendments have been made to regulations pertaining to advertising, conduct at auctions, contracts and escrow funds, and the role of unregistered auctioneers clarified.*

*Due to the continuing necessity for the board to comply with § 54-1.28:1, in its financial revenues and expenditures, fees were deleted from the regulation. Unpredictable changes in operating costs and the number of applicants frequently necessitate changing fees. In removing fees from the regulation, the board can better comply and avoid unnecessary revision to the regulations.*

VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board.

### PART I. GENERAL.

#### § 1.1. Board of Auctioneers.

A. Officers. The board will elect the following officers for a term of one year beginning July 1 and ending June 30:

Chairman

Vice-Chairman

B. Term of chairman. No board member shall serve more than two consecutive terms as chairman.

C. Committees. The board may establish from its membership committees to conduct business for specific purposes.

D. Quorum. Three members of the board shall constitute a quorum for the purpose of transaction of official business.

### PART II. ENTRY REQUIREMENTS.

#### § 2.1. Registration.

All persons or firms as defined in § 54-824.2 of the Code of Virginia who conduct auctions or offer their services to sell at auction in this Commonwealth are required to file a registration application and pay the specified fee to the board. Applicants shall be at least 18 years of age.

A. Notarized information required. Information necessary to obtain registration shall include, but not be limited to the following:

1. Name of individual or firm;
2. Name and address where the business is located or home address if individual;
3. Any trading as name;
4. Type of legal entity;
5. Name of owner;
6. Statement that the applicant has read the statutes and regulations governing auctioneers;
7. Statement of no criminal convictions related to past auction activity;
8. Number of auctioneers employed in the firm.

B. Bond required. All applicants shall submit evidence that a surety bond in at least the amount of \$10,000 has been obtained.

~~C. Insurance in lieu of bond. In lieu of the bond required in subsection B above, applicants may show evidence that a liability insurance policy in at least the amount of \$10,000 has been obtained.~~

~~D. C. Fees. The application fee for registration shall be \$75 established by the board pursuant to § 54-1.28:1 .~~

# Proposed Regulations

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E. D. Renewal registration fee. Registrations issued under these regulations shall be issued for a two-year period and will expire on September 30 of each even-numbered year. Each registration holder will be required to renew the registration by submitting a fee of \$75 established by the board pursuant to § 54-1.28:1, made payable to the Treasurer of Virginia, to the Director of the Department of Commerce. The renewal fee is to be paid before the expiration date shown on the last valid registration. At least 45 days prior to the date of expiration, a renewal notice will be mailed to each registration holder reminding him of the amount due and the method for renewing the registration. Failure to receive written notice from the Director of the Department of Commerce does not relieve the registration holder from the requirement to renew the registration.

If the registration holder fails to renew the registration within 30 days after the expiration date, a penalty late renewal fee of twice the renewal fee will be assessed at the time of reregistration.

If the registration holder fails to renew the registration within six months following the expiration date of the last valid registration, he will be required to apply for reinstatement. The applicant will be required to present reasons for reinstatement and the board may grant reinstatement of the registration in conformity with existing regulations. The application fee for reinstatement shall be an amount equal to twice the renewal fee.

F. E. Change of address. Written notice shall be given within 30 days to the board by each registrant of any change of principal business location, whereupon the board shall issue an amended registration without fee for the unexpired portion of the biennial period.

## PART III. STANDARDS OF PRACTICE.

### § 3.1. Advertising.

All advertising must be truthful and contain no false or misleading statements with respect to types or conditions of goods offered at auction, or the terms and conditions of sale. In all advertisements relating to an auction, the auctioneer's name and registration number (V.A.A.R. ....), or the auction firm's name and registration number (V.A.A.F. ....), shall be clearly given.

In all advertising media, the designation "Certified Virginia Auctioneer" shall be used only with an individual's name. If conducting business as an auction firm, or under a trading-as name, the designation shall be used only when the firm or trading-as name precedes the name and designation of the certified individual. The designation "Certified Virginia Auctioneer" shall not be abbreviated.

### § 3.2. Contracts.

When an auctioneer agrees to conduct an auction, a contract will be drawn setting forth particulars for the disbursement of the proceeds and the terms and conditions under which the auctioneer received the goods for sale.

A. A list of the type of goods received for sale shall be made a part of the contract.

B. Each contract shall include above the signature line: "I have read and accepted the terms of this contract."

C. Each contract shall include the name, address, telephone number and registration number of the auctioneer.

D. The seller shall be given a legible executed copy of the contract at the time of signature.

### § 3.3. Conduct of auctions.

No auctioneer shall attempt to escalate bidding through false bids, or through collusion with another (shills). Unless notice has been given that liberty for such bidding is reserved, the auctioneer shall not bid on the sellers behalf; nor shall he knowingly accept a bid made by the seller or made on the sellers behalf.

### § 3.4. Display of registration.

Auctioneers shall carry their pocket card on their person and shall produce them on request; auction houses shall display their registration in conspicuous locations.

### § 3.5. Documentation.

Upon completion of the auctioneer's services each seller shall be given legible copies of bills of sale, clerk sheets/consignment sheets, settlement papers, balance sheets or other evidence to properly account for all items sold at auction.

### § 3.6. Escrow funds.

Proceeds of a personal property auction not disbursed to the seller on auction day shall be deposited in an escrow account Auction Escrow Account by the auctioneer no later than the next banking day. Auctioneers shall use federally insured depositories in this Commonwealth. Proceeds due shall be disbursed to the seller not to exceed 30 days after completion of the auctioneer's services. Funds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

In the event the sellers' goods are not sold in a single auction, proceeds due shall be disbursed to the seller within 30 days after each auction in which a portion of the sellers goods have been sold and shall be accompanied by a listing of the goods remaining to be sold and their scheduled auction dates.

The Auction Escrow Account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement; escrow funds for any other purposes shall not be commingled with the Auction Escrow Account. The presence of contingency funds in this account to guarantee checks accepted on the sellers behalf shall not be considered commingling of funds.

Monies due the auctioneer shall not be drawn from the Auction Escrow Account until final settlement is made with the seller.

## § 3.7. Records.

The following business records shall be retained for a period of four years from the date of settlement:

The contract drawn with each seller, auction records including but not limited to lists of buyers and their addresses, clerk sheets which shows the item sold together with the buyers number or name and the selling price and final settlement papers shall be retained for a period of two years from the date of settlement. Such records shall be available for inspection by the board or its designated agent as deemed appropriate and necessary.

## § 3.8. Use of designation certified Virginia auctioneer.

No person may hold himself out to the public as a Certified Virginia Auctioneer until regulations pertaining to such certification have been promulgated by the board and such person has been certified under those regulations.

## § 3.9. Revocation, suspension, failure to renew.

The board may suspend, revoke or not renew a registration or certificate for auctioneers or impose fines and hearing costs on registrants for the following causes:

1. Failure to pay the seller for goods sold at auction;
2. Permitting a nonregistered individual to cry bids at their auction; or crying bids for an unregistered person engaging (engaged) in an auction business;
3. Conviction in a court of this Commonwealth or of any state of a criminal offense directly relating to the auction business.
4. Violation of any of these regulations or of the provisions of Chapters 1, 1.1, and 20.1, of Title 54, of the Code of Virginia.

## § 3.10. Allowing nonregistered bid callers exception.

The only exception to allowing a nonregistered bid caller in the Commonwealth of Virginia will be in the case of a person enrolled in a class at an approved school of auctioneering in the Commonwealth who for the purpose of training and receiving instruction may do so under the direct supervision of a certified Virginia auctioneer who is

also an instructor in the school and who further assumes full and complete responsibility for the activities of the student involved in bid calling.

## PART IV. CERTIFICATION.

### § 4.1. Qualifications for certification.

Those registered individuals who desire to be designated CERTIFIED VIRGINIA AUCTIONEERS, unless exempt under § 54-824.17(ii) of the Code of Virginia, shall have the following qualifications:

A. The applicant shall not have been convicted within the past five years of a criminal offense related to auction activity in Virginia or any other jurisdiction.

B. The applicant shall not have had a registration, certificate or license as an auctioneer revoked within the past five years in Virginia or any other jurisdiction.

C. The applicant shall meet one of the experience levels set forth below:

1. Have conducted at least 25 auctions within the past eight years at which the applicant has cried the bids; or

2. Have, in lieu of the above, successfully completed a course of study at a school of auctioneering which has obtained course approval from the board, or an equivalent course, and have conducted at least 12 auctions within the past eight years at which the applicant cried the bids.

D. The applicant shall take and pass a written examination offered by the board unless exempt as set forth below:

Those applicants who have been practicing auctioneers for at least two years under a Virginia revenue license and make application prior to January 1, 1987, shall be exempt from the examination.

### § 4.2. Application.

Applicants shall submit an application either for examination and certification, or for certification, as applicable, and shall pay the proper fees to the board.

A. Notarized information required. Information necessary to obtain certification shall include, but not be limited to the following:

1. Name and registration number of the individual.
2. Address of the individual as appearing on the applicant's registration.
3. Statement of no criminal conviction related to



# Proposed Regulations

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auction activity within the past five years.

4. Statement of no revocation of registration, certificate or license within the past five years.

5. Statement of experience level.

6. Statement, when applicable, of exemption from examination.

B. Attachments required. Attachments to the application shall include, as applicable, copies of satisfactory auction school completion, newspaper advertisements, hand bills, direct mail advertising, brochures, catalogs, contracts with settlement papers, or notarized statements from clients making evident the applicant meets the required experience level.

Applicants exempt from examination under subsection D of § 4.1 shall, in addition to providing attachments required by this subsection, attach copies of their state revenue licenses or checks therefor.

## § 4.3. Examination.

The examination shall test the applicant's knowledge of the following:

A. 1. The auction business including fundamentals of auctioneering, elementary principals or real estate, brokerage, contract drawing, agency, advertising, auction, bid calling, arithmetic and percentages, settlement statements, ethics; and

B. 2. The Virginia statutes entitled Auctioneers' Registration and Certification Act, §§ 54-824.1 through 54-824.21 of the Code of Virginia; bulk transfers, §§ 8.6-101 through 8.6-111 and § 8.2-328 of the Code of Virginia, and the rules and regulations of the board.

## § 4.4. Certification through reciprocity.

Applicants shall submit an application for certification and pay the proper fee to the board.

A. Notarized information required. Information necessary to obtain certification shall include, but not be limited to the following:

1. Name and registration number of the individual.
2. Address of the individual as appearing on the applicant's registration.

B. Attachment required. A copy of the applicant's valid auctioneer license or certification shall be attached to the application.

## § 4.5. Fees.

All fees are nontransferable or nonrefundable.

A. The fee, good for one year for examination, shall be \$50 and submitted with the application.

B. The fee, good for one year for reexamination, shall be \$50 and submitted with the application.

C. The fee for certification shall be \$75 and submitted upon notice of passing the examination or with the application if exempt from examination.

## § 4.6. Duration of certification.

Certification on an individual shall remain in effect so long as the registration of such auctioneer has not been revoked, suspended or allowed to expire without renewal.

## § 4.7. Schools of auctioneering.

A. Application for course approval. Schools seeking approval of their courses shall file a request with the board. The request shall include the following information:

1. Name and address of the school.
2. Locations where classes will be held.
3. Length of the course and total number of hours of instruction.
4. Subjects covered together with number of instruction hours assigned.
5. Names and qualifications of instructors (areas of expertise and experience).

B. Requirements for course approval. To receive course approval the institution must offer a minimum of 80 hours of classroom and field instruction in the conduct of auction business to include fundamentals of auctioneering, elementary principles of real estate, brokerage, contract drawing, advertising, sale preparation, bid calling, settlement statements and ethics. There must be at least five instructors who have been licensed/certified auctioneers for at least five years and who specialize in different fields of the auction business.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-02-4.191. Extended Repayment of Overpayments: State Plan for Medical Assistance.

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

Public Hearing Date: N/A  
(See Calendar of Events section for additional information)

Summary:

The purpose of this amendment is to provide the director the regulatory authority to approve an extended repayment schedule with an interest charge when the provider can document that immediate repayment would cause severe financial hardship. These proposed regulations provide for a 36 months repayment schedule whereas the current regulations allow for only a 12 months schedule.

VR 460-02-4.191. Extended Repayment of Overpayments: State Plan for Medical Assistance.

VIII. Refund of Overpayments - Effective July 1, 1986.

A. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund is to be remitted with the cost report, or in cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS will immediately send the first demand letter requesting a lump sum refund. Recovery will be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

B. Payment schedule.

If the provider cannot refund the total amount of the overpayment within 30 days after receiving the letter, the provider ~~should~~ can immediately request an extended repayment schedule. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment. If a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services may approve a repayment schedule of up to 36 months.

DMAS will ~~it must~~ offset any money owed to the provider prior to establishing a extended repayment plan and at any time during which an extended repayment schedule is in place. When a repayment schedule is used to recover only part of an overpayment, the remaining amount should be recovered by the reduction of interim payments to the provider or by lump sum payments.

There cannot be more than one extended repayment schedule in place at a time. If, during the time an extended repayment schedule is in effect, the provider withdraws from the program or fails to file a cost report in a timely manner the outstanding balance will become immediately due and payable.

C. Extension request documentation.

In the request for an extended repayment schedule the provider must document ~~its~~ the need for ~~extended~~ an extension beyond 30 days repayment and submit a written proposal scheduling the dates and amounts of repayments. DMAS will send the provider written notification of the approved repayment schedule, which will be in effect

from the date the provider submits the proposal. If an audit later uncovers an additional overpayment, the full amount will be repaid within 30 days unless the provider ~~must submit~~ submits further documentation if ~~it~~ he wishes to request ~~an~~ a modification to the extended repayment schedule for the additional amount.

D. Interest charge on extended repayment.

Once a determination of overpayment has been made, the department shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. Interest will be charged to the provider at the rate specified in § 32.1-313 of the Code of Virginia on the unpaid balance of the approved repayment schedule. Interest will accrue from the date the overpayment is determined. In the event the provider disputes in whole or in part the department's determination of an overpayment, interest will not be charged or accrued on any overpayment being appealed by the provider during the period of the program's administrative review. Interest will be charged on any unpaid balance from the date of the director's final administrative determination.

In any case in which any initial determination of overpayment has been reversed in a subsequent agency or judicial proceeding, the provider shall be reimbursed that portion of the payment to which he is entitled, plus any applicable interest paid.

VR 460-02-4.192.

Air Ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special emergency transportation	Rate set by the single state agency

j. Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this plan.

k. Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

l. Refund of overpayments:

(1) Fee-for-service providers.

(a) When DMAS determines an overpayment has been made to a provider, DMAS will immediately

## Proposed Regulations

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send the first demand letter requesting a lump sum refund. Recovery will be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the letter, the provider can immediately request an extended repayment schedule. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment. If a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services may approve a repayment schedule of up to 36 months.

DMAS will offset any money owed to the provider prior to establishing an extended repayment schedule and at any time during which an extended repayment schedule is in place. When a repayment schedule is used to recover only part of an overpayment, the remaining amount should be recovered by the reduction of interim payments to the provider or by lump sum payments. There cannot be more than one extended repayment schedule in place at a time. If, during the time an extended repayment schedule is in effect, the provider withdraws from the program, the outstanding balance will become immediately due and payable.

(c) In the request for an extended repayment schedule, the provider must document the need for an extension beyond 30 days repayment and submit a written proposal scheduling the dates and amounts of repayments. The program will send the provider written notification of the approved repayment schedule, which will be in effect from the date the provider submits the proposal. If an audit later uncovers an additional overpayment, the full amount will be repaid within 30 days unless the provider submits further documentation if he wishes to request a modification to the extended repayment schedule for the additional amount.

(d) Once a determination of overpayment has been made, the department shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. Interest will be charged to the provider at the rate specified in § 32.1-313 of the Code of Virginia on the unpaid balance of the approved repayment schedule. Interest will accrue from the date the overpayment is determined. In the event the provider disputes in whole or in part the department's determination of an overpayment, interest will not be charged or accrued during the period of the program's administrative review. Interest will be charged on any unpaid balance from the date of the director's final administrative determination. In any case in which any initial determination of overpayment has been reversed in a subsequent agency or judicial proceeding, the provider shall be reimbursed that

portion of the payment to which he is entitled, plus any applicable interest paid.

(2) Providers reimbursed on the basis of reasonable costs:

(a) When the provider files a cost report indicating that an overpayment has occurred, full refund is to be remitted with the cost report, or, in cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS will immediately send the first demand letter requesting a lump sum refund. Recovery will be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the letter, the provider can immediately request an extended repayment schedule. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment. If a provider can demonstrate severe financial hardship (such as in potential bankruptcy), the Director of the Department of Medical Assistance Services may approve a repayment schedule of up to 36 months. DMAS will offset any money owed to the provider prior to establishing an extended repayment schedule and at any time during which an extended repayment schedule is in place. When a repayment schedule is used to recover only part of an overpayment, the remaining amount should be recovered by the reduction of interim payments to the provider or by lump sum payments. There cannot be more than one extended repayment schedule in place at a time. If, during the time an extended repayment schedule is in effect, the provider withdraws from the program or fails to file a cost report in a timely manner, the outstanding balance will become immediately due and payable.

(c) In the request for an extended repayment schedule the provider must document the need for extended (beyond 30) days repayment and submit a written proposal scheduling the dates and amounts of repayments. The program will send the provider written notification of the approved repayment schedule, which will be in effect from the date the provider submits the proposal. If an audit later uncovers an additional overpayment, the full amount will be repaid within 30 days unless the provider submits further documentation if he wishes to request a modification to the extended repayment schedule for the additional amount.

(d) Once a determination of overpayment has been made, the department shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. Interest will be charged to the provider at the rate specified in § 32.1-313 of the Code of Virginia on the unpaid balance of the approved repayment schedule. Interest will accrue from the date the overpayment is determined. In the event the provider disputes in

*whole or in part the department's determination of an overpayment, interest will not be charged or accrued during the period of the program's administrative review. Interest will be charged on any unpaid balance from the date of the director's final administrative determination. In any case in which any initial determination of overpayment has been reversed in a subsequent agency or judicial proceeding, the provider shall be reimbursed that portion of the payment to which he is entitled, plus any applicable interest paid.*

VR 460-03-4.193.

## PART XV. REFUND OF OVERPAYMENTS.

### § 15.1. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund is to be remitted with the cost report, or, in cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS will immediately send the first demand letter requesting a lump sum refund. Recovery will be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

### § 15.2. Payment schedule.

If the provider cannot refund the total amount of the overpayment within 30 days after receiving the letter, the provider should immediately request an extended repayment schedule. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment. *If a provider demonstrates that repayment within a 12-month period would create severe financial hardship, he may ask the DMAS director to approve a longer period of extended repayment, not to exceed 36 months.*

~~It must~~ DMAS will offset any money owed to the provider prior to establishing ~~a~~ an extended repayment plan and at any time during which an extended repayment schedule is in place. When a repayment schedule is used to recover only part of an overpayment, the remaining amount should be recovered by the reduction of interim payments to the provider or by lump sum payments.

*There cannot be more than one extended repayment schedule in place at a time. If, during the time an extended repayment schedule is in effect, the provider withdraws from the program or fails to file a cost report in a timely manner the outstanding balance will become immediately due and payable.*

### § 15.3. Extension request documentation.

*In the request for an extended repayment schedule the provider must document ~~its~~ the need for extended (beyond*

30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. DMAS will send the provider written notification of the approved repayment schedule, which will be in effect from the date the provider submits the proposal. If an audit later uncovers an additional overpayment, *the full amount will be repaid within 30 days unless the provider must submit further documentation if ~~it~~ he wishes to request ~~an~~ a modification to the extended repayment schedule for the additional amount.*

### § 15.4. Interest charge on extended repayment.

*Once a determination of overpayment has been made, the department shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. Interest will be charged to the provider at the rate specified in § 32.1-313 of the Code of Virginia on the unpaid balance of the approved repayment schedule. Interest will accrue from the date the overpayment is determined. In the event the provider disputes in whole or in part the department's determination of an overpayment, interest will not be charged or accrued on any overpayment being appealed by the provider during the period of DMAS' administrative review. Interest will be charged on any unpaid balance from the date of the director's final administrative determination.*

In any case in which any initial determination of overpayment has been reversed in a subsequent agency or judicial proceeding, the provider shall be reimbursed that portion of the payment to which he is entitled, plus any applicable interest paid.

## STATE WATER CONTROL BOARD

**Title of Regulation:** VR 680-14-02. Policy for Nutrient Enriched Waters - Water Quality Standards.

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

**Public Hearing Dates:**

January 11, 1988 - 2 p.m.

January 13, 1988 - 7 p.m.

January 14, 1988 - 2:30 p.m.

(See Calendar of Events section for additional information)

**Background:**

*Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water*

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supply.

## Summary:

The State Water Control Board recognizes that the quality of the state's surface waters, particularly those in the Chesapeake Bay drainage area, are being affected by the presence of excessive quantities of nutrients. Therefore, the board is proposing a water quality standard for designating as "nutrient enriched waters" those surface waters of the Commonwealth showing evidence of degradation attributable to the presence of excessive amounts of nutrients. A policy is also proposed for the control of certain discharges of phosphorus from point sources affecting state waters that have been designated as "nutrient enriched waters" in the proposed standard.

VR 680-14-02. Policy for Nutrient Enriched Waters - Water Quality Standards.

### § 1. Purpose.

This policy provides for the control of discharges of phosphorus from point sources affecting state waters that have been designated "nutrient enriched waters" in VR 680-21-07.03.

### § 2. Authority.

The board has adopted this policy under the authority of §§ 62.1-44.15(3), 62.1-44.15(10) and 62.1-44.15(14) of the Code of Virginia.

### § 3. Strategy for "nutrient enriched waters."

As specified herein, the board shall reopen the NPDES permits of certain point source dischargers to "nutrient enriched waters" and shall impose effluent limitations on phosphorus in the discharges authorized by those permits and certain new permits.

A. All dischargers authorized by NPDES permits issued on or before July 1, 1988, to discharge 1 MGD or more to "nutrient enriched waters" shall be required to meet a monthly average total phosphorus effluent limitation of 2 mg/liter as quickly as possible and in any event within three years following modification of the NPDES permit.

B. All dischargers to nutrient enriched waters who at the time of designation of the "nutrient enriched waters" are subject to effluent limitations more stringent than 2 mg/liter monthly average total phosphorus shall be required to continue to meet the more stringent phosphorus limitation.

C. All new source dischargers as defined in Regulation 6 with a permit issued after July 1, 1988 and a design flow greater than or equal to 0.05 MGD who propose to discharge to "nutrient enriched waters" shall be required to meet a monthly average total phosphorus effluent

limitation of 2 mg/liter.

§ 4. A discharge of phosphorus to surface waters of the Commonwealth may be deemed to pose a threat to the environment pursuant to § 6.51(d)(4) of Regulation No. 6.

§ 5. The board anticipates that, following implementation of the foregoing requirements and evaluation of effects of this policy and of the results of the nonpoint source control programs, further limitations on discharges of phosphorus or of other nutrients may be necessary to control undesirable growths of aquatic plants.

§ 6. The board may entertain petitions from adjoining states to consider rulemakings to control nutrients entering tributaries to "nutrient enriched waters" of the adjoining state.

\* \* \* \* \*

Title of Regulation: VR 680-14-03. Toxics Management Regulation.

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

### Public Hearing Dates:

January 11, 1988 - 7 p.m.

January 13, 1988 - 2:30 p.m.

January 14, 1988 - 7 p.m.

(See Calendar of Events section for additional information)

### Summary:

The proposed Toxics Management Regulation will control the discharge of toxic pollutants to surface waters to ensure that no toxics are released in toxic amounts. Certain holders of National Pollutant Discharge Elimination System (NPDES) permits and no-discharge certificates would be required to conduct chemical and biological monitoring to evaluate effluent toxicity. Those discharges which fail to pass established toxicity screening criteria will be required to conduct toxicity reduction evaluations and implement some action to bring the effluent into compliance with the screening criteria.

### Scope and Purpose:

This regulation is established for the purpose of controlling the levels of toxic pollutants in surface waters discharged from all sources holding NPDES permits or No-Discharge certificates issued pursuant to applicable State Water Control Board regulations. The goal of this regulation is to assure that toxic pollutants are not present in surface waters at levels which are causing or may cause toxicity. This regulation is designed to provide standards and procedures by which the permittee shall minimize, correct or prevent any discharge of toxic pollutants

which have a reasonable likelihood of adversely affecting human health or the environment.

VR 680-14-02. Toxics Management Regulation.

## § 1. Definitions.

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

"Acute toxicity" means an effect that usually occurs shortly after the administration of either a single dose or multiple doses of a pollutant. Lethality to an organism is the usual measure of acute toxicity. Where death is not easily detected immobilization is considered equivalent to death. Discharges shall be considered acutely toxic if the LC50 in approved tests is less than 100% effluent.

"Biological monitoring or biomonitoring" means the repeated measurement of physiological responses of organisms and/or their systems to environmentally induced conditions. These may include:

1. The determination of the effects on aquatic life, including accumulation of pollutants in tissue, in state waters due to the discharge of pollutants by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and at appropriate frequencies and locations.

2. The use of acute and chronic tests which directly measure effluent toxicity to aquatic organisms.

These toxicity tests can be used to identify toxic discharges and may help establish effluent limits for permits.

"Chronic toxicity" means an effect that is irreversible or progressive or occurs because the rate of injury is greater than the rate of repair during prolonged exposure to a pollutant. This includes low level, long-term effects such as reduction in growth or reproduction.

"Clean Water Act" or "Act" means 33 USC § 1251 et. seq.

"Discharge" means, when used without qualification, a discharge of a pollutant or any addition of any pollutant or combination of pollutants to state waters or waters of the contiguous zone or ocean other than discharge from a vessel or other floating craft when being used as a means of transportation.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates or concentration of pollutants which are discharged from point sources into state waters.

"Instream waste concentration (IWC)" means the percentage of effluent which occurs in the receiving waterbody after mixing.

"LC50" means the concentration of a toxic pollutant or effluent, expressed as percent volume, that is lethal to 50% of the test organisms within the prescribed period of time.

"Mixing" means the process by which an effluent is incorporated into the receiving waterbody. The following shall be considered when determining effluent mixing:

1. When calculating instream waste concentration, complete mixing will be assumed for discharges to streams, rivers, and riverine estuaries, unless site specific information indicates that other than complete mixing is more appropriate.

2. The critical stream flows to be used shall be the 7 day-10 year low flow value when considering protection of aquatic life and the 30 day-5 year low flow when consideration is for protection of human health effects.

3. For discharges to lakes, estuarine embayments and the open ocean, specific data on waste dispersion will be applied, when available, and where appropriate to the specific discharge situation. Where waste dispersion data are not available, a dilution ratio of 50:1 shall be applied unless the permittee conducts dispersion studies to support another dilution ratio. Protocols for any permittee conducted dispersion study shall be submitted to, and approved by, the board staff prior to study initiation.

4. Toxic pollutants are considered to be conservative when calculating instream waste concentration. A conservative substance is one which enters the water column and persists in downstream segments of the water column unaffected by reactive or mechanical forces.

"National Pollutant Discharge Elimination System (NPDES) Permit" means a permit issued by the board, pursuant to Board Regulation No. 6, authorizing, under prescribed conditions the potential or actual discharge of pollutants from a point source to state waters.

"No-Discharge Certificate" means a permit issued by the board pursuant to Board Procedural Rule Number 2, authorizing under prescribed conditions, management of pollutants or activities that are not point source discharges to surface waters or that are not point source discharges to ground water. No-Discharge Certificates may be utilized to authorize land application of wastewater or sludge or the complete reuse and recycle of wastewater.

"No observed effect concentration (NOEC)" means the highest concentration of toxic pollutant or the highest percentage, by volume, of an effluent to which organisms

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are exposed in a full life cycle or partial life cycle test, which causes no statistically significant adverse effect on the observed parameters (usually survival and growth or reproduction).

"Permit" means a No-Discharge Certificate or NPDES permit issued by the board pursuant to applicable board regulations, the Law and the Act.

"Permittee" means any owner or operator who has a currently effective permit issued by the board.

"Point source" means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land.

"State Water Control Law (Law)" means Chapter 3.1 of Title 62.1 (§ 62.1-44.2 et. seq.) of the Code of Virginia.

"State waters" means all water, on the surface and below the ground, wholly or partially within or bordering the state or within its jurisdiction.

"Toxic pollutant" means any pollutant including, but not limited to, those listed under § 307(a) of the Act which after discharge will, on the basis of available information, cause toxicity.

"Toxicity" means acute or chronic effects to aquatic life, bioaccumulation of pollutants in the tissues of aquatic organisms at levels which result in potential harm to the organism or pose a risk to organisms in the food chain, or detrimental effects on human health.

## § 2. General provisions.

Whenever NPDES permits or No-Discharge Certificates for discharges to surface waters are issued, reissued or modified, a determination of the need for toxics management shall be made. This regulation does not apply to discharges to wells or to groundwater. The initial step of toxics management shall be a program of biological and chemical monitoring for toxic pollutants. The purpose of this monitoring program shall be to develop the data required for establishing water quality based effluent limitations and assessing the extent of effluent toxicity. Further toxics management activities, to include toxicity reduction if needed, shall be required in the permit for discharges that fail to meet the criteria of § 4.

### A. Applicability.

The board shall require any permittee who has a discharge that falls into one or more of the following categories to conduct toxics monitoring:

1. A discharge which is known to be toxic, as defined in § 4 below, or contains toxic pollutants.

2. Any industry that falls into one of the Standard Industrial Classification (SIC) Codes identified in Appendix A.

3. Any industry with wastewater flow greater than 50,000 gpd.

4. Publicly Owned Treatment Works (POTW's) with flow greater than IMGD.

5. Any POTW with a pretreatment program.

6. Any other discharge that the board deems has the potential for toxicity or instream impact based on an evaluation of manufacturing processes, indirect discharges, treatment processes, effluent or receiving stream data, or other relevant information.

### B. Exemptions to toxics management.

Exemptions to toxics management, except in cases of acute toxicity, may be granted on a case-by-case basis upon successful demonstration of a socio-economic hardship pursuant to 40 CFR § 131.10(g)(6) (1986).

### C. Permit reopening.

Whenever the board determines that a facility has the potential for toxicity or instream impact based on an evaluation of manufacturing processes, treatment processes, effluent or receiving stream data, or other relevant information, the board may modify the permit to include a special condition for the collection of the data required in § 3 instead of waiting for a separate reissuance or modification action.

## § 3. Toxics monitoring program.

### A. Testing requirements.

Each permitted outfall shall be tested in the prescribed manner. Technical assistance in determining appropriate procedures for these tests may be provided by the board staff. Test protocol, including sampling requirements, shall be approved by the board staff prior to initiation of testing. All data shall be generated within the quality assurance/quality control specifications of the test protocol.

### B. Data requirements.

All dischargers identified under § 2 shall be required to obtain and report the following monitoring data.

1. Chemical analyses conducted on 24 independent effluent samples collected monthly or semi-monthly over a period not to exceed two years. Compounds to be analyzed shall be ammonia and chlorine residual

(if used in treatment process) and those identified as believed present by municipal applicants in Section II Form A Item 15, or those required to be tested by industrial applicants on Form 2C Item V Part C of the NPDES permit application. Chemical analyses shall be conducted with approved methods.

2. Acute effluent toxicity tests conducted three times over a one-year period on each of two species of aquatic organisms (one vertebrate and one invertebrate), as specified by the board staff. The toxicity tests shall be conducted in such a manner and at sufficient dilution to allow calculation of a valid LC50.

3. Chronic effluent toxicity tests conducted three times over a one-year period on the species of aquatic organism which exhibited the most sensitivity during the acute toxicity tests conducted under subparagraph 2 above, or other species approved by the board staff. The tests shall be designed to determine the no observed effect concentration of the effluent on survival and growth or reproduction of the test organism.

4. High performance liquid chromatography analyses conducted on one effluent sample collected each quarter over a one-year period. These tests shall provide data suitable for determination of the presence of compounds exhibiting a log octanol/water partition coefficient greater than 3.5.

5. Gas chromatography/mass spectrometry analyses of the four independent effluent samples collected under paragraph 4 above. These analyses shall be conducted for the purpose of identifying compounds, whether listed under § 307 (a) of the Act or not, which were either not analyzed for or not listed as believed present in the analyses conducted under paragraph 1 above.

Modifications to these requirements may be allowed on a case-by-case basis where the specific conditions of the discharge and/or receiving stream indicate that a full scale toxics monitoring program is not necessary to establish the toxicity of an effluent.

#### § 4. Effluent toxicity decision criteria.

If the following screen is passed, the effluent shall be considered to be nontoxic. If the effluent fails to meet any one of these criteria, it shall be deemed toxic and the permittee shall be required to proceed to the toxicity reduction evaluation as described in § 5.

1. LC50 greater than 100%.
2. NOEC greater than instream waste concentration (IWC).
3. No compounds with a log octanol/water partition

coefficient greater than 3.5 discharged.

4. No instream exceedence of water quality standards or criteria for protection of aquatic life or human health, where applicable.

#### § 5. Toxicity reduction or elimination measures.

##### A. Imposition.

The board shall impose effluent toxicity reduction or elimination measures determined to be necessary as a result of the board's evaluation of the results of the toxics monitoring and other available information.

##### B. Procedures.

Upon notification by the staff (executive director) that a discharge is determined to be toxic by the criteria set forth in § 4 above, the permittee shall begin to develop a toxicity reduction evaluation plan. The goal of the plan shall be to bring the effluent into compliance with the decision criteria set forth in § 4.

1. A comprehensive toxicity reduction plan shall be submitted to the board for approval within 90 days of notification that a discharge is determined to be toxic.

2. The plan shall be reviewed by the board staff to determine whether it provides for a prompt and thorough examination of the causes of effluent toxicity and the alternatives for toxicity abatement. If the plan is inadequate, it shall be returned to the permittee with a written explanation of deficiencies which must be corrected within 45 days. If at the end of that time the permittee has not submitted an acceptable toxicity reduction evaluation plan, the board shall find the permittee in violation of the NPDES permit or No-Discharge Certificate and shall impose a toxicity reduction evaluation plan schedule either through an enforcement action or as a modification of the NPDES permit or No-Discharge Certificate.

3. Upon approval of the plan by the staff (executive director), the permittee shall conduct the evaluation according to the plan and schedule.

4. Upon completion of the evaluation, the permittee shall submit a final report to the board which provides detailed descriptions and results of all work done during the evaluation as well as a recommendation for implementing the preferred reduction/elimination alternative. The final report shall also contain a proposed schedule for implementation of the selected alternative. If the report is inadequate, it shall be returned to the permittee with a written explanation of deficiencies which must be corrected within 45 days. If at the end of that time the permittee has not submitted an acceptable toxicity



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reduction evaluation report, the board shall find the permittee in violation of the NPDES permit or No-Discharge Certificate and shall impose a toxicity reduction schedule either through an enforcement action or as a modification of the NPDES permit or No-Discharge Certificate.

5. Upon approval of the final report and the implementation schedule, the NPDES permit or No-Discharge Certificate shall be modified to include any applicable water quality based limitations and a compliance schedule if needed. The permittee shall then conduct the necessary work to bring the discharge into compliance with the goals established for the toxicity reduction evaluation.

## C. Required plan contents.

The toxicity reduction evaluation plan submitted under § 5.B.1 shall contain, at a minimum, the methods the permittee shall use to identify the sources of effluent toxicity, the tests to be used to confirm that these are the toxic pollutants in the effluent, a discussion of alternatives to reduce or eliminate the presence of these compounds in the effluent, and a schedule for conducting the evaluation. The plan may also include, at the permittee's option, provisions for conduct of instream studies as outlined in § 5.D.

## D. Instream impact studies.

As an initial step in the toxicity reduction evaluation, a permittee may conduct field studies to define the extent of toxicity and bioaccumulation impact that actually occurs to aquatic life in the receiving stream. These studies shall be conducted at stream flows which are as close as practicable to the critical flow of the receiving stream. Protocols for these studies shall be approved by the board staff prior to their initiation.

Where the results of these studies demonstrate conclusively that there is, or would be, no impact on aquatic life or human health from the discharge, the requirement for chronic toxicity or bioaccumulation reduction or elimination shall be dropped.

This exemption shall in no way be applied to a requirement to control acute effluent toxicity.

A permittee may conduct a site-specific standards/criteria modification to demonstrate that statewide safe levels do not apply to the receiving stream in question due to local water quality peculiarities or other site-specific factors. These studies shall be conducted in accordance with guidelines set-forth in the Water Quality Standards.

## § 6. Effluent limitation determinations.

### A. Purpose.

Water quality based effluent limitations for toxic pollutants shall be established whenever necessary to assure that effluents meet the decision criteria of § 4.

### B. Basis of limitations.

Limitations for toxic pollutants shall be determined by the board using appropriate scientific data in comparison with any duly adopted Water Quality Standards.

A strict nondegradation policy shall be applied to state waters designated in the Water Quality Standards as high quality resource waters or special use designation waters. These shall include, but are not limited to, waters of parks and wildlife refuges, scenic rivers, natural trout waters, public water supplies and the habitats of threatened or endangered species.

### C. Limitations development.

1. Water quality based effluent limitations shall be developed for toxic pollutants if 20% of these 24 data points developed in effluent monitoring (§ 3.B.1) for any toxic pollutant lead to values which indicate violation of the standards or criteria after mixing and compliance with technology-based permit limitations would not prevent such violations.

Technology-based limitations shall be considered adequate for protection of water quality if the data generated in § 3.B.1 indicate that violations would occur less than 20% of the time.

2. Water quality based limitations may be developed, or the use of toxicity tests may be relied upon, to determine safe levels of toxic pollutants for which standards or criteria do not exist but were identified during monitoring under § 3.B.1 or 3.B.5 above.

## § 7. Public comment and hearings.

Any modifications of NPDES permits or No-Discharge Certificates resulting from the toxics management program shall not be deemed "minor" modifications and shall conform to the requirements contained in the board's Regulation No. 6 section entitled "Public Comment and Hearings."

\* \* \* \* \*

**Title of Regulation:** VR 680-21-07. Special Standards and Designations - Water Quality Standards.

**Statutory Authority:** § 62.1-44.15(3) of the Code of Virginia.

### Public Hearing Dates:

January 11, 1988 - 2 p.m.

January 13, 1988 - 7 p.m.

January 14, 1988 - 2:30 p.m.

(See Calendar of Events section for additional information)

## Background:

Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

## Summary:

The State Water Control Board recognizes that the quality of the state's surface waters, particularly those in the Chesapeake Bay drainage area, are being affected by the presence of excessive quantities of nutrients. Therefore, the board is proposing a water quality standard for designating as "nutrient enriched waters" those surface waters of the Commonwealth showing evidence of degradation attributable to the presence of excessive amounts of nutrients. A policy is also proposed for the control of certain discharges of phosphorus from point sources affecting state waters that have been designated as "nutrient enriched waters" in the proposed standard.

VR 680-21-07. Special Standards and Designations - Water Quality Standards.

### *§ 1. Purpose.*

The board recognizes that nutrients are contributing to undesirable growths of aquatic plant life in surface waters of the Commonwealth. This standard establishes a designation of "nutrient enriched waters."

### *§ 2. Authority.*

This standard is adopted under the authority of §§ 62.1-44.15(3) and 62.1-44.15(10) of the Code of Virginia.

### *§ 3. Designation of nutrient enriched waters.*

A. The following state waters are hereby designated as "nutrient enriched waters":

1. Smith Mountain Lake and all tributaries of the impoundment upstream to their headwaters.
2. Lake Chesdin from its dam upstream to where the Route 360 bridge (Goodes Bridge) crosses the Appomattox River, including all tributaries to their headwaters that enter between the dam and the Route 360 bridge.
3. South Fort Rivanna Reservoir and all tributaries of the impoundment upstream to their headwaters.
4. Peak Creek from its headwaters to its mouth

(confluence with Claytor Lake), including all tributaries to their headwaters.

5. Aquia Creek from its headwaters to the state line.
6. Fourmile Run from its headwaters to the state line.
7. Hunting Creek from its headwaters to the state line.
8. Little Hunting Creek from its headwaters to the state line.
9. Gunston Cove from its headwaters to the state line.
10. Belmont Bay from its headwaters to the state line.
11. Potomac Creek from its headwaters to the state line.
12. Neabsco Creek from its headwaters to the state line.
13. Williams Creek from its headwaters to its confluence with Lower Machodoc Creek.
14. Tidal freshwater Rappahannock River from the fall line to Buoy 44, near Leedstown, Virginia, including all tributaries (but excluding the mainstem of the Rappahannock River itself) to their headwaters that enter the tidal freshwater Rappahannock River.
15. Estuarine portion of the Rappahannock River from Buoy 44, near Leedstown, Virginia, to the mouth of the Rappahannock River (Buoy 6), including all tributaries to their headwaters that enter the estuarine portion of the Rappahannock River.
16. Estuarine portion of the Mattaponi River from Clifton, Virginia, and estuarine portion of the Pamunkey River from Sweet Hall Landing, Virginia to West Point, Virginia, and the York River from West Point, Virginia, to the mouth of the York River (Tue Marsh Light) including all tributaries to their headwaters that enter the estuarine portions of the Mattaponi River (but excluding the mainstem of the Mattaponi River itself), the Pamunkey River (but excluding the mainstem of the Pamunkey River itself) and the York River.
17. Tidal freshwater James River from the fall line to the confluence of the Chickahominy River (Buoy 70) including all tributaries (but excluding the mainstem of the James River itself) to a distance five river miles above their fall lines that enter the tidal freshwater James River.
18. Estuarine portion of the James River from its confluence with the Chickahominy River (Buoy 70) to the mouth of the James River (Buoy 25), including all

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tributaries to their headwaters.

19. Chesapeake Bay and its small coastal basins from the Virginia state line to the mouth of the Bay (a line from Cape Henry drawn through Buoys 3 and 8 to Fishermans Island), and its tidal tributaries listed above, and the Mattaponi River upstream of Clifton, Virginia, and the Pamunkey River upstream of Sweet Hall Landing, Virginia.

B. Whenever any water body is designated as "nutrient enriched waters," the board shall modify the NPDES permits of point source dischargers into the "nutrient enriched waters" as provided in the board's Policy for Nutrient Enriched Waters (VR 680-14-02).

\* \* \* \* \*

**Title of Regulation:** VR 680-21-08. River Basin Section Tables - Water Quality Standards.

**Statutory Authority:** § 63.1-44.15(3) of the Code of Virginia

**Public Hearing Dates:**

January 11, 1988 - 11:30 a.m.  
 January 13, 1988 - 2 p.m.  
 January 14, 1988 - 2 p.m.  
 (See Calendar of Events section for additional information)

**Background:**

Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

Section 62.1-44.15(3) of the Code of Virginia authorizes the 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 or policies established. Such revised standards shall be adopted only after a hearing is held and the board takes into consideration the economic and social costs and benefits which can reasonably be expected to be obtained as a result of the standards as adopted, modified, or cancelled.

**Summary:**

The proposed amendment establishes as public water supplies under the requirements for public water supplies in the Water Quality Standards those waters serving as water supplies for Austinville, Tazewell, Wintergreen, Fort Monroe and the Quantico Marine

Corps Base. The basin and table descriptions are amended to designate these waters as public water supplies.

VR 680-21-08. River Basin Tables - Water Quality Standards.

Proposed Water Quality Standards Amendments  
Public Water Supplies to be Added to Water Quality Standards.

VR 680-21-08.4 POTOMAC RIVER BASIN  
 Potomac River Subbasin

SEC. SECTION DESCRIPTION CLASS SP.STDS.

5b Chopawamsic Creek and III PWS,b  
 its tributaries above  
 the Quantico Marine Base  
 water supply dam intakes  
 at the Gray and Breckenridge  
 Reservoirs to their headwaters.

VR 680-21-08.7 JAMES RIVER BASIN  
 (MIDDLE)

SEC. SECTION DESCRIPTION CLASS SP.STDS.

10q Allen Creek and its III PWS  
 tributaries from the  
 Wintergreen Mtn. Village's  
 raw water intake at Lake  
 Monocan to a point 5 miles  
 upstream.

VR 680-21-08.17 CHESAPEAKE BAY,  
 ATLANTIC OCEAN AND  
 SMALL COASTAL BASINS

SEC. SECTION DESCRIPTION CLASS SP.STDS.

2f Brick Kiln Creek and III PWS  
 its tributaries from  
 Fort Monroe's raw water  
 intake (at the Big Bethel Reservoir)  
 to a point 5 miles upstream.

VR 680-21-08.19 NEW RIVER BASIN

SEC. SECTION DESCRIPTION CLASS SP.STDS.

11 Cox Branch and its VI PWS  
 tributaries from ii  
 Tazewell's raw water  
 intake at the Tazewell  
 Reservoir (river mile 1.6)  
 to its headwaters.

- 21      New River and its                      IV            PWS  
tributaries from  
inclusive of the Austinville  
Water and Sewer Authority's  
intake, New Jersey Zinc Company's  
raw water intake, to a point  
5 miles upstream, including  
Powder Mill Branch and its  
tributaries from and the Wythe-  
Bland Water Authority's Ivanhoe  
raw water intake to a point  
points 5 miles upstream  
above the intakes .

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**Title of Regulation:** VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

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

**Effective Date:** January 1, 1988

**NOTICE FROM THE REGISTRAR OF REGULATIONS** The changes in the Virginia Gypsy Moth Quarantine Regulated Areas has been issued by the Commissioner of Agriculture and Consumer Services pursuant to the authority granted under § 3.1-188.23 of the Code of Virginia. The changes in the regulated areas become effective January 1, 1988.

Section 9-6.14:4.1 of the Code of Virginia provides that certain actions taken by an agency are not subject to the public participation requirements of the Administrative Process Act. Therefore, the amended regulated areas were established without the public procedures prescribed in the Administrative Process Act. The Department of Agriculture and Consumer Services will receive, consider and respond to petitions by any interested persons at any time with respect to reconsideration or revision of this amended regulation.

### Summary:

*By the authority granted under § 3.1-188.23 of the Code of Virginia, the Commissioner of the Virginia Department of Agriculture and Consumer Services hereby extends the regulated areas under the Virginia Gypsy Moth Quarantine due to the detection of larvae and other life stages and the past history of the gypsy moth in areas not currently under regulation. The current regulated area (northern 1/3 of the state) is changed by the addition of two counties and two independent cities, and by the addition of the remaining part of one county and one independent city, portions of which were previously regulated.*

*All other parts of the Virginia Gypsy Moth Quarantine will remain unchanged.*

VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

### § 1. Definitions.

The following words and terms, when used in these

regulations, shall have the following meaning, unless the context clearly indicates otherwise:

*"Associated equipment"* means articles associated with mobile homes and recreational vehicles such as, but not limited to : awnings, tents, outdoor furniture, trailer blocks, LP gas containers, and trailer skirts.

*"Compliance agreement"* means a written agreement between a person engaged in growing, handling, or moving regulated articles, and the VDACS, U.S. Department of Agriculture (USDA), or both, wherein the former agrees to comply with the requirements of the compliance agreement.

*"Gypsy moth"* means the insect "Lymantria dispar" (Linnaeus) in any living stage.

*"Hazardous recreational vehicle site"* means any site where a recreational vehicle is, or may be parked, which is determined by an inspector to harbor populations of gypsy moth that could be spread by movement of recreational vehicles or associated equipment.

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

*"Mobile home"* means any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

*"Outdoor household articles"* means articles associated with a household that have been kept outside the home, including but not limited to outdoor furniture, barbeque grills, building materials, children's play things, yard items, trash cans, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

*"Recreational vehicles"* means highway vehicles, including pickup truck campers, one-piece motor homes, and camping or travel trailers, designed to serve as a temporary dwelling.

*"Scientific permit"* means a document issued by the Virginia Department of Agriculture and Consumer Services to authorize movement of regulated articles to a specified destination for scientific purposes.

*"Virginia Pest Law"* means that law set forth in Article 6 (§ 3.1-188.20 et seq.) of Title 3.1 of the Code of Virginia.

### § 2. Regulated articles.

The following articles are regulated under the provisions of this quarantine, and shall not be moved into or within Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Trees with roots, shrubs with roots, and persistent woody stems, except if greenhouse grown throughout the year.
2. Logs and pulpwood, except if moved to a mill operating under a compliance agreement.
3. Firewood.
4. Mobile homes and associated equipment.
5. Recreational vehicles and associated equipment, moving from hazardous recreational vehicle sites and the person in charge of the site has been notified.
6. Cut Christmas trees.
7. Any other products, articles (e.g., outdoor household articles), or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a risk of artificial spread of gypsy moth infestations and the person in possession thereof has been so notified.

### § 3. Regulated areas.

A. Any area of another state or the District of Columbia, whether designated high risk or low risk, in which gypsy moth is known to occur and is so geographically described and regulated by the United States Department of Agriculture under the Gypsy Moth and Brown-tail Moth Quarantine No. 45, or under a state gypsy moth quarantine or other state legislation.

B. The following areas in Virginia:

1. The entire counties of: Accomack, *Albemarle*, Arlington, Caroline, Clarke, Culpeper, Fairfax, Fauquier, *Fluvanna*, Frederick, Gloucester, Goochland, Greene, Hanover, Henrico, King George, Lancaster, Loudoun, Louisa, Madison, Mathews, Middlesex, Northampton, Northumberland, Orange, Page, *Powhatan*, Prince William, Rappahannock, Richmond, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren, Westmoreland, and York.
2. The entire independent cities of: Alexandria, Charlottesville, *Chesapeake*, Fairfax City, Falls Church, Fredericksburg, Hampton, Harrisonburg, Manassas, Manassas Park, Newport News, Norfolk, Poquoson, *Portsmouth*, *Virginia Beach*, Waynesboro, and Winchester.

3. Portions of the following:

a. *Albemarle County* - that portion of the county being north of Interstate 64.

b. *Augusta County* - that portion of the county being east of Interstate 81 and north of Interstate 64.

c. *Virginia Beach* - that portion of the city being north of State Route 44.

3. A portion of the following:

*Augusta County* - that portion of the county being east of Interstate 81 and north of Interstate 64.

§ 4. Conditions governing movement of regulated articles into or within Virginia.

A regulated article may not be moved into or within the state from a regulated area as described in § 3 unless a certificate or permit has been issued and attached to the regulated article in accordance with § 5.

§ 5. Conditions governing the issuance of certificates and permits.

A. Certificates.

Certificates may be issued by an authorized inspector for the movement of the regulated articles designated in § 2 under any of the following conditions when:

1. In the judgement of the inspector, they have not been exposed to infestations;
2. They have been examined by the inspector and found to be free of gypsy moth;
3. They have been treated to destroy gypsy moth under the direction of the inspector and according to methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied;
4. Grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, gypsy moth would not be transmitted by movement of the article.

B. Permits.

Permits may be issued by an authorized inspector for the movement of noncertified regulated articles to specified destinations under conditions specified for limited handling, use, processing, or treatment.

C. Compliance agreement.

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles may be

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required to sign a compliance agreement. The agreement shall stipulate that safeguards will be maintained against the establishment and spread of infestation, and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.

#### D. Use of certificates or permits with shipments.

All regulated articles are required to have a certificate or permit attached when offered for movement. If a certificate or permit is attached to the invoice or waybill, the attachment of a certificate or limited permit to the regulated article will not be required. Certificates or permits attached to the invoice, waybill, or other shipping document, shall be given by the carrier to the consignee at the destination of the shipment, or to an inspector when requested.

#### E. Assembly of articles for inspection.

Persons intending to move any regulated articles shall apply for inspection as far in advance as possible. They shall safeguard the articles from infestation. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.

#### § 6. Cancellation of certificates or permits.

Any certificate or permit which has been issued or authorized will be withdrawn by the inspector if he determines that the holder has not complied with conditions for their use or with any applicable compliance agreement.

#### § 7. Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and gypsy moths as provided in the Virginia Pest Law under which this quarantine is issued.

#### § 8. Shipment for experimental or other scientific purposes.

Any living stage of gypsy moth may be moved intrastate only if such movement is made for scientific purposes under scientific permit from the Virginia Department of Agriculture and Consumer Services, and in accordance with any conditions which may be required in the permit. The permit shall be securely attached to the outside of the shipping container.

#### § 9. Nonliability of the department.

The Virginia Department of Agriculture and Consumer Services shall not be liable for any costs incident to inspections required under the provisions of the quarantine and regulations, other than for the services of the

inspector.

### CRIMINAL JUSTICE SERVICES BOARD

**Title of Regulation:** VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-enforcement Officers, Jailors or Custodial Officers, and Officers of the Department of Corrections, Division of Adult Institutions.

**Statutory Authority:** § 9-170 of the Code of Virginia.

**Effective Date:** January 1, 1988

#### Summary:

*In accordance with the provisions of § 9-170 of the Code of Virginia, the Criminal Justice Services Board has adopted regulations relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers and Officers of the Department of Corrections, Division of Adult Institutions. These regulations will supersede the existing regulations for Law-Enforcement Officers, Jailors or Custodial Officers and Officers of the Department of Corrections, Division of Adult Institutions each being last amended July 11, 1984.*

*The adopted regulations revise the in-service training standards for Law-Enforcement Officers, Jailors or Custodial Officers and Officers of the Department of Corrections, Division of Adult Institutions and set forth operational procedures and administrative requirements for approved training facilities conducting in-service schools. In addition, the regulations establish a 12-month pilot program for in-service testing, require lesson plans for in-service courses, a course of fire for the semi-automatic pistol and a revised and expanded partial in-service credit approval process.*

VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-enforcement Officers, Jailors or Custodial Officers and Officers of the Department of Corrections, Division of Adult Institutions.

*Pursuant to the provisions of § 9-170 of the Code of Virginia, the Criminal Justice Services Board hereby promulgates the following regulations for compulsory in-service training standards for law-enforcement officers, jailors or custodial officers, and officers of the Department of Corrections, Division of Adult Institutions.*

#### § 1. Definitions.

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

*"Board" means the Criminal Justice Services Board.*

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Approved training school" means a training school which provides instruction of at least the minimum training standards as mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"School director" means the chief administrative officer of an approved training school.

"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency, or correctional institution.

"Officer" means a law-enforcement officer, jailor, or custodial officer. Officer within the Department of Corrections means a correctional officer, sergeant, lieutenant, captain, major, facility manager, and facility director.

## § 2. Applicability.

A. Every person employed as a law-enforcement officer, as defined by § 9-169(9) of the Code of Virginia, must meet compulsory in-service training standards as set forth in § 3, Part One, of these regulations.

B. Every person employed as a jailor or custodial officer under the provisions of Title 53.1 of the Code of Virginia, must meet compulsory in-service training standards as set forth in § 3, Part Two, of these regulations.

C. Every person employed as a correctional officer of the Department of Corrections, Division of Adult Institutions, as defined by § 53.1-1 of the Code of Virginia, must meet compulsory in-service training standards as set forth in § 3, Part Three, of these regulations.

## § 3. Compulsory in-service training standards.

Pursuant to the provisions of §§ 9-170(3) and (7) of the Code of Virginia, the board establishes the following as the compulsory in-service training standards for law-enforcement officers, jailors or custodial officers, and officers of the Department of Corrections, Division of Adult Institutions.

### Part One - Law-enforcement Officers

#### A. Mandatory (testing required as set forth in § 7).

Hours

1. Legal training. .... 4

The subjects selected are at the discretion of the approved training school and shall be designated as legal training totaling four hours.

2. Career development. .... 16

The subjects shall enhance the officer's career in law enforcement and shall total 16 hours.

B. Elective (testing optional). .... 20

1. Subjects designated as elective training are at the discretion of the agency administrator or the board of an approved training school. No more than two hours of firearms training will be permitted as elective subjects.

TOTAL.....40

### Part Two - Jailors or Custodial Officers

#### A. Mandatory (testing required as set forth in § 7).

1. Legal Training. .... 4

The subjects selected are at the discretion of the approved training school and shall be designated as legal training totaling four hours.

2. Career development. .... 8

The subjects shall enhance the officer's career as a jailor or custodial officer and shall total eight hours.

B. Elective (testing optional). .... 12

1. Subjects designated as elective training are at the discretion of the agency administrator or the board of an approved training school. No more than two hours of firearms training will be permitted as elective subjects.

TOTAL.....24

### Part Three - Officers of the Department of Corrections

#### A. Mandatory (testing required as set forth in § 7)

1. Legal training. .... 4

The subjects selected are at the discretion of the approved training school and shall be designated as legal training totaling four hours.

2. Career development.

The subjects shall enhance the officer's career as a correctional officer. These hours shall be allocated as follows:

a. Correctional officers



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and sergeants .....	8
b. Lieutenants through facility director .....	16
<b>B. Elective (testing optional).</b>	
1. Subjects designated as elective training are at the discretion of the director of the Department of Corrections or his designee. These hours shall be allocated as follows:	
a. Correctional officers and sergeants .....	12
b. Lieutenants through facility director .....	20
No more than two hours of firearms training shall be permitted as elective subjects.	
TOTAL HOURS FOR CORRECTIONAL OFFICERS AND SERGEANTS .....	24
TOTAL HOURS FOR LIEUTENANTS THROUGH FACILITY DIRECTOR .....	40

**§ 4. Time requirement for completion of training.**

A. Every officer must complete compulsory in-service training by December 31 of the second calendar year following satisfactory completion of the entry-level compulsory minimum training standards and by December 31 of every other calendar year thereafter. The mandatory training must be completed between the period January 1 to December 31 of the calendar year [ in which ] the officer is required to comply, unless provided otherwise in accordance with § 4, subsection C, of these regulations. [ Upon written request of the Director of the Department of Corrections or his designee, in-service training requirement may be completed by attending approved course offerings in each calendar year. The provisions of this section shall be applicable to the positions of Captain through Facility Director within the Department of Corrections. All such written requests shall be approved by the Department of Criminal Justice Services prior to such credit being authorized. ]

B. In-service training schools shall be conducted in no less than four-hour sessions.

C. The director may grant an extension of the time limit for completion of the in-service training. The chief of police, sheriff or agency administrator shall present evidence that the officer was unable to complete the required training within the specified time limit due to illness, injury, military service or special duty assignment required and performed in the public interest. Requests for extension of the time limit must be received prior to the expiration of the normal in-service time limit.

**§ 5. How compulsory minimum training standards may be attained.**

**A. In-service training school.**

1. The in-service training may be obtained by attending and completing an approved in-service training school at an approved academy unless provided otherwise in accordance with § 5, subsection B, of these regulations.

2. Officers attending an approved in-service training school are required to attend all classes and should not be placed on duty or on call except in cases of emergency.

**B. Partial in-service credit.**

1. Individual. Upon written request of the chief of police, sheriff or agency administrator, the director may authorize attendance and successful completion of job-related courses for partial in-service credit. Such request shall be submitted no later than 30 days following the last day of the course. Whenever possible, such request should be submitted prior to the beginning date of the course. Any request for partial in-service credit shall include the name of the sponsoring agency, name and location of the course, and a specific course description which shall include at a minimum the date, time and instructor for each subject included in the course. Attendance shall be documented and records maintained as required by the records retention policy of the department. During the period January 1, 1988, through December 31, 1988, the testing requirement for mandatory hours shall be optional. Any training conducted by a nonapproved [ academy training school ] is exempt from the testing requirement.

All such requests from the Department of Corrections shall be reviewed and endorsed by the training manager prior to being forwarded to the department for consideration.

2. Course. The director may also approve job-related training courses offered by agencies, institutions, or private firms as meeting the requirements to receive partial in-service credit. Requests for such certification shall be submitted 60 days in advance of the conduct of the course on forms provided by the department. Courses meeting the minimum criteria may be approved for one year or until the course content is revised, whichever occurs first. The sponsoring agency shall document attendance and maintain records as required by the records retention policy of the department. The sponsoring agency shall also certify to the agency administrator that the officer successfully completed the course. The department will only consider for approval requests from agencies, institutions, or private firms where there is an indication that criminal justice officers from Virginia

have attended or will attend the course for which approval is requested.

Courses submitted for approval shall meet the minimum number of hours of either the mandatory or elective training sections of the applicable standards. Section 5.B.2 shall not apply to any criminal justice agency or training academy in this Commonwealth.

## § 6. Requirements for in-service training schools.

A. In-service training schools shall be approved by the department prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve those schools which, on the basis of curricula, lesson plans, instructors, facilities, and examinations, provide the required minimum training. A curriculum listing the subjects, instructors, dates and times for the entire proposed training session shall be submitted to the department 30 days prior to the beginning of each such proposed session. An exemption to the 30-day requirement may be granted for good cause shown by the school director.

B. In-service training schools which are approved shall be subject to inspection and reviewed by the department.

C. The department may suspend the approval of an approved in-service training school upon written notice, which shall contain the reason(s) upon which the suspension is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension. The school's director may appeal the director or designee's decision to the board.

D. The department may revoke the approval of any training school upon written notice, which shall contain the reason(s) upon which the revocation is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The school's director may appeal the director or designee's decision to the board.

## § 7. Testing and grading.

A. During the period January 1, 1988, through December 31, 1988, the testing requirements for the mandatory subjects as enumerated in § 3 of these regulations shall be optional. During this period, pilot testing will occur for the mandatory testing requirements set forth in § 3 of these regulations. Appropriate data and research will be collected and analyzed during 1988, with a final decision by the Criminal Justice Services Board, prior to [ ~~December 31, 1988~~ July 1, 1989 ], concerning the mandatory testing requirements as set forth in § 3. Each approved training school is encouraged to begin

implementation of the testing requirement in approved in-service training schools.

B. All tests for mandatory training shall be developed in accordance with the approved lesson plan for each subject. The objectives set forth in each lesson plan shall be tested. Testing may be in the form of written or performance tests.

C. A minimum score of 70% must be attained on all written tests. Performance testing requires satisfactory completion of performance objectives.

D. Approved training schools shall maintain accurate records of all attendance, tests, grades, and testing procedures utilized in in-service training schools. Training records shall be maintained in accordance with §§ 42.1-76 through 42.1-91 of the Code of Virginia.

E. All approved training schools are required to establish and maintain a testing and retesting policy.

F. All sheriffs, chiefs of police, and agency administrators shall be exempted from in-service testing requirements.

## § 8. Firearms training.

Every officer [ required to carry a firearm in the performance of duty ] shall qualify annually using the [ applicable ] firearms course set forth below. With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges. No minimum number of hours is required; only qualification is required.

A. Law-enforcement officers and jailors or custodial officers.

### 1. Handgun

a. Virginia Modified Double Action Course For Revolvers.

Target - Silhouette (B21, B21X, B27)

60 rounds

Double action only

Minimum qualifying score - 70%

Phase 1 : 7 yards, hip shooting, crouch position, 24 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

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Load 6 rounds, fire 12 rounds on whistle (30 seconds)

Phase 2 - 15 yards, point shoulder position, 18 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 6 rounds on whistle (12 seconds)

Phase 3 - 25 yards, 90 seconds, 18 rounds

Load 6 rounds, on whistle:

fire 6 rounds, kneeling, strong hand; reload

fire 6 rounds, standing behind barricade, weak hand;

reload fire 6 rounds, standing behind barricade, strong hand (kneeling position may be fired using barricade)

b. Virginia Modified Double Action Course For Semi-Automatic Pistols.

Target - Silhouette (B-21, B-21X, B-27)

Minimum Qualifying Score - 70%

Each officer is restricted to three magazines when firing course. Regardless of capacity, only six rounds will be loaded in each magazine.

Phase 1 - 7 yards, hip shooting, crouch position

Load 6 round mag., fire 1 round double action on whistle (2 seconds), place on safe, holster, repeat until 6 rounds have been fired

Load 6 round mag., fire 2 rounds double action on whistle (3 seconds), place on safe, holster, repeat until 6 rounds have been fired

Load 6 round mag., fire 1 round double action, fire remaining 5 rounds in conventional manner, reload and repeat procedure until a total of 12 rounds have been fired (20 seconds)

Phase 2 - 15 yards, point shoulder position

Load and holster on command, draw and fire 1 round double action on whistle (2 seconds), place on safe and holster, repeat until 6 rounds have been fired

Load and holster on command, draw and fire 2

rounds double action on whistle (3 seconds), place on safe and holster, repeat until 6 rounds have been fired

Load and holster on command, draw and fire 6 rounds on whistle (8 seconds)

Phase 3 - 25 yards, kneeling and standing position

Load and holster on command, assume kneeling position, draw weapon and fire 1 round, double action, on whistle; fire remaining 5 rounds in conventional manner, reload and fire 6 rounds weak hand, standing, barricade position; reload and repeat procedure, strong hand, standing barricade position, until a total of 18 rounds have been fired (70 seconds)

c. Scoring.

B21, B21X targets - use indicated K value with a maximum 300 points; divide by 3 to obtain percentage

B27 target - 8, 9, 10, x rings - value 5 points 7 ring - value 4 points other hits on silhouette - value 3 points; divide by 3 to obtain percentage

B. Officers of the Department of Corrections, Division of Adult Institutions.

1. Handgun

a. Double Action Combat Course.

Target - Silhouette

60 rounds

Double action only

Minimum qualifying score - 70% (points per hit on silhouette - minimum [ 220 210 ] points out of a possible 300 points)

7 yards - two handed crouch - 6 rounds (one on whistle)

7 yards - two handed crouch - 6 rounds (two on whistle)

7 yards - two handed crouch - 12 rounds (30 seconds from whistle)

15 yards - two handed point shoulder - 6 rounds (one on whistle)

15 yards - two handed point shoulder - 6 rounds (two on whistle)

15 yards - two handed point shoulder - 12 rounds

(30 seconds from whistle)

25 yards - two handed point shoulder - 6 rounds (10 seconds/right hand)

25 yards - two handed point shoulder - 6 rounds (10 seconds/left hand)

C. Law-enforcement officers, jailors or custodial officers and officers of the Department of Corrections, Division of Adult Institutions

## 1. Special weapons.

All agencies whose personnel possess, or have available for immediate use, shotguns or other similar special weapons, shall design and require annually an appropriate familiarization/qualification weapons programs for all applicable personnel. The course, number of rounds to be fired and qualification score shall be determined by the agency or approved training school. Documentation of such familiarization/qualification programs shall be available for inspection by the director or staff.

## § 9. Failure to comply with rules and regulations.

Officers attending approved in-service training schools shall comply with the rules and regulations promulgated by the board and any other rules and regulations within the authority of the school director. The school director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees. If the school director considers a violation of the rules and regulations detrimental to the welfare of the school, the school director may expel the officer from the school. Notification of such action shall immediately be reported in writing to the agency administrator and the director.

## § 10. Administrative requirements.

Reports will be required from the agency administrator and school director on forms approved by the department and at such times as designated by the director.

## § 11. Effective date.

These rules shall be effective on and after January 1, 1988, and until amended or rescinded.

## [ § 12. Adopted:

October 7, 1987 ]

## DEPARTMENT OF HEALTH (STATE 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.

**Effective Date:** January 1, 1988

**REGISTRAR'S NOTICE:** Due to its length, the final 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 existing 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 that prohibits the use of carpets 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.

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13. Clarify the requirement that permits only the traffic of persons essential to the food operation through the food preparation, storage, and utensil-washing areas.

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.

16. Add to the membership of the Food Service Advisory Committee the Virginia Caterers Association, the Virginia Food Dealers Association and Consumer or Civic Organization representative. Delete from membership of FSAC the Department of Labor and Industry and the League of Women Voters.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**NOTICE:** The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

**Title of Regulation:** VR 400-01-0001. Rules and Regulations.

**Statutory Authority:** § 36-35.30:3 of the Code of Virginia.

**Effective Date:** November 1, 1987

### Summary:

The amended rules and regulations (i) permit the issuance of commitments, prior to approval therefor by the authority's Board of Commissioners, for loans of not more than a certain amount to finance housing for mentally disabled persons and (ii) provide that the authority's Board of Commissioners shall establish income limits, other than those now in the rules and regulations, for multi-family units for which the occupant does not pay rent.

Accordingly, the amended rules and regulations provide (i) that for any loan not in excess of \$300,000 which is to finance the development, construction, rehabilitation and/or the ownership and operation of a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled, the executive director may issue a commitment therefor without receiving prior approval of the loan or authorization of the commitment from the authority's Board of Commissioners, provided that in all cases such commitment shall be subject to the approval and ratification by the board and (ii) that for any dwelling unit for which the payments, if any, made in

connection therewith by the occupant or occupants are not, in the determination of the authority's Board of Commissioners, "rent," the board shall establish income limits other than the limits determined based on rent now provided in the rules and regulations for multi-family dwelling units.

VR 400-01-0001. Rules and Regulations.

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

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

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24, et seq.) of Title 36 of the Code of Virginia.

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility under § 1.2 of these rules and regulations for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the procedures,

instructions and guidelines, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the procedures, instructions and guidelines) rather than in the manner provided in the preceding sentence.

**"Applicant"** means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

**"Application"** means a request for an authority mortgage loan or other assistance under the Act.

**"Authority"** means the Virginia Housing Development Authority.

**"Authority mortgage loan" or "mortgage loan"** means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

**"Board"** means the Board of Commissioners of the authority.

**"Dwelling unit"** means a unit of living accommodations intended for occupancy by one person or family.

**"Executive director"** means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

**"Family"** means, in the context of the financing of a single family dwelling unit, two or more individuals related by blood, marriage or adoption, living together on the premises as a single nonprofit housekeeping unit. In all contexts other than the financing of a single family dwelling unit, "family" means two or more individuals living together in accordance with law.

**"FHA"** means the Federal Housing Administration and any successor entity.

**"For-profit housing sponsor"** means a housing sponsor which is organized for profit and may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of the authority.

**"Gross family income"** means the annualized gross income of a person or all members of a family residing or intending to reside in a dwelling unit from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means

gross monthly income multiplied by 12. Gross monthly income is the sum of monthly gross pay; plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income; plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

**"Multi-family dwelling unit"** means a dwelling unit in multi-family residential housing.

**"Nonprofit housing sponsor"** means a housing sponsor which is organized not for profit and may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

**"Person"** means:

1. An individual who is 62 or more years of age;
2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or
3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii) limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

**"Rent"** means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

**"Reservation"** means the official action as evidenced in writing, taken by the authority to designate a specified amount of funds for the financing of a mortgage loan on a single family dwelling unit.

**"Single family dwelling unit"** means a dwelling unit in single family residential housing.

Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

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## § 1.2. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such resolution or procedures, instructions and guidelines shall specify whether the person's or family's income shall be calculated as adjusted family income or gross family income. To be considered eligible for the financing of a single family dwelling unit, a person or family shall not have an adjusted family income or gross family income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross family income, as applicable, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations, lower income limits for occupancy of such dwelling unit ; *and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations .*

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such

other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

## § 1.3. Procedures, instructions and guidelines.

The board may from time to time by resolution establish and modify procedures, instructions and guidelines for the implementation and administration of programs established under these rules and regulations. Such procedures, instructions and guidelines may include and, where deemed appropriate by the board, may authorize the executive director to establish and modify, such requirements, conditions and standards as may be deemed necessary or appropriate for the purpose of implementing and administering such programs, subject to and consistent with the requirements of the Act and these rules and regulations. Upon promulgation, such procedures, instructions and guidelines shall be available to the public upon request.

## § 1.4. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

## § 1.5. Interest rates.

The executive director shall establish the interest rate or rates to be charged to the housing sponsor or person or family in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 1.5 shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

## § 1.6. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

## § 1.7. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal government, the

Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

## § 1.8. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall be required to utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

## § 1.9. Waiver.

The board by resolution may for good cause in any particular case waive or vary any of the provisions of these rules and regulations.

## § 1.10. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

## § 1.11. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.



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## PART II. MULTI-FAMILY RENTAL HOUSING PROGRAM.

### § 2.1. Mortgage loans.

A. This Part II shall govern mortgage loans made by the authority to housing sponsors to finance the development, construction and rehabilitation and/or the ownership and operation of multi-family residential housing. For purposes of this Part II, multi-family residential housing shall include housing developments intended to be owned and operated on a cooperative basis.

B. Authority mortgage loans as described in subsection A of this section may be made to for-profit housing sponsors in original principal amounts not to exceed 95% of the housing development costs as determined by the authority, and to nonprofit housing sponsors in amounts not to exceed 100% of the housing development costs as determined by the authority.

C. Authority mortgage loans as described in subsection A of this section may be made for terms of up to 50 years, including the period of any development and construction or rehabilitation of the housing development. The term of any such mortgage loan, the amortization period, the estimated housing development costs, the principal amount of the mortgage loan, the terms and conditions applicable to any equity contribution by the housing sponsor, any assurances of successful completion and operational stability of the housing development, and other terms and conditions of such mortgage loan shall be set forth in the board's resolution authorizing such mortgage loan or in the mortgage loan commitment issued on behalf of the authority pursuant to such resolution.

### § 2.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part II will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize an authority mortgage loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority mortgage loan commitment to the housing sponsor for the financing of the proposed housing

development.

An authority mortgage loan shall not be authorized unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority mortgage loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the authority mortgage loan.

C. Notwithstanding anything in subsection B hereof to the contrary, for any loan which has a maximum principal amount of \$300,000 or less and which is to finance the development, construction, rehabilitation and/or the ownership and operation of a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled, the executive director may, in his discretion, issue on behalf of the authority an authority mortgage loan commitment to the applicant for the financing of such development without following the procedure described in subsection B hereof; provided, however, that such a commitment shall in all cases be subject to the approval or ratification thereof by resolution of the board.

D. Such Any such resolution made pursuant to either subsection B or C hereof, or the authority mortgage loan commitment issued by the executive director pursuant to or subject to approval and ratification by such resolution, as applicable, shall include such terms and conditions as the authority considers appropriate with respect to the development, construction or rehabilitation of the proposed housing development, the marketing and occupancy of such housing development, the disbursement and repayment of the authority mortgage loan, and other matters related to the development, construction or rehabilitation and the ownership and operation of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development, setting forth the initial schedule of rents, the approved initial budget for operation of the housing development and a schedule of the estimated housing development costs. Such a resolution authorizing an authority mortgage loan to a for-profit housing sponsor shall, if applicable, include a determination of the maximum annual rate at which distributions may be made by such for-profit housing sponsor with respect to such housing development pursuant to the provisions of subsection B of § 2.4 of these rules and regulations.

E. An authority mortgage loan shall not be authorized by the board in advance of commitment therefor in accordance with subsection B hereof or ratified thereafter in accordance with subsection C hereof unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority mortgage loan in advance of the issuance of the commitment therefor or ratify the commitment therefor

*all in accordance herewith without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the authority mortgage loan.*

C. F. Subsequent to adoption of the resolution of the board authorizing an authority mortgage loan, the executive director may, without further action by the board, increase the principal amount of such authority mortgage loan by an amount not to exceed 2.0% of the principal amount of such authority mortgage loan, provided that such an increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

### § 2.3. Regulation of housing sponsors.

The authority shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 of the Code of Virginia and the terms of the agreements relating to the authority mortgage loan at all times during which the authority mortgage loan is outstanding. The executive director may require the housing sponsor to execute a regulatory agreement with the authority, and such other related documents as the executive director shall determine to be necessary or appropriate, which shall authorize the authority to regulate such aspects of the development, construction or rehabilitation, operations, use and disposition of the proposed housing development and of the activities of the housing sponsor as the executive director shall determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

### § 2.4. Allowable categories of cost; limited dividend distributions.

A. The categories of cost which shall be allowable by the authority in development, construction or rehabilitation of a housing development financed under this Part II shall include the following: (i) development and construction or rehabilitation costs, including equipment, labor and materials furnished by the owner, contractor or subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's financing fees; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the project operational; (xi) off-site costs; (xii) the cost or fair

market value of the land and any improvements thereon to be used in the housing development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; (xv) and such other categories of costs which the authority shall determine to be reasonable and necessary for the development and construction or rehabilitation of the housing development. The extent to which costs in any of such categories shall be recognized or allowed in respect of a specific housing development shall be established by the terms of a cost certification guide which shall be prepared and, from time to time, revised by the executive director and which shall be incorporated by reference into the documents executed with respect to each such mortgage loan. Upon completion of the development and construction or rehabilitation of the housing development, the housing sponsor shall certify to the authority the total of the housing development costs in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require the housing sponsor to provide such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

B. In connection with an authority mortgage loan to a for-profit housing sponsor pursuant to this Part II:

1. The board's resolution authorizing such mortgage loan shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to such housing development, expressed as a percentage of such for-profit housing sponsor's equity in such housing development (such equity being established in accordance with paragraph 3 of this subsection), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar housing developments. The board's resolution authorizing such mortgage loan shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative;

2. Any payments to a person or entity who is a principal, stockholder or holder of a beneficial interest in such for-profit housing sponsor shall not be deemed a "distribution" or "return" to such person or entity if the funds with which such payment is made are funds paid or contributed to such for-profit housing sponsor by persons or entities purchasing a beneficial interest in such for-profit housing sponsor; and

3. Subsequent to completion of such housing development and in conjunction with other determinations made on behalf of the authority as to allowable housing development costs and related matters, the executive director shall establish the

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for-profit housing sponsor's equity in such housing development. Such equity shall be the difference between (i) the amount of either (A) the total housing development costs of such housing development as finally determined by the authority or (B) the fair market value of such housing development and (ii) the final principal amount of the authority mortgage loan as to such housing development. The authority may thereafter from time to time adjust such equity to be the difference, as of the date of adjustment, between the fair market value of such housing development and the outstanding principal balance of the authority mortgage loan. The manner for so determining and adjusting such equity shall be established in the board's resolution authorizing the authority mortgage loan or in amendments to such resolution.

## § 2.5. Tenant selection plan.

As a part of each application for an authority mortgage loan under this Part II, the housing sponsor shall prepare and submit to the authority for its review and approval a proposed tenant selection plan with respect to the proposed housing development. The proposed tenant selection plan shall include, among other information that the executive director may require from time to time, the following:

1. The proposed rent structure of the proposed housing development;
2. The utilization of any subsidy or other assistance from the federal government or any other source;
3. Income limitations of the authority for initial occupancy of the dwelling units in the proposed housing development as determined in accordance with these rules and regulations;
4. The proposed income levels of occupants;
5. Any arrangements contemplated by the housing sponsor for occupant referrals or relocations from federal, state or local government agencies or community organizations;
6. The marketing activities to be performed with respect to the leasing of the proposed housing development (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing and management agents of the housing sponsor; and
7. Any criteria to be used for disapproving applicants and for establishing priorities among eligible applicants for occupancy of the proposed housing development.

## PART III. SINGLE FAMILY DEVELOPMENT AND CONSTRUCTION LOANS.

## § 3.1. Development and construction loans.

A. This Part III shall govern mortgage loans made by the authority to housing sponsors for the development and construction or rehabilitation of single family residential housing for eventual sale to persons or families of low or moderate income.

B. Authority mortgage loans as described in subsection A of this section may be made to housing sponsors for terms not in excess of five years and in original principal amounts not to exceed 95% of the estimated total housing development costs as determined by the authority, except that in the case of nonprofit housing sponsors the original principal amount of the authority mortgage loans may not exceed 100% of the estimated total housing development costs as determined by the authority. In determining the estimated total housing development costs, the categories of costs which shall be includable therein shall be those set forth in § 2.4 of these rules and regulations, to the extent deemed by the executive director to be applicable to the housing development, and such other costs as the authority shall deem reasonable and necessary for the sale and conveyance of the single family dwelling units. The estimated total housing development costs and the principal amount of the authority mortgage loan with respect to such housing development, together with other terms and conditions of the authority mortgage loan and related matters, shall be set forth in the board's resolution authorizing such mortgage loan or in the mortgage loan commitment issued by the authority pursuant to such resolution.

## § 3.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part III will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The authority board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize an authority mortgage loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority mortgage loan commitment to the housing sponsor for the financing of the proposed housing development.

An authority mortgage loan shall not be authorized

unless the board by resolution shall make the findings required by subsection A § 36-55.39 of the Code of Virginia.

Such resolution, or the authority mortgage loan commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed housing development, the marketing and sale of the single family dwelling units in such housing development, the disbursement and repayment of the authority mortgage loan, assurances of successful completion of the proposed housing development, and all other matters related to the development, construction or rehabilitation and sale of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development setting forth the sales price limits for the single family dwelling units within the proposed housing development and a schedule of the estimated housing development costs.

Subsequent to adoption of the resolution of the board authorizing an authority mortgage loan pursuant to this Part III, the executive director may, without further action by the board, increase the principal amount of such authority mortgage loan by an amount not to exceed 2.0% of such mortgage loan, provided that such an increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

### § 3.3. Regulation of housing sponsors.

The authority shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 of the Code of Virginia and the terms of the agreements relating to the authority mortgage loan at all times during which the authority mortgage loan is outstanding. The executive director may require the housing sponsor to execute a regulatory agreement with the authority, and such other related documents as the executive director shall determine to be necessary or appropriate, which shall authorize the authority to regulate such aspects of the development, construction or rehabilitation and sale of the proposed housing development as the executive director shall determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

### § 3.4. Sale of single family housing units.

A. As a part of each application for an authority mortgage loan under this Part III, the housing sponsor shall prepare and submit to the authority a proposed marketing plan for review and approval by the authority. The proposed marketing plan shall include, among other information that the executive director may require from time to time, the following:

1. The proposed sales prices of the single family dwelling units;
2. The utilization of any mortgage insurance, subsidy or other assistance from the federal government or any other source;
3. The proposed income levels of purchasers therefor, which income levels shall not exceed the income limitations of the authority applicable to the single family dwelling units; and
4. The marketing activities to be performed with respect to the sale of the single family dwelling units (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing agent of the housing sponsor.

B. In the event that a single family dwelling unit shall be sold to a purchaser who is not qualified to receive an authority mortgage loan under the applicable income limitations established pursuant to subsection A of § 1.2 of these rules and regulations, the authority shall have the right to require the housing sponsor to pay a penalty in such amount as shall be prescribed in the board's resolution authorizing the mortgage loan or in the authority mortgage loan commitment issued pursuant to such resolution.

## PART IV. SINGLE FAMILY LOANS TO INDIVIDUAL PURCHASERS.

### § 4.1. Mortgage loans.

A. This Part IV shall govern mortgage loans made by the authority to persons or families of low or moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family dwelling units.

B. Authority mortgage loans pursuant to subsection A of this section may be made only to persons or families of low or moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations.

C. The board may from time to time establish by resolution sales price limits for single family dwelling units financed or to be financed by the authority. Such sales price limits may vary based upon the area of the state, the type of program, the size and circumstances of the person or family who is to occupy such dwelling unit, the type and characteristics of such dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of the program under this Part IV.

D. An authority mortgage loan to be financed under this Part IV hereof may be made for a term not to exceed 50 years. The original principal amount and term of any such

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authority mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The original principal amount of authority mortgage loans made pursuant to this Part IV shall not exceed 98% of the first \$25,000 of the sales price of the single family dwelling unit and 95% of the amount of the sales price of the single family dwelling unit in excess of \$25,000 or, in the case of authority mortgage loans guaranteed or insured by the Veterans' Administration, 100% of the sales price of the single family dwelling unit, to the extent such sales price is approved by the executive director and subject to such further limitations as may be provided in the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. The term "sales price," with respect to authority mortgage loans for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy.

## § 4.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part IV will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the applicant and the application meet the requirements of the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the executive director may issue on behalf of the authority an authority mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval or ratification thereof by the board. Such authority mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the authority mortgage loan commitment.

## PART V. HOME REHABILITATION LOANS.

### § 5.1. General purpose.

This Part V shall govern the making of loans by the authority to persons or families of low or moderate income for the rehabilitation of single family dwelling units. For the purposes of this Part V, such loans shall be referred to as "home rehabilitation loans."

### § 5.2. Terms of home rehabilitation loans.

A. A home rehabilitation loan may be made pursuant to this Part V only to a borrower who is a person or family of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The types of improvements which may be financed by a home rehabilitation loan shall be established from time to time by the board and shall be set forth in the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Home rehabilitation loans to be financed under this Part V may be made for a term not to exceed 30 years. The original principal amount of any such home rehabilitation loan shall not exceed 100% of the total cost of the rehabilitation.

C. Home rehabilitation loans shall be secured by mortgages, in such form or forms as may be approved by the executive director, on the real property with respect to which such home rehabilitation loans are made.

### § 5.3. Application and processing.

A. The processing of application for home rehabilitation loans under this Part V will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the executive director determines that the applicant and the application for a home rehabilitation loan meet the requirements of the Act, the rules and regulations set forth in this Part V, and the applicable procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations, he may issue on behalf of the authority a commitment to the applicant with respect to such home rehabilitation loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on the home rehabilitation loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment.

## PART VI. ENERGY LOANS.

### § 6.1. General purpose; applicability.

A. This Part VI shall govern the making of loans to finance the purchase and installation of energy saving measures and alternative energy sources which will reduce the reliance on present sources of energy for use in the dwellings of residents of the Commonwealth of Virginia or in public or nonprofit buildings or facilities. Such measures and sources shall include, but not be limited to, insulation, caulking, weatherstripping, storm windows and doors, furnace modification or replacement, and solar energy devices. For purposes of this Part VI, such loans shall be referred to as "energy loans."

B. Any energy loans made with respect to dwellings

shall be limited to dwellings occupied by persons and families of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations or pursuant to standards under applicable federal rules and regulations as approved by the board with any modifications thereto. Energy loans shall be made only for the purposes set forth in subsection A of this section.

## § 6.2. Terms of energy loans.

A. Energy loans to be financed under this Part VI may be made for a term not to exceed 30 years. The original principal amount of any such energy loans shall not exceed 100% of the total cost of the energy saving measures and alternative energy sources as described in § 6.1 of these rules and regulations.

B. The authority may, at its option, require that energy loans (i) be insured by a private mortgage insurance company; (ii) be insured or otherwise assisted by an appropriate agency of the federal or state government; and/or (iii) be secured by a mortgage.

## § 6.3. Processing of loan application and issuance of loan commitments.

The processing of applications for energy loans pursuant to this Part VI will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations. If the executive director determines that the applicant and the application for an energy loan meet the requirements of (i) the Act; (ii) the rules and regulations set forth in this Part VI; and (iii) the applicable procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, he may issue on behalf of the authority a loan commitment to the applicant with respect to such energy loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on any energy loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the loan commitment issued by the authority with respect to such energy loan.

## PART VII. PURCHASE OF MORTGAGE LOANS.

### § 7.1. Applicability.

This Part VII shall govern the purchase of mortgage loans from a mortgage lender to finance residential housing for persons and families of low and moderate income qualified pursuant to § 1.2 of these rules and regulations.

### § 7.2. Purchase of mortgage loans to finance single family dwelling units.

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of

such purchase are financing single family dwelling units. Any mortgage loan to be so purchased shall have been made to a mortgagor who as of the date of the mortgage loan was a person or family of low or moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The sales price for the single family dwelling unit to be financed by any such mortgage loan shall comply with any applicable limits established pursuant to subsection C of § 4.1 of these rules and regulations or otherwise established by resolution of the board. The term of the mortgage loan to be so purchased shall not exceed 50 years, and the date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such number of years as the executive director may from time to time prescribe. The original principal amount of the mortgage loan shall not exceed the limits set forth in subsection E of § 4.1 of the rules and regulations.

B. The processing of applications for the purchase of mortgage loans pursuant to this § 7.2 will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations. If the applicant and the application meet the requirements of the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the executive director may issue on behalf of the authority a commitment to the mortgage lender to purchase such mortgage loan, subject to the approval or ratification thereof by the authority board. Such commitment shall include such terms and conditions as the executive director shall consider necessary or appropriate with respect to such purchase of the mortgage loan.

### § 7.3. Purchase of mortgage loans to finance multi-family dwelling units.

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing multi-family dwelling units. The term of the mortgage loan to be so purchased shall not exceed 50 years, including the period (if any) of development and construction or rehabilitation. The date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such number of years as the executive director may from time to time prescribe. Any mortgage loan to be so purchased shall comply with, and shall be subject to, the provisions of §§ 2.3 and 2.5 of these rules and regulations and such other provisions of Part II of these rules and regulations as the resolution authorizing the purchase of such mortgage loan, or the commitment issued pursuant thereto, shall require.

B. The processing of application for the purchase of mortgage loans pursuant to this § 7.3 will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

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Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize the purchase of the mortgage loan and the issuance of a commitment with respect thereto.

Such resolution, or the authority commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to any construction or rehabilitation of the housing development, the marketing and occupancy of such housing development, the disbursement and repayment of the mortgage loan, and other matters related to the financing of the housing development. Such resolution or authority commitment may include a financial analysis of the housing development, which shall set forth the initial schedule of rents, the initial budget approved by the authority for operation of the housing development and, if applicable, a schedule of the estimated housing development costs. Subsequent to adoption of such resolution, the executive director may increase the principal amount of the mortgage loan in accordance with the provisions of subsection C of § 2.2 of these rules and regulations.

§ 7.4. Requests for proposals; reinvestment of proceeds; certification as to prudent investment.

A. The executive director may from time to time request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications, and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this Part VII that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and

disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this Part VII, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be reinvested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this Part VII shall be established in accordance with subdivision 2 of § 36-55.35 of the Code of Virginia.

The effective date of the foregoing rules and regulations shall be ~~August 10,~~ *November 1, 1987.*

\* \* \* \* \*

**Title of Regulation:** VR 400-02-0013. Procedures, Instructions and Guidelines for Multi-Family Housing Developments for Mentally Disabled Persons.

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

**Effective Date:** November 1, 1987

**Summary:**

*Currently, a sponsor of a housing development for mentally disabled persons may apply for financing from the authority under the authority's multi-family program. However, many of the requirements of that program are either inapplicable, to loans for housing the disabled or have been deemed by the authority to be unnecessary for such financing. Furthermore, the multi-family program fails to address certain issues unique to this type of housing and to make requirements in connection therewith. Accordingly, the regulations create a program more particularly suited for the financing of housing for the mentally disabled. Under the program, the authority expects to make mortgage loans for both the construction and permanent financing of congregate care facilities designed especially for mentally disabled persons. The Department of Mental Health, Mental Retardation and Substance Abuse Services will, among other things, initially screen each applicant to determine whether it both intends to and is capable of providing the services necessary for the successful functioning of such a group home facility.*

VR 400-02-0013. Procedures, Instructions and Guidelines for Multi-Family Housing Development for Mentally Disabled Persons.

## § 1. Definitions.

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24, et seq.) of Title 36 of the Code of Virginia.

"Authority" means the Virginia Housing Development Authority.

"Board" means the board of commissioners of the authority.

"Closing" means the time of execution by the mortgagor of the documents evidencing the M/D loan, including the deed of trust note, deed of trust and other documents required by the authority. (In the case of a construction loan, "closing" means the initial closing of the M/D loan.)

"Construction" means construction of new structures and the rehabilitation, preservation or improvement of existing structures.

"DMHMR" means the Department of Mental Health, Mental Retardation and Substance Abuse Services of the Commonwealth of Virginia.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

"Final closing" means, for a construction loan, the time of final disbursement of the M/D loan proceeds after satisfaction by the mortgagor of all of the authority's requirements therefor.

"M/D development" means a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled.

"M/D loan" means a mortgage loan made by the authority to finance the development, construction, rehabilitation and/or the ownership and operation of an M/D development.

"Seed loan" means a mortgage loan made by the authority to finance preconstruction or other related costs approved by the authority and the financing of which by the authority is determined by the authority to be necessary to the mortgagor's ability to obtain an M/D loan for the construction of an M/D development.

## § 2. Purpose and applicability.

The following procedures, instructions and guidelines will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the Virginia Housing Development Authority (the "authority") to mortgagors to provide the construction and/or permanent financing of M/D developments. Such loans are referred to herein as "M/D loans." These procedures,

instructions and guidelines shall be applicable to the making of such M/D loans directly by the authority to mortgagors, the purchase of such M/D loans, the participation by the authority in such M/D loans with mortgage lenders and any other manner of financing of such M/D loans under the Virginia Housing Development Authority Act. These procedures, instructions and guidelines shall not, however, apply to any M/D developments which are subject to any other procedures, instructions and guidelines adopted by the authority. If any M/D loan is to provide either the construction or permanent financing (but not both) of an M/D development, these procedures, instructions and guidelines shall be applicable to the extent determined by the executive director to be appropriate for such financing. In addition, notwithstanding the foregoing, the executive director may, in his discretion, determine that any M/D loan should be processed under the Procedures, Instructions and Guidelines for Multi-Family Housing Developments, whereupon the application for such M/D loan and any other information related thereto shall be transferred to the authority's multi-family division for processing under the aforementioned Multi-Family Procedures, Instructions and Guidelines.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any M/D development to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Act, the authority's rules and regulations, and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the closing documents as described in § 8 of these procedures, instructions and guidelines.

These procedures, instructions and guidelines are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of M/D loans under the authority's multi-family housing programs for M/D developments. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time with respect to any particular development or developments or any multi-family housing program or programs for M/D developments.

## § 3. Income limits and general restrictions.



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The amounts payable, if any, by persons occupying M/D developments are deemed not to be rent. As a result, the authority's income limit set forth under § 1.2.B of its rules and regulations limiting a person's or family's adjusted family income to an amount not greater than seven times the total annual rent is inapplicable; instead, in accordance with the same aforementioned section of the authority's rules and regulations, the income limits for persons occupying such developments shall be as follows: All units of each M/D development, with the sole exception of those units occupied by an employee or agent of the mortgagor, shall be occupied or held available for occupancy by persons who have adjusted family incomes (as defined in the authority's rules and regulations and as determined at the time of their initial occupancy) which do not exceed 150% of the applicable area median income as determined by the authority and who are mentally disabled.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in an M/D development, the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the M/D development shall be computed, for the purpose of determining eligibility for occupancy thereof under the authority's rules and regulations and these procedures, instructions and guidelines, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all M/D developments and the processing thereof under the terms hereof must comply with (i) the Act and the authority's rules and regulations, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such M/D developments, (iii) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the M/D developments. Copies of the authority's applicable note and bond resolutions, if any, are available upon request.

## § 4. Terms of mortgage loans.

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance M/D developments. The term of the mortgage loan shall be equal to (i) if the M/D loan is to finance the construction of the proposed M/D development, the period determined by the executive director to be necessary to: (1) complete construction of the M/D development, and (2) consummate the final closing of the M/D loan; plus (ii) if the M/D loan is to finance the ownership and operation of the proposed M/D development, an amortization period set forth in the M/D loan commitment but not to exceed 45 years. The executive director may

require that such amortization period not extend beyond the termination date of any assistance or subsidy.

M/D loans may be made to (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the M/D loan commitment (which amount shall in no event exceed 95% of the fair market value of the property as determined by the authority) or such percentage of the housing development costs of the M/D development as is established in such commitment, but in no event to exceed 95%, and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the M/D loan commitment (which amount shall in no event exceed [ 100% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is the Commonwealth of Virginia or any agency or instrumentality thereof, and which shall in no event exceed ] 95% of the fair market value of the property as determined by the authority [ in those cases in which the nonprofit sponsor is not the Commonwealth of Virginia or an agency or instrumentality thereof ] ) or such percentage of the housing development costs of the M/D development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the M/D loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the M/D loan and the fulfillment of its public purpose. Such factors may include the economic feasibility of the proposed M/D development in terms of its ability to pay the projected debt service on the M/D loan and the projected operating expenses of the proposed M/D development.

The interest rate on the M/D loan shall be established at the closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge a financing fee equal to 1.5% of the M/D loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

## § 5. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of M/D developments. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the

submission of proposals and the [ ~~selections~~ selection ] of M/D developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of M/D developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

## § 6. Application and review.

### A. Information to be submitted.

Application for an M/D loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority, including, but not limited to:

1. Information with respect to the status of the proposed development site and the surrounding community;
2. Any option or sales contract to acquire the site;
3. An evaluation of the need and effective demand for the proposed M/D development in the market area of such site;
4. Information regarding the legal, business and financial status and experience of the applicant;
5. Information regarding amenities and services proposed to be offered to the tenants;
6. A determination by DMHMR on such form or forms as the executive director may from time to time prescribe to the effect that (i) the mortgagor has the intent and ability to provide the services deemed necessary by DMHMR for the success of a housing development intended for occupancy by persons of low and moderate income who are mentally disabled, (ii) that the proposed location and type of housing are suitable for the contemplated residents and that there exists a need in the area of the proposed location for housing for the mentally disabled, and (iii) that the development is economically feasible to the extent that it is projected to have or receive funds in an amount sufficient to pay the debt service on the proposed M/D loan and to pay for all of the requisite services deemed necessary by DMHMR for the success of such a development (for those M/D developments which are to receive funding other than that directly from the mortgagor, a breakdown of the source and amount of such funding upon which DMHMR relied in making its determination must be included);

7. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;

8. The applicant's (i) best estimates of the housing development costs and the components thereof, (ii) proposed M/D loan amount, (iii) proposed annual operating budget and the individual components thereof, (iv) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident, and (v) amount of any subsidy or assistance, including any described in item 6 above, that the applicant is requesting for the proposed M/D development. The applicant's estimates shall be in such detail and with such itemization and supporting information as shall be requested by the executive director;

9. The applicant's tenant selection plans, including description and analysis of tenant selection strategies, techniques and procedures to be followed;

10. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development; and

11. A nonrefundable processing fee equal to 0.5% of the proposed M/D loan amount. Such fee shall be applied at closing toward the payment of the authority's financing fee.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the M/D development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. Such appraisal shall not be obtained until the authority has received the processing fee required by § 6.A.11 above. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the

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proposed M/D development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

## B. Review of the application.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed M/D development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience and financial capacity of the applicant;
3. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed M/D development;
4. A review of the tenant selection plans, including its effect on the economic feasibility of the proposed M/D development and its efficacy in carrying out the programs and policies of the authority;
5. An analysis of the drawings and specifications, the marketability of the units, the amenities and facilities to be provided to the proposed residents, and the management and maintenance characteristics of the proposed M/D development.

## C. Requirement that application satisfy certain criteria.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed M/D development, the executive director may issue a commitment for [ a an ] M/D loan to the applicant with respect to the proposed M/D development provided that he has determined that all of the following criteria have been satisfied:

1. The vicinity of the proposed M/D development is and will continue to be a residential area suitable for the proposed M/D development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the proposed M/D development or which

could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks and recreational facilities) in the area of the proposed M/D development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The applicant either owns or leases the site of the proposed M/D development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

4. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, maintenance and management of the proposed M/D development.

5. The application and proposed M/D development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these procedures, instructions and guidelines.

6. The proposed M/D development will assist in meeting the need for such housing in the market area of the proposed M/D development.

7. The applicant's estimates of housing development costs (i) include all costs necessary for the development and construction of the proposed M/D development, (ii) are reasonable in amount, (iii) are based upon valid data and information, and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

8. Subject to review by the authority, in the case of construction loans at final closing or in the case of permanent loans at closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the closing documents or under such other requirements as shall be agreed to by the authority.

9. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed M/D development are incidental or related to the proposed M/D development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

10. The estimated income from the proposed M/D development, including any estimated subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

11. The drawings and specifications shall demonstrate that the proposed M/D development as a whole and the individual units therein shall provide safe and habitable living accommodations and environment for the contemplated residents.

12. The tenant selection plans submitted by the applicant shall comply with the authority's rules and regulations and shall be satisfactory to the authority.

13. The proposed M/D development will comply with (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued or to be issued by the authority to finance the proposed M/D development and (ii) all requirements set forth in the resolutions, if any, pursuant to which such notes or bonds are issued or to be issued.

14. The prerequisites necessary for the applicant to acquire, own, construct or rehabilitate, operate and manage the proposed M/D development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining (i) site plan approval, (ii) proper zoning status, (iii) assurances of the availability of the requisite public utilities, (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed M/D development, (v) building permits, and (vi) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed M/D development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed M/D development).

15. The proposed M/D development will comply with all applicable state and local laws, ordinances,

regulations, and requirements.

16. The proposed M/D development will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

17. Subject to a final determination by the board, the financing of the proposed M/D development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia. For the purposes of satisfying subsection B of the aforementioned code section, the term "substantial rehabilitation" means the repair or improvement of an existing housing unit, the value of which repairs or improvements equals at least 25% of the total value of the rehabilitated housing unit.

## § 7. Commitment.

If the executive director determines that the foregoing criteria set forth in § 6.C above are satisfied and that he will recommend approval of the application and issuance of the commitment therefor, he shall either (i) present his recommendations to the board or (ii) in accordance with the authority's rules and regulations, issue the commitment subject to the approval and ratification of the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion either (i) in the case of an M/D loan application for which the board's approval is sought in advance of the issuance of the commitment therefor, recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate or (ii) in the case of an M/D loan commitment to be issued by the executive director subject to ratification by the board all in accordance with the authority's rules and regulations, issue such commitment subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

In the case of an M/D loan application for which the board's approval is sought in advance of the issuance of the commitment therefor, the board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the issuance of a commitment, subject to such terms and conditions as the board shall require in such resolution. Such resolution and the commitment issued pursuant thereto shall in all respects conform to the requirements of the authority's rules and regulations.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

## § 8. Closing.

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Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "closing documents") required by the commitment within the time period specified. When the closing documents have been submitted and approved by the authority staff, the board has approved or ratified the commitment and has determined that the financing of the proposed M/D development meets all the applicable requirements of § 36-55.39 of the Code of Virginia, and all other requirements in the commitment have been satisfied, the closing of the M/D loan shall be held. At this closing, the closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any equity investment required by the closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of M/D loan proceeds will be made by the authority, if appropriate under the commitment and the closing documents.

The actual interest rate on the M/D loan shall be established by the executive director at the time of the execution of the deed of trust note at closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and operation of the M/D development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

## § 9. Construction.

In the case of construction loans, the construction of the M/D development shall be performed in accordance with the closing documents. The authority shall have the right to inspect the M/D development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the closing documents and to ascertain the propriety and validity of M/D loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of M/D loan proceeds may only be made upon compliance with the terms and conditions of the closing documents with respect to any such disbursement; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of

any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

## § 10. Completion of construction and final closing.

In the case of construction loans, the closing documents shall specify those requirements and conditions that shall be satisfied in order for the M/D development to be deemed to have attained final completion. Upon such final completion of the M/D development, the mortgagor, general contractor, and any other parties required to do so by the closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the closing documents or in accordance with such other requirements as shall have been agreed to by the authority.

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the closing documents in order to attain final completion, make the final disbursement of M/D loan proceeds, obtain any subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the closing documents:

1. The total development costs, the fair market value of the M/D development, the final mortgage loan amount, the balance of M/D loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;
2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the initial amount of such monthly amortization payments, and the initial amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and
3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

## § 11. Seed money loans.

Notwithstanding anything herein to the contrary, the executive director may, in his discretion, approve an application on such forms as he may prescribe for a seed money loan and issue a commitment therefor subject to ratification by the board.

## § 12. M/D loan increases.

Prior to closing, the principal amount of the M/D loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed M/D development, is necessary or desirable to effect the successful construction and operation of the proposed M/D development, can be funded from available proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Act or the authority's rules and regulations or any of the provisions of these procedures, instructions and guidelines. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to closing, the authority will consider and, where appropriate, approve an M/D loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by the authority or (ii) betterments to the M/D development approved by the authority which will improve the quality or value of the M/D development or will reduce the costs of operating or maintaining the M/D development;
2. Where cost increases are incurred as a direct result of [ the a ] failure by the authority during processing of the M/D development to properly perform an act for which the authority is solely responsible;
3. Where an M/D loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or
4. Where the authority has entered into an agreement with the mortgagor prior to closing to provide an M/D loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

Any such increase in the M/D loan subsequent to closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the M/D loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to an M/D loan to be financed from the proceeds of the authority's notes or bonds).
2. The obtaining by the owner of additional subsidy (if the M/D development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such M/D loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable

federal regulations.

3. A determination by the authority that the M/D loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the M/D development.
4. A determination by the authority that the M/D loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the closing documents as approved by the authority) as is established in the resolution authorizing the M/D loan in accordance with § 3 of these procedures, instructions and guidelines.
5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the M/D loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and the authority's rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the M/D loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the M/D loan set forth in the commitment, provided that such increase is consistent with the Act and the authority's rules and regulations and the provisions of these procedures, instructions and guidelines. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 12 shall impose any duty or obligation on the authority to increase any M/D loan, as the decision as to whether to grant an M/D loan increase shall be within the sole and absolute discretion of the authority.

## § 13. Operation and management.

The M/D development shall be subject to certain regulatory covenants in closing documents entered into at closing between the authority and the mortgagor. Such regulatory covenants shall govern the occupancy, maintenance, operation, use and disposition of the M/D development and the activities and operation of the mortgagor.

The mortgagor shall lease the units in the M/D development only to persons who are eligible for occupancy thereof as described in § 3 of these procedures, instructions and guidelines. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the M/D development and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the M/D development.

In selecting eligible residents, the mortgagor shall

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comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these procedures, instructions and guidelines.

The authority shall have the power to supervise the mortgagor and the M/D development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the closing documents or other agreements relating to the M/D loans. The authority shall have the right to inspect the M/D development, conduct audits of all books and records of the M/D development and to require such reports as the authority deems reasonable to assure compliance with this § 13.

## § 14. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, detrimentally affect this goal will not be approved.

The provisions set forth in this § 14 shall apply only to transfers of ownership to be made subject to the authority's deed of trust.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other direct or indirect transfer of the M/D development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the M/D loan or, (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12-month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean (i) in the case of a transfer of a partnership interest, the owner of the M/D development as proposed to be restructured by such transfer, and (ii) in the case of a transfer of the M/D development, the entity which proposes to acquire the M/D development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer, (ii) all documentation to be executed in connection with the transfer, (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of

a business entity), (iv) an analysis of the current physical and financial condition of the M/D development, including a current audited financial report for the M/D development, (v) information regarding the experience and ability of any proposed management agent, and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the M/D development in a manner satisfactory to the authority.

2. The M/D development's physical and financial condition shall be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the M/D development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the M/D development, will reduce the costs of operating or maintaining the M/D development, will benefit the residents or otherwise improve the liveability of the M/D development, or will improve the financial strength and stability of the M/D development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the M/D development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the M/D development on its behalf must have the experience and ability necessary to manage the M/D development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

C. The authority will charge the proposed ownership entity a fee of \$5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. In the case of a transfer from a nonprofit owner to a proposed for-profit owner, the authority may require the proposed for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the mortgage loan does not exceed the limitations specified in the Act and the authority's rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds, if any, issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the M/D development.

The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

E. A request for transfer of ownership shall be reviewed by the executive director and may be approved by him subject to such terms and conditions as he may require.

After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the executive director.

The authority may require that the proposed ownership entity execute the then current forms of the authority's M/D loan documents in substitution of the existing M/D loan documents and/or to execute such amendments to the existing M/D loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the M/D development.

In the case of an M/D development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the M/D development and/or to protect the authority's interest as lender.

## § 15. Prepayments.

It shall be the policy of the authority that no prepayment of an M/D loan shall be made without its prior written consent for such period of time set forth in the note evidencing the M/D loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may also prohibit the prepayment of M/D loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following (i) the proposed use of the M/D development subsequent to prepayment, (ii) any actual or potential termination or reduction of any subsidy or other assistance, (iii) the current and future need and demand for low and moderate housing in the market area of the development, (iv) the financial and physical condition of the M/D development, (v) the financial effect of prepayment on the authority and the notes or bonds, if any, issued to finance the M/D development, and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the M/D development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the M/D development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the M/D development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 15 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and



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policies.

The effective date of the foregoing procedures, instructions and guidelines for multi-family housing developments for mentally disabled persons shall be November 1, 1987.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**Title of Regulation:** VR 394-01-200. Virginia Private Activity Bond Regulations.

**Statutory Authority:** §§ 15.1-1399.15 and 15.1-1399.16 of the Code of Virginia

**Effective Date:** January 1, 1988

### Summary:

These regulations will provide the specific administrative policies and procedures for the private activity bond program in Virginia. The private activity bond program is established to provide allocations of tax-exempt bond financing authority to projects for the development of housing, manufacturing facilities, and exempt facilities pursuant to the limitations established by the Internal Revenue Code of 1986 together with rulings issued pursuant to federal law. The regulations specify application, allocation, and reporting requirements for the private activity bond program in the Commonwealth.

The final regulations have been modified to:

1. Eliminate the \$10 million limitation on private activity bond allocations to exempt facility projects beginning November 1 of each calendar year.
2. Eliminate the \$10 million limitation for exempt facility projects after calendar year 1989.
3. Provide student loan bonds with a higher priority for receiving a year-end allocation of private activity bond authority.
4. Allow towns to apply directly to the Commonwealth for an allocation of private activity bond authority.

VR 394-01-200. Virginia Private Activity Bond Regulations.

### PART I

#### [ INTRODUCTION, DEFINITIONS. ]

#### [ Article 1 Definitions. ]

#### § 1.1. Definitions.

The following words and terms, when used in these

regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Allocation" or "award" means the notice given by the Commonwealth to provide a project with a specified amount from the state ceiling for a specific issue of bonds.

[ "Carryforward purpose" means certain projects that are eligible to receive an allocation during a calendar year and issue the bonds from the allocation in a later year pursuant to § 146 of the Internal Revenue Code of 1986. ]

"Code" means the Internal Revenue Code of 1986 [ , as amended, ] together with the regulations and rulings issued pursuant thereto.

[ "Department" means the Virginia Department of Housing and Community Development. ]

"Exempt project" means a project [ requesting private activity bond authority for the following types of facilities, requiring allocation from the state ceiling for financing of any of the following: ]

1. Sewage, solid waste, and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;
2. Facilities for the furnishing of water (including irrigation systems);
3. Mass commuting facilities; and
4. Local district hearing and cooling facilities.

"Governing body" means the board of supervisors of each county and the council of each city and of each town.

"Housing bonds" means multifamily housing bonds and single family housing bonds [ requiring allocation from the state ceiling ].

[ "Industrial development bond" means any obligation requiring allocation from the state ceiling for financing any of the following:

1. Manufacturing facility,
2. Exempt project. ]

"Issued" means that the private activity bonds have been issued within the meaning of § 103 of the [ Internal Revenue ] Code.

"Issuing authority" means any political subdivision, governmental unit, authority, or other entity of the Commonwealth which is empowered to issue private activity bonds.

"Local housing authority" means any issuer of

multifamily housing bonds or single family housing bonds, created and existing under the laws of the Commonwealth, excluding the Virginia Housing Development Authority.

"Localit(y) (ies)" means the individual and collective cities [ , towns ] and counties of the Commonwealth [ of Virginia ].

"Manufacturing facility" means any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change of condition of such property.

"Multifamily housing bond" means any obligation which constitutes an exempt facility bond under federal law for the financing of a qualified residential rental project within the meaning of § 142 of the Code.

"Population" means the most recent estimate of resident population for Virginia and the counties, cities, and towns published by the United States Bureau of the Census or the Tayloe Murphy Institute of the University of Virginia before January 1 of each calendar year.

"Private activity bond" means a part or all of any bond (or other instrument) required to obtain an allocation from the [ state's Commonwealth's ] volume cap pursuant to § 146 of the Code in order to be tax exempt, including but not limited to the following:

1. Exempt project bonds;
2. Manufacturing facility bonds;
3. Industrial development bonds;
4. Multifamily housing bonds;
5. Single family housing bonds;
6. Student loan bonds; and
7. Any other bond eligible for a tax exemption as a private activity bond pursuant to § 141 of the Code.

"Project" means the facility (as described in the application) proposed to be financed, in whole or in part, by an issue of bonds.

"Qualified mortgage bond" means any obligation described as a qualified mortgage bond in § 143 of the Code.

[ "Qualified redevelopment bond" means any bond requiring an allocation from the state ceiling to be used for one or more redevelopment purposes in any designated blighted area in accordance with § 144(c) of the Code. ]

"State allocation" means the portion of the state ceiling set aside for [ projects of ] state issuing authorities and for projects of state or regional interest as determined by the

Governor.

"State ceiling" means the amount of private activity bonds that the Commonwealth [ of Virginia ] may issue in any calendar year under the provisions of the Code.

[ "Student loan bond" means an issue to finance student loans as defined in § 144(b) of the Code. ]

[ Article 2,  
Changes in Federal Law. ]

[ § 1.2. Changes in project eligibility.

The Internal Revenue Code of 1986 specifies the types of projects that are eligible for tax-exempt private activity bond financing during each calendar year. In 1988, 1989 and 1990, the code ends the eligibility of certain types of projects for private activity bond financing. Therefore, the types of projects eligible to issue private activity bonds will differ for each calendar year. Federal law does not provide any further changes after 1990. The projects eligible to issue tax-exempt private activity bonds during each calendar year, pursuant to the Internal Revenue Code of 1986, are as follows:

**A. Eligible projects during calendar year 1988:**

1. Manufacturing facilities;
2. Single family housing (last year of eligibility);
3. Multifamily rental housing development;
4. Exempt facilities;
5. Student loans; and

6. Governmental bond projects in which the private use portion of the issue exceeds \$15 million. In order for a governmental bond issue to be tax-exempt, any private use portion of the bond in excess of \$15 million shall receive an allocation from the state's private activity bond authority.

**B. Eligible projects during calendar year 1989:**

1. Manufacturing facilities (last year of eligibility);
2. Multifamily rental housing development;
3. Exempt facilities;
4. Student loans; and

5. Governmental bond projects in which the private use portion of the issue exceeds \$15 million. In order for a governmental bond issue to be tax-exempt, any private use portion of the bond in excess of \$15 million must receive an allocation from the state's private activity bond authority.

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G. Eligible projects during calendar years 1990 and beyond:

1. Multifamily rental development;
2. Exempt facilities;
3. Student loans; and
4. Governmental bond projects in which the private use portion of the issue exceeds \$15 million. In order for a governmental bond issue to be tax-exempt, any private use portion of the bond in excess of \$15 million must receive an allocation from the state's private activity bond authority. ]

[ Article 3. PART II. ]

[ Program Administration: ADMINISTRATION. ]

§ [ 1.3. 2.1. ] Department of Housing and Community Development.

The department [ of Housing and Community Development ] shall administer the private activity bond program in the Commonwealth. In administering the program, the department's activities [ shall ] include, but are not limited to, the following:

A. To determine the state ceiling on private activity bonds each year based on the federal per capita limitation on private activity bonds and the [ most recent estimate of resident ] population [ in the Commonwealth ].

B. To set aside the proper amount of the state ceiling on private activity bonds for each project type as specified in state legislation, Chapter 33.2 (§§ 15.1-1399.10 through 15.1-1399.17) of Title 15.1 of the Code of Virginia.

C. To receive and review project applications for private activity bond authority [ to be awarded from the portion of the state ceiling not distributed to the state allocation or the Virginia Housing Development Authority ].

D. To allocate private activity bond authority to projects [ pursuant to the provisions of these regulations requesting bond authority from the portion of the state ceiling not distributed to the state allocation or the Virginia Housing Development Authority ].

[ § 1.4. Governor's office.

The Governor's office shall administer a portion of the annual state ceiling on private activity bond authority. This portion, referred to as the "state allocation," shall be used for allocations to state issuing authorities and for projects of state or regional interest as determined by the Governor. The allocation procedures for this portion of the state ceiling shall be determined by the Governor's office. ]

[ § 2.2. State allocation.

Pursuant to Title 15.1, Chapter 33.2, of the Code of Virginia, a portion of the annual state ceiling on private activity bonds will be reserved for allocations to projects of state issuing authorities and projects of state or regional interest as determined by the Governor. Requests for private activity bond authority from the state allocation may be made through direct correspondence with the Governor's office. The Governor may transfer any portion of the state allocation to the department for allocation in accordance with the provisions of these regulations. ]

§ [ 1.5. 2.3. ] Virginia Housing Development Authority.

A portion of the annual state ceiling on private activity bonds shall be allocated to the Virginia Housing Development Authority to be used to finance multifamily or single family residential projects, or both, pursuant to the restrictions provided by federal law. The Virginia Housing Development Authority shall develop project allocation criteria and housing bond authority carryforward procedures that will assure compliance with federal regulations.

[ § 1.6. Allocation of bond authority.

The Department of Housing and Community Development shall administer the allocation of Virginia's private activity bond state ceiling to projects other than those portions distributed to the state allocation and to the Virginia Housing Development Authority. ]

[ Article 4.

Private Activity Bond Program Dates and Deadlines. ]

§ [ 1.7. 2.4. ] Program dates.

The following is a listing of important application and allocation dates and deadlines concerning the [ private activity bond program portion of the state ceiling ] administered by the department [ of Housing and Community Development ]:

January 1 - [ November † December 15 ]

Specified amounts of the state ceiling will be set-aside for different project types as required by state law. Allocations of private activity bond authority will be awarded [ by the department ] to projects in accordance with state law and these regulations. The [ state ] set-aside for specified project types ends on [ November † December 15 ].

November 1 - December [ † 15 ]

[ Allocations of the state's remaining unused private activity bond authority after November † will be awarded to eligible projects of any project type in chronological order of receipt of applications. All outstanding allocation awards will expire on December †. The \$10 million limitation on allocations from the state ceiling for exempt projects

will be removed during this period of time to allow financing these projects in the calendar year the allocation is made ]

[ December 1

Last day applications will be accepted for year-end carryforward purposes. ]

December [ 13 15 ]

[ Last day to apply for year-end carryforward allocations. ] Last day for the issuance of private activity bonds [ other than year-end carryforward projects for projects that received allocations from the state ceiling prior to this date ].

December 20 - 31

Allocations shall be made to year-end carryforward [ projects purposes ] in accordance with the priority system established by these regulations.

§ [ 1.8. 2.5. ] Weekend and holiday deadline dates.

If any deadline dates specified are on a weekend or a holiday, the deadline shall be moved to the next [ following ] regular state working day.

PART [ H. III. ]  
[ ALLOCATION OF BOND AUTHORITY,  
ALLOCATIONS TO INDIVIDUALS BY THE  
DEPARTMENT. ]

[ Article 1.  
Framework of State Legislation.

§ [ 2.1. 3.1. ] State private activity bond legislation.

Chapter 33.2 (§§ 15.1-1399.10 through 15.1-1399.17) of Title 15.1 of the Code of Virginia sets aside specified amounts of the [ state's Commonwealth's ] limited private activity bond issuing authority for different types of projects. [ The Internal Revenue Code of 1986 provides a state ceiling on the amount of private activity bonds that may be issued in any calendar year to \$50 per capita of the state's population. ]

A portion of the private activity bond state ceiling is reserved each calendar year pursuant to §§ 15.1-1399.12 through 15.1-1399.14 of the Code of Virginia for the issuance of tax-exempt housing bonds. The primary purpose of providing a set-aside of private activity bond authority for these bonds is to increase the availability and affordability of housing opportunities in Virginia. Private activity housing bonds will be issued by local housing authorities and by the Virginia Housing Development Authority.

A portion of the private activity bond state ceiling is also reserved by state legislation to provide economic

development in the Commonwealth and to provide facilities needed in the Commonwealth to improve public health, safety, and convenience. A separate amount of the state ceiling is reserved each year pursuant to §§ 15.1-1399.12 through 15.1-1399.14 of the Code of Virginia for manufacturing and exempt facility projects. [ Federal law eliminates the use of private activity bond financing for manufacturing facilities after calendar year 1989, but the set-aside of the state ceiling for exempt facilities continues for calendar years 1990 and beyond.

The amount reserved by Title 15.1 of the Code of Virginia for specified project types through November 1 of each calendar year is as follows:

A. Allocation of 1988 state ceiling on private activity bonds:

- 1. Housing bonds:
    - a. Local housing authorities ..... 17%
    - b. Virginia Housing Development Authority ... 34%
  - 2. Manufacturing and exempt facility projects .. 30%
  - 3. State allocation ..... 10%
- 100%

B. Allocation of 1989 state ceiling on private activity bonds:

- 1. Housing bonds:
    - a. Local housing authorities ..... 17%
    - b. Virginia Housing Development Authority ... 17%
  - 2. Manufacturing and exempt facility projects .. 56%
  - 3. State allocation ..... 10%
- 100%

C. Allocation of state ceiling on private activity bonds for calendar years 1990 and beyond:

- 1. Housing bonds:
    - a. Local housing authorities ..... 33%
    - b. Virginia Housing Development Authority ... 33%
  - 2. Manufacturing and exempt facility projects .. 24%
  - 3. State allocation ..... 10%
- 100%

[ Article 2.

# Final Regulations

## Allocations to Individual Projects. ]

### § [ 2.2. 3.2. ] Order in which allocations shall be awarded.

Bond allocations shall be made [ by the department ] in chronological order of receipt of complete applications (including documentation specified in § [ 2.3 5.3 ] of [ this regulation these regulations ] ) until the bond authority reserved for the project type is completely allocated. Applications of projects that do not receive allocations will be maintained by the department [ of Housing and Community Development ] during the year and allocations will be made to the projects in chronological order of receipt of applications as bond authority is returned to the [ Commonwealth department ] from projects that received allocation awards but were unable to issue bonds.

### § [ 2.3. 3.3. ] Limitation on size of allocations.

All [ industrial development bond ] allocations awarded by the department [ of Housing and Community Development ] prior to [ December 13 November 1 ] of each year shall be limited to \$10 million per project [ ; except for . There shall be no limitation on the size of ] allocations awarded for [ multifamily ] housing [ facility bond ] projects [ during a calendar year. If the Code terminates the eligibility of manufacturing facilities for private activity bond financing at the end of calendar year 1989, then beginning January 1, 1990 an exempt project may receive an allocation in excess of \$10 million upon approval by the Board of Housing and Community Development. ]

### § [ 2.4. 3.4. ] Effective period of allocations.

An allocation for each project shall be effective 90 days after the allocation award date or until December [ 13 15 ], whichever is earlier.

### § [ 2.5. 3.5. ] Reapplying for a second allocation for the same project.

A project that receives an allocation [ award ] and is unable to issue bonds within the [ 90-day limit effective period of the award ] may reapply for another allocation upon the expiration or return of the original allocation. The reapplication will be dated by the department [ of Housing and Community Development ] as received on the date the reapplication request is submitted and no portion of the original allocation is outstanding. Each project shall be limited to two allocations during any calendar year. [ An exempt project that receives an allocation in excess of \$10 million prior to December 15 shall not be eligible to receive a carryforward purpose allocation at the end of the calendar year. ]

## [ Article 3.

### Reallocation of Bond Authority after November 1. ]

### [ § 2.6. Reallocation of bond authority.

Any bond issuing authority that has been set aside for certain types of projects as indicated in § 2.1 of these regulations and has not been allocated to specific projects as of 5 p.m. on November 1 of each calendar year will be aggregated and allocated beginning on November 2 of each calendar year to any eligible project in chronological order of receipt of complete applications, subject to the allocation limitations in effect until December 13 (including the \$10 million limitation per project). This provision will allow bond authority that has been reserved for specific project types which has not been used to be made available to more active project types.

## Article 4.

### Year-end Allocations to Carryforward Projects.

### § 2.7. Carryforward project allocations.

In order to allow the Commonwealth to effectively utilize all of its annual private activity bond capacity, any bond issuing authority remaining after December 13 shall be allocated to projects that are eligible by federal law to carry forward the allocations into later years. This year-end allocation procedure is as follows:

A. Projects that are eligible to carry forward bond issuing authority allocated in one year and actually issue the bonds in another later year pursuant to the provisions of the Internal Revenue Code of 1986 may apply for allocation of any of the state's private activity bond authority remaining after December 13 of each calendar year. Eligible projects for carryforward are primarily exempt facility projects and qualified mortgage bonds.

B. Any portion of the private activity bond state ceiling reserved for the Virginia Housing Development Authority during the year that has not been issued by year-end may be retained by the Virginia Housing Development Authority to carry forward as qualified mortgage bonds pursuant to the Internal Revenue Code of 1986, or may be transferred by Virginia Housing Development Authority to the Department of Housing and Community Development to be allocated to other carryforward projects. ]

## [ PART IV.

### YEAR-END ALLOCATIONS TO CARRYFORWARD PURPOSES. ]

### [ § 4.1. Local housing authorities.

In order to allow the Commonwealth to effectively utilize all of its annual private activity bond capacity, any bond issuing authority remaining in the portion of the state ceiling reserved for local housing authorities after December 15 shall be transferred to the Virginia Housing Development Authority upon their written request after notification by the department on the amount of bond authority available. Any bond authority that remains with the department shall be allocated to other carryforward purposes.

## § 4.2. Virginia Housing Development Authority.

Any portion of the state ceiling reserved for the Virginia Housing Development Authority during the year that has not been issued by December 15 shall be retained by the Virginia Housing Development Authority to carryforward pursuant to the Code, or shall be transferred by the Virginia Housing Development Authority on December 15 to the department to be allocated to other carryforward purposes. ]

## [ 6. § 4.3. Department of Housing and Community Development. ]

Any bond issuing authority remaining after December [ 13 15 ] will be awarded beginning December 20 to [ projects having ] applications (including all documentation specified in § [ 3-3 5.3 ] of this regulation) on file with the department [ of Housing and Community Development ] before December [ 13 1 ] in the following priority order:

[ 4. A. ] Local government projects for the following exempt facilities:

[ a. 1. ] Sewage, solid waste and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;

[ b. 2. ] Facilities for the furnishing of water, including irrigation facilities.

[ 4. B. ] Governmental bond projects in which the private use portion of the issue exceeds \$15 million.

[ 4. C. ] Public utility projects for the following facilities:

[ a. 1. ] Sewage, solid waste, and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;

[ b. 2. ] Facilities for the furnishing of water, including irrigation facilities.

[ 4. D. ] Private sector projects for the following facilities:

[ a. 1. ] Sewage, solid waste, and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas.

[ b. 2. ] Facilities for the furnishing of water, including irrigation facilities.

[ 4. E. ] All other eligible exempt [ facility ] projects.

[ 6. Virginia Housing Development Authority bonds. ]

[ 7. F. ] Student loan bonds.

[ G. Virginia Housing Development Authority bonds. ]

## PART [ III. V. ] APPLICATION PROCEDURE.

### § [ 3-1. 5.1. ] Project approval.

All projects must be approved by the governing body of the locality in which the project is to be located prior to submitting an application to the [ Commonwealth department ] for bond authority. Any local housing authority, after the approval of the local governing body, may file an application with the department [ of Housing and Community Development ] to request an allocation of housing bond authority. A city [ or town ] manager or county administrator, after the approval of the local governing body, may file an application for bond authority with the department [ of Housing and Community Development ] for any [ eligible private activity bond ] project to be located within the jurisdiction of the requesting locality. [ Any state issuing authority, after the approval of the Governor, may file an application with the department for an industrial development bond project prior to December 15 or for a year-end carryforward purpose allocation prior to December 1. ]

### § [ 3-2. 5.2. ] Where to apply.

Projects of state issuing authorities and projects of state or regional interest [ shall may ] request private activity bond authority from the state allocation through direct correspondence with the Governor's office. [ Housing projects to be financed by the Virginia Housing Development Authority shall request private activity bond authority from the state ceiling through direct correspondence with the Virginia Housing Development Authority. ] All other project allocations shall be submitted to the department [ of Housing and Community Development ].

### § [ 3-3. 5.3. ] Application forms.

All projects seeking an allocation of private activity bond authority from the department [ of Housing and Community Development ] must file an application. Application forms are available from the Department of Housing and Community Development, Office of Policy Analysis and Research, 205 N. Fourth Street, Richmond, Virginia 23219.

A. The application forms to be used are as follows:

1. Local housing authorities seeking an allocation of bond authority for housing projects shall file Form HB.

2. Manufacturing and exempt facility projects, allocation requests for the private use portion of a governmental bond in excess of \$15 million, [ and ] student loan bonds [ , and qualified redevelopment bonds ] shall file Form IDB.

B. All applications and requests for private activity bond

# Final Regulations

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authority from the department [ of Housing and Community Development ] shall be accompanied by the following documentation for each project:

prior to the date of issuance of the bonds.

1. Inducement resolutions or other preliminary approvals;
2. Documentation of the appropriate elected body's or official's approval of such projects;
3. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the [ Internal Revenue ] Code [ of 1986 ] and that an allocation of bond issuing authority from the state ceiling [ on private activity bonds ] is required;
4. A definite and binding financial commitment agreement from a buyer of the bonds or a firm commitment from a financial institution to provide a letter of credit for the project.

§ [ ~~3-4~~ 5.4. ] When to apply.

Project applications may be submitted to the department [ of Housing and Community Development ] during each calendar year at any time prior to December [ ~~13~~ 15 ] of each year.

[ § 3-5. Applying for year-end carryforward allocations.

Allocations of any bond issuing authority remaining after December ~~13~~ of each calendar year will be reserved for projects that are eligible to carry forward an allocation of private activity bond authority and actually issue the bonds in later years pursuant to the Internal Revenue Code of 1986. ] Applications for year-end allocations to carryforward [ projects purposes ] will be accepted by the department [ of Housing and Community Development ] through December [ ~~13~~ 1 ] of each calendar year.

## PART [ ~~IV~~ VI. ] REPORTING REQUIREMENTS [ FOR ALLOCATIONS BY DEPARTMENT ].

§ [ ~~4-1~~ 6.1. ] Report bond issuance.

For all private activity bonds issued in the Commonwealth during any calendar year, a copy of the federal Internal Revenue Service (IRS) Form 8038 must be received by the department [ of Housing and Community Development ] by 5 p.m. on the expiration date of the allocation award. Bond authority that has not been documented as having been issued by [ the ] filing [ an of ] IRS [ Form ] 8038 [ form ] with the department [ of Housing and Community Development ] by this deadline will revert to the department for reallocation to other projects.

§ [ 4-2 6.2. ] When to file IRS Form 8038.

IRS 8038 forms shall not be filed with the department

FORM HB  
Page One

PROJECT INFORMATION SHEET  
REQUEST FOR HOUSING BOND ALLOCATION

1. GENERAL INFORMATION

- A. Issuing Authority \_\_\_\_\_
- B. Name of Project \_\_\_\_\_
- C. Type of Project
  - Single Family       Multifamily
  - \_\_\_\_\_ Number of Units      \_\_\_\_\_ Number of Units

2. DESCRIPTION OF THE PROJECT

- A. General Description of the Project
 

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please check the appropriate response for the low income set aside requirement if the project is a multifamily rental project.

- 40% of the units will be occupied by persons having incomes of 60% of area median income or less.
- 20% of the units will be occupied by persons having incomes of 50% of area median income or less.

- B. Location of Project (City, County or Town) \_\_\_\_\_

FORM HB  
Page Two

- C. Name, address, phone number and tax ID number of each proposed borrower and developer.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- D. Name, address and phone number of bond counsel.

\_\_\_\_\_

- E. Housing Bond allocation requested      \$ \_\_\_\_\_

- F. Projected closing date for issuance of  
the housing bonds \_\_\_\_\_

3. ATTACHMENTS

ALL FOUR ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM. ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE BEEN RECEIVED.

- A. Copy of inducement resolution or other preliminary approval.
- B. Copy of Governing Body's formal approval of the project.
- C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.







FORM IDB  
Page Two

- B. Location of Project (City, County or Town) \_\_\_\_\_
- C. Name, address, phone number and tax ID number of each proposed borrower and developer.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- D. Name, address and phone number of bond counsel.  
\_\_\_\_\_  
\_\_\_\_\_
- E. Industrial Bond allocation requested \$ \_\_\_\_\_
- F. Projected closing date for issuance  
of the bonds \_\_\_\_\_

3. PROJECT INFORMATION

Number of jobs to be created (net) or retained \_\_\_\_\_.

4. ATTACHMENTS

ALL FOUR ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM. ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE BEEN RECEIVED.

- A. Copy of inducement resolution or other preliminary approval.
- B. Copy of Governing Body's formal approval of the project.

FORM IDB  
Page Three

- C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.
- D. A definite and binding financial commitment agreement from a bond purchaser(s) agreeing to purchase the bond(s), or a firm commitment from a financial institution to issue a letter of credit. The purchase agreement or letter of credit shall be for an amount equal to or greater than the amount of bond authority requested by this application.

5. CERTIFICATION

I hereby certify that the information filed herewith is accurate to the best of my knowledge.

Signature of City Manager

or County Administrator \_\_\_\_\_

Date \_\_\_\_\_

MARINE RESOURCES COMMISSION

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-8710. Opening of the 1987-88 Crab Dredging Season.

Statutory Authority: § 28.1-166 of the Code of Virginia.

Effective Date: November 30, 1987 through December 1, 1987.

Preamble:

The following order of the Marine Resources Commission opens the 1987-88 crab dredging season on November 30, 1987.

§ 1. Authority, prior regulation, and effective date.

A. This order is promulgated pursuant to authority contained in § 28.1-166 of the Code of Virginia.

B. Other regulations pertaining to crab dredging are found in Chapter 6 (§ 28.1-165 et seq.) of Title 28.1 of the Code of Virginia and VMRC Regulations 450-01-07, 450-01-12, 450-01-36, and 450-01-41.

C. The effective date of this order is November 30, 1987.

§ 2. Purpose.

The opening of the season a day earlier than the December 1 starting date specified in the Code is a matter of convenience to the industry and is not contrary to public interest.

§ 3. Season opening date.

The crab dredging season is hereby opened on Monday, November 30, 1987.

§ 4. Expiration date.

The effect of this order ends on December 1, 1987.

/s/ William A. Pruitt, Commissioner  
October 7, 1987

\*\*\*\*\*

Title of Regulation: VR 450-01-8711. Time Limit for Harvesting Oysters from Public Oyster Ground in the Potomac River Tributaries.

Statutory Authority: § 28.1-85 of the Code of Virginia.

Effective Date: October 6, 1987 through November 15, 1987.

Preamble:

The following order establishes a time limit of sunrise to noon daily, Monday through Friday, for the harvesting of oysters from all public grounds, rocks or shoals in the Virginia Potomac River tributaries above Bonums Creek.

§ 1. Authority, other regulations, and effective date.

A. This order is promulgated pursuant to authority contained in § 28.1-85 of the Code of Virginia.

B. Order 81-13, adopted September 22, 1981, which established a time for all Virginia Potomac River tributaries shall again be in full effect after November 15, 1987.

C. The effective date of this order is October 6, 1987.

§ 2. Time limit.

The time limit for harvesting oysters from all public oyster grounds, rock, or shoals shall be from sunrise to noon, daily, Monday through Friday.

§ 3. Designated area.

The areas affected by this order are all of the public oyster grounds, rocks, or shoals in the Virginia Potomac River Tributaries above Bonums Creek.

§ 4. Expiration date.

This order shall terminate November 15, 1987.

/s/ William A. Pruitt, Commissioner  
October 7, 1987

\*\*\*\*\*

Title of Regulation: VR 450-01-8712. Closure of All Public Oyster Grounds in Pocomoke and Tangier Sounds for the 1987-88 Season.

Statutory Authority: §§ 28.1-85 and 28.1-128.1 of the Code of Virginia.

Effective Date: November 27, 1987 through October 1, 1988.

Preamble:

The following order of the Marine Resources Commission closes to the harvesting of oysters all public oyster ground within Pocomoke and Tangier Sounds on November 27, 1987.

# Final Regulations

## § 1. Authority, prior regulation, and effective date.

### A. Authority.

This order is promulgated pursuant to authority contained in §§ 28.1-85 and 28.1-128.1 of the Code of Virginia.

### B. Prior regulations.

Order number 82-5 which pertains to the Pocomoke/Tangier Sound Management Area and order number 450-01-8506 which pertains to patent tonging in all areas where patent tonging is permitted shall be in full effect immediately upon reopening of the area.

### C. Effective date.

The effective date of this order is November 27, 1987.

## § 2. Purpose.

The purpose of this order is to protect and promote the oyster fishery in Pocomoke and Tangier Sounds. Severe disease problems have killed most marketable oysters. Continued harvesting by dredge after November 27, 1987 will be unnecessarily damaging to public grounds in the sounds.

## § 3. Designated area.

The area affected by this order shall be all the area as described in § 28.1-128.1 known as the Pocomoke/Tangier Sound Management Area and any public grounds in the embayments adjacent to the sounds.

## § 4. Season closure.

Harvesting by any method shall not be allowed after Friday, November 27, 1987 to Friday, September 30, 1988, inclusive.

## § 5. Expiration date.

The commission has established that it will reopen the area if the average dredge harvest is greater than or equal to six bushels of oysters per man per day during the two-week dredge season. If harvest meets this criteria and the area is reopened the commissioner is further directed to close the area when the average harvest for a week falls below six bushels per man per day. If no action to reopen the area is taken this order shall expire on October 1, 1988.

## § 6. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provisions of this order shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt, Commissioner

October 7, 1987

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**Title of Regulation:** Technical Amendment (HCFA PM 87-9): State Plan for Medical Assistance.

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

**Effective Date:** December 9, 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 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 its length, the State Plan for Medical Assistance is not being 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 authorizes the Director of the Department of Medical Assistance Services, in lieu of the board, to administer and amend the State Plan for Medical Assistance with the approval of the Governor.

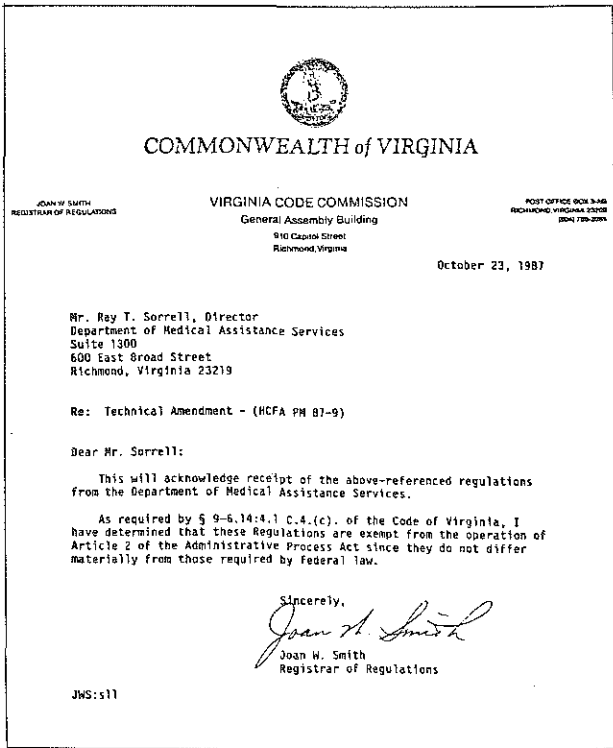
Recently implemented federal changes to the Social Security Act are requiring this plan updating action. As the Social Security Act is modified, so, too, the preprinted plan pages must be brought up to date to conform to the latest federal statutory changes. This plan action is necessary to incorporate 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.

provided. The regulation may be viewed at the office of the Registrar of Regulations or the Department of Medical Assistance Services.



**Summary:**

Section 32.1-325 of the Code of Virginia grants authority to the Board of Medical Assistance Services to administer and amend the State Plan for Medical Assistance subject to the approval of the Governor. The board approved these final changes on October 8, 1987, for filing with the Health Care Financing Administration (HCFA). The HCFA is requiring an effective date for implementation for these reimbursement changes of October 29, 1987.

The purpose of this plan amendment is to implement the federal requirements published by the HCFA establishing upper limits for multiple source drug reimbursements. This amendment changes plan language containing the methodology for reimbursing pharmacy providers.

The Health Care Financing Administration, in the July 31, 1987, Federal Register, published notice to the states that effective in 90 days, the states must adhere to its new reimbursement rules. The new HCFA rules require federal and state governments to take advantage of savings that are currently available in the marketplace for multiple source drugs. HCFA is exercising its authority, which derives from the Social Security Act § 1902 (a)(30)(A), to set these upper limits.

The HCFA rules are intended to ensure that the federal government acts as a prudent buyer of drugs under certain federal health programs. The rules set limits on payments for drugs supplied under Medicaid.

Specifically, the rules provide that the amount the department recognizes for drug reimbursement or payment purposes will not exceed the lowest of:

- \* The upper limit for specific multiple source drugs as determined by the Health Care Financing Administration (HCFA), plus the dispensing fee established by the state agency, or
- \* For other specific multiple source legend drugs listed in the Virginia Voluntary Formulary, a Virginia Maximum Allowable Cost (VMAC) established by the agency, plus a dispensing fee, or
- \* For other legend drugs, with the exception of oral contraceptives, the estimated acquisition cost determined by the state agency plus the dispensing fee established by the state agency, or
- \* For covered nonlegend drugs and oral contraceptives, a mark up allowance determined by the state agency, or

\* \* \* \* \*

**Title of Regulation:** VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care: State Plan for Medical Assistance.

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

**Effective Date:** December 9, 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 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 its length, the State Plan for Medical Assistance is not being published; however, a summary has been

# Final Regulations

\* The provider's usual and customary charges to the public, as identified by the claim charge.

The department is proposing a request to HCFA to waive its upper limits for those multiple source legend drugs which do not appear in the Virginia Voluntary Formulary listing. The Code of Virginia §§ 32.1-79 through 32.1-88 allows substitution for only the drug entities listed.

The department will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

each biennium for license renewal.

The severability section (Part VII) has been deleted since HB 984 was passed during the 1987 Session of the General Assembly. HB 984 added a blanket severability provision to the Administrative Process Act making it redundant to include such a provision within a regulation.

VR 510-01-1. Regulations of the Virginia Board of Optometry.

## 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 as they become available.

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceedings", the subject of which is proposed or existing regulations.

#### 3. Final regulation adopted.


#### B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may have their name added by writing the board. In addition, the board may, at 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. Those 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 desire to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

#### C. Notice of intent.

At least 30 days prior to publication of the notice of intent, an informational proceeding as required by § 9-6.14:7.1 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 and will address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

D. Information proceedings or public hearings for existing rules.

  
**COMMONWEALTH of VIRGINIA**

VIRGINIA CODE COMMISSION  
General Assembly Building  
910 Capitol Street  
Richmond, Virginia

POST OFFICE BOX 340  
RICHMOND, VIRGINIA 23208  
(800) 758-2081

October 23, 1987

JOAN W SMITH  
REGISTRAR OF REGULATIONS

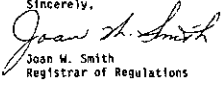
Mr. Ray T. Sorrell, Director  
Department of Medical Assistance Services  
Suite 1300  
600 East Broad Street  
Richmond, Virginia 23219

Re: Pharmacy Upper Limits

Dear Mr. Sorrell:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance Services.

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

Sincerely,  
  
Joan W. Smith  
Registrar of Regulations

JWS:s11

## VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Statutory Authority: § 54-376 of the Code of Virginia.

Effective Date: December 9, 1987

### Summary:

The amendment to §§ 1.3 and 6.1 of the regulation deletes a fee of \$10 per credit hour charged by the Virginia Board of Optometry for the review of continuing education courses. Optometrists in Virginia must obtain 24 hours of approved continuing education

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 for inclusion in the Virginia Register. 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.**

Prior to 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.

**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. Applicants.**

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the registrar of the school provide an official transcript to the board;
2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, one recent passport-type photograph of himself, not less than 2 1/2 by 2 1/2 inches in size;
3. Submit an official report from the National Board of Examiners in Optometry of the scores received on all parts of the examination of the National Board of Examiners in Optometry.
4. Submit the prescribed examination fee;

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the

applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination, the applicant shall receive upon request a refund of the licensure fee.

**§ 1.3. Fees.**

The following fees are required:

Examination fee .....	\$100
Initial Licensure Fee	
First Examination after Renewal .....	\$200
Second Examination after Renewal .....	\$150
Third Examination after Renewal .....	\$100
Fourth Examination after Renewal .....	\$50
Examination fee, certification to use diagnostic pharmaceutical agents .....	\$50
Licensure fee (renewed biennially) .....	\$200
Late fee .....	\$30
Administrative Fee .....	\$25
Professional Designation Application Fee .....	\$100
Biennial Professional Designation Registration Fee .....	100/location
Continuing Education Course Review Fee .....	10/credit hour over 2 credits ( <del>\$100 maximum</del> )
Reinstatement fee .....	\$200

**PART II.  
EXAMINATIONS.**

**§ 2.1. Examinations.**

A. For the purpose of § 54-380 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall successfully complete a practical examination administered by the Virginia Board of Optometry.

B. A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one



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section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. Otherwise the full examination shall be retaken.

## PART III. UNPROFESSIONAL CONDUCT.

### § 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."

2. Practice optometry under a name other than the optometrist's own name, except to the extent authorized by § 4.1., "Professional Designations."

3. Fail to maintain records on each patient for not less than five years from the date of the most recent service rendered. Such records shall include, but not be limited to (i) all the examinations made of the patient; (ii) the results of such examinations; and (iii) all treatments and drugs used or procedures performed on, all materials dispensed to, and all prescriptions written for, the patient, and the name of the attending optometrist.

4. Fail to include the following information on a prescription for ophthalmic goods:

- a. The printed name of the prescribing optometrist;
- b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
- c. The name of the patient;
- d. The signature of the optometrist;
- e. The date of the examination, and, if appropriate, expiration date of the prescription;
- f. Any special instructions.

5. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.

6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled

within 30 days after the last visit.

7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

8. Administer any diagnostic pharmaceutical agents, specified in § 54-386.2 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

9. Fail to post conspicuously in the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

10. Violate any provision of these regulations pertaining to professional designations.

## PART IV. PROFESSIONAL DESIGNATIONS.

### § 4.1. Professional designations.

A. An optometrist may practice in an office that uses any of the following professional designations, provided that the name of at least one licensed optometrist, associated with the office appears in conjunction with any advertisement or other use of that description:

1. The full name of the optometrist as it appears on his license and renewal certificate; or
2. The name of an optometrist who employs him and practices in the same office; or
3. A partnership name composed of some or all names of optometrists practicing in the same office; or
4. A fictitious name, if the conditions set forth in subsection B. of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a fictitious name for the optometric office in which they conduct their practices, provided the following conditions are met:

1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.

2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.

3. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the following:

a. The name of at least one licensed optometrist associated with the optometric office who shall, in conjunction with the licensed optometrists referred to in paragraph 1 of this subsection, assume responsibility for the advertisement:

b. Lettering in which the name of the optometrist appears of at least half the size of the lettering in which the fictitious name appears.

4. No fictitious name may be used that does not contain the word "optometry" or reasonably recognizable derivatives thereof.

5. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.

6. The names of all optometrists who practice under the fictitious name shall be maintained in the records of the optometric office for five years following their departure from the practice.

7. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist shall be placed in the record of the patient.

8. The name of the licensed optometrist providing care shall appear on the initial statement of charges and on the receipts given to patients.

9. No fictitious name may be used which contains the name of an inactive, retired, removed, or deceased optometrist, except that for a period of no more than one year from the date of succession to a practice, an optometrist may list the name of the inactive, retired, removed, or deceased optometrist, so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

## PART V. RENEWAL OF LICENSURE; REINSTATEMENT.

### § 5.1. Renewal fees.

A. Every person authorized by the board to practice

optometry shall, on or before October 31 of every even-numbered year, pay to the executive director of the Board of Optometry the prescribed biennial licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given.

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license. The license of every person who does not return the completed form and fee by October 31 of the renewal year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid the prescribed late fees, all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee.

D. The board may, in its discretion, require an applicant who cannot satisfy the requirement of subsection C of § 5.1 of these regulations, to pass all parts of the examination of the National Board of Examiners in Optometry or the state practical examination, or both.

## PART VI. CONTINUING EDUCATION.

### § 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 24 hours of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A. of this section, no later than the last day of each license period.

C. The board will review courses for acceptability for purposes of continuing education requirements upon payment of a fee as prescribed by board regulations if the following information is provided:

1. The title of the course;
2. The sponsoring organization(s);
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. An outline of the course's content;

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6. The length of the course in clock hours;
7. The method of certification of attendance; and
8. Number of credit hours requested.

D. The titles of all courses approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient.

Courses excluded by the board shall include:

1. Courses which are designed to promote the sale of specific instruments or products;
2. Courses offering instruction on augmenting income; and
3. Courses which are neither advertised nor in fact available to all optometrists or any courses for which there is no independent assurance that no part of the educational session is devoted to the promotion of specific instruments, products, or marketing philosophies.

E. When the biennial license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. In the event such form, with proper substantiation, is not filed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability or undue hardship, or upon showing that the licensee has complied with the requirements of subsection B. of this section.

## PART VII. SEVERABILITY.

### § 7-1. Severability clause.

Contained herein are the regulations of the Virginia Board of Optometry. These regulations repeal and supersede all other regulations adopted, promulgated, revised, or amended by the board.

If any provision of these regulations or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications, and to this end the provisions of the regulations are declared severable.

# EMERGENCY REGULATION

**NOTE:** The following emergency regulations are promulgated by: The Departments of Corrections, Education, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services.

DEPARTMENT OF CORRECTIONS. VR 230-40-001.

DEPARTMENT OF EDUCATION. VR 270-01-003.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES. VR 470-02-01.

DEPARTMENT OF SOCIAL SERVICES. VR 615-29-02.

**Title of Regulation:** Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

**Statutory Authority:** §§ 16.1-286, 53.1-237 thru 53.1-239, 16.1-310 thru 16.1-314, 53.1-249, 22.1-319 thru 22.1-335, 22.1-218, 37.1-179 thru 37.1-189, 37.1-199, 63.1-195 thru 63.1-219, and 63.1-56.1 of the Code of Virginia.

**Effective Dates:** October 20, 1987 through October 19, 1988.

**Preamble:**

*The Judge of the Circuit Court of Albemarle ruled, in an order entered July 16, 1986, that the statutes and regulations of the Commonwealth of Virginia do not prohibit the therapeutic use of physical punishment in the behavior management of mentally retarded children and adults. This ruling was contrary to the understanding and intent of the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services in promulgating the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.*

*The departments have operated under an emergency regulation since October 10, 1986. In the absence of clarifying regulations, the departments must operate without reasonable procedural boundaries on the use of physical punishment. Since the issue involves the health and safety of admittedly vulnerable residents, the departments are concerned with continuing protection to these residents through extension of the emergency regulation while the outstanding issues are adjudicated and resolved and permanent regulations are promulgated.*

*Recognizing the need to protect these residents, the State Boards of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services, acting under the authority of the Code of Virginia, do hereby promulgate an extension of the existing emergency regulation subject to the approval of the Governor.*

*The effective date of this emergency regulation is October 20, 1987.*

*This emergency regulation shall terminate on October 19, 1988, or upon the earlier effective date of similar regulation to be promulgated through the full Administrative Process Act.*

*The following emergency regulation affects the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children which were promulgated and effective on July 1, 1986.*

*The regulation, as here proposed, is submitted as an emergency regulation in order that the safety of residents be protected until the outstanding issues are adjudicated and resolved and permanent regulations are promulgated in accord with the requirements of the Administrative Process Act, including full public participation and comment.*

VR 230-40-001, 270-01-003, VR 470-02-01, VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

## PART I. INTRODUCTION.

### Article 1. Definitions.

#### § 1.1. Definitions.

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

*“Corporal punishment” means [ any type of physical punishment inflicted upon the body the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort .]*

*[ “Intrusive aversive therapy” means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. It may include actions defined in these standards as corporal punishment. ]*

*“Punishment” means [ retributive, retaliatory and sometimes harsh or abusive reactions to a child’s misbehavior. Punishment is defined as a reaction that primarily relieves adult frustration without being rationally designed to teach or correct the children’s behavior the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease, the probability of that behavior. This includes*

# Emergency Regulation

a pain, loss, or penalty inflicted for a fault or mistake. ]

## PART V. PROGRAMS AND SERVICES.

### Article 24. Prohibited Means of Punishment.

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

1. Deprivation of [ *drinking water or* ] nutritionally balanced [ *meals, snacks ; or meals; and drinking water;* ]

2. Prohibition of contacts and visits with [ *family, legal guardian,* ] attorney, probation officer, or placing agency representative;

[ *3. Prohibition of contacts and visits with family or legal guardian except where specifically permitted by other applicable regulations;* ]

[ *3. 4. Limitation of receipt of mail; Delay or withholding of incoming and/or outgoing mail;* ]

[ *4. 5. Humiliating or degrading practices including ridicule or verbal abuse; Any action which is humiliating, degrading, harsh, or abusive;* ]

[ *5. 6. Corporal punishment ; including any type of physical punishment inflicted upon the body; except where employed as part of an approved intrusive aversive therapy program specifically permitted by other applicable regulations;* ]

[ *6. 7. ]* Subjection to unclean and unsanitary living conditions;

[ *7. 8. ]* Deprivation of opportunities for bathing and access to toilet facilities; [ *and* ]

[ *8. 9. ]* Deprivation of health care including counseling ;

[ *10. Intrusive aversive therapy except where specifically permitted by other applicable regulations; and* ]

[ *11. Administration of laxatives, enemas, or emetics. ]*

/s/ Jennifer G. Fidura  
Deputy Commissioner, Department of Mental Health,  
Mental Retardation and Substance Abuse Services, and  
Coordinating Committee Chair  
September 23, 1987

/s/ Gerald L. Bailes

Governor  
October 15, 1987

/s/ Ann M. Brown  
Deputy Registrar of Regulations  
Date: October 20, 1987 - 1:37 p.m.

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**Title of Regulation:** VR 470-02-02. Mandatory  
Certification/Licensure Standards for Treatment  
Programs for Residential Facilities for Children.

**Statutory Authority:** §§ 37.1-179 thru 37.1-189 of the Code  
of Virginia.

**Effective Dates:** October 20, 1987 through October 19, 1988

### Preamble:

In the case of Howard M. Cullum, Commissioner, Etc. v. Faith Mission Home, Inc., Et Al., the Judge of the Circuit Court of Albemarle ruled in an order entered July 16, 1986, that the statutes and regulations of the Commonwealth of Virginia do not prohibit the therapeutic use of physical punishment in the behavior management of mentally retarded children and adults. This ruling was contrary to the understanding and intent of the Departments of Corrections, Education, Mental Health and Mental Retardation, and Social Services in promulgating the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children and the Department of Mental Health and Mental Retardation in promulgating standards for treatment programs to be applied in conjunction with Core Standards for the licensure/certification of residential treatment programs for mentally ill, mentally retarded and/or substance abusing children.

The issues raised by the case of Howard M. Cullum, Commissioner, Etc. v. Faith Mission Home, Inc., Et Al. revealed the need for amendments to the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children and the Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children with respect to requirements governing intrusive aversive therapy and corporal punishment. In the absence of clarifying regulations, the departments were faced with operating without reasonable procedural boundaries on the use of physical punishment. Since the issue involves the health and safety of admittedly vulnerable residents, the departments were concerned with the immediate protection of these residents through emergency regulations while the outstanding legal issues were appealed and adjudicated and there was time to promulgate permanent regulations with the benefit of

public comment.

The State Mental Health, Mental Retardation and Substance Abuse Services Board, acting under the authority of the Code of Virginia, promulgated an emergency regulation that was approved by the Governor to be effective from October 10, 1986 through October 9, 1987. This emergency regulation was published in the Virginia Register on October 27, 1986 (3 Virginia Register 149 et seq.).

The case of Howard M. Cullum, Commissioner, Etc. v. Faith Mission Home, Inc., Et Al. is still in litigation. Permanent regulations have not been promulgated and cannot be promulgated pursuant to the Administrative Process Act prior to October 9, 1987, the expiration of the current emergency regulation.

The State Mental Health, Mental Retardation and Substance Abuse Services Board meeting in regular session on August 26, 1987 acted favorably on a resolution endorsing a request to the Governor to continue in effect the amendment to the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children and the Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children with respect to requirements governing intrusive aversive therapy and corporal punishment that were promulgated by the Governor of Virginia as emergency regulations until the various outstanding issues are adjudicated and resolved and permanent regulations can be promulgated.

The following are a proposed continuation of the emergency revisions and additions that were published in the Virginia Register on October 27, 1986 (3 Virginia Register 149 et seq.) amending the Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children which were initially promulgated and effective on January 1, 1986.

The regulation, as here proposed, is submitted as an emergency regulation until the various outstanding issues are adjudicated and resolved and time is available to promulgate permanent regulations in compliance with the Administrative Process Act, including public participation and comment.

VR 470-02-02. Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children.

## PART I. INTRODUCTION.

### Article 1. Definitions.

#### § 1.1. Definitions.

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

[ "Advocate" means a person or persons appointed by the Commissioner after consultation with the State Human Rights Director and the Local Human Rights Committee who exercise the duties set forth in Section III A of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation. ]

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

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

[ "Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. It may include actions defined in these standards as corporal punishment, but does not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with these regulations, or psychotropic medications which are not used for purposes of intrusive aversive therapy. ]

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

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

[ "Regional advocate" means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in

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*Community Programs and who are appointed by the Commissioner after consultation with the State Human Rights Director. ]*

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

## PART II. SERVICE POLICIES AND PROCEDURES.

### Article 1. Client Rights.

The following sections are additional requirements to the Core Standards, Part II, Article 9 and Part V, Articles 26 and 27.

§ 2.1. Each program operated, funded or licensed by the Department of Mental Health and Mental Retardation shall guarantee client rights as outlined in the Code of Virginia, § 37.1-84.1 and the applicable regulations promulgated on the rights of clients in community programs.

§ 2.2. Each program shall have written policies and procedures regarding the photographing and audio or audio-video recordings of clients which shall ensure and provide for:

A. The written consent of the client or the client's legally authorized representative shall be obtained before the client is photographed or recorded for research or program publicity purposes.

B. No photographing or recording by program personnel shall take place without the client and/or the client's family or legally authorized representative being informed.

C. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the client.

§ 2.3. Each program shall have written policies and procedures for managing all inappropriate or dangerous client behavior. These policies shall include:

A. Seclusion or restraints shall only be used in accordance with the Code of Virginia, § 37.1-84.1 and the applicable regulations promulgated on the rights of clients in community programs.

B. Time out, which shall only be used in accordance with the Code of Virginia, § 37.1-84.1 and the applicable regulations promulgated on the rights of clients in community programs.

1. Time out shall not exceed 15 minutes at any one time.

C. Program staff shall neither abuse a client verbally nor physically.

§ 2.4. Each client shall be placed in the least restrictive level of programming appropriate to their functioning and available services.

[ § 2.5. Each program shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

A. Emphasize positive approaches;

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

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

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

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

F. Specify the methods for documenting their use. ]

[ § 2.6. In the list required by § 2.5 B of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique. ]

[ § 2.7. A behavior management plan utilizing intrusive aversive therapy shall not be implemented with any resident until the Local Human Rights Committee has determined:

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

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

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

D. That there is documentation that all less intrusive behavior management procedures have been tried without success;

E. That more appropriate behaviors are being positively reinforced;

F. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the resident and that a physician check the resident within 24 hours after any intrusive aversive procedure;

G. If corporal punishment as defined in these regulations is the proposed noxious stimulus, that other noxious stimuli that are recognized as safe and appropriate in the relevant professional literature for use in intrusive aversive therapy have been tried without success;

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

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

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

K. That the program is subject to both professional and human rights review in addition to informed consent by the resident or client, or authorized representative. ]

[ § 2.8. The Local Human Rights Committee having made the determinations required by § 2.7 shall forward its findings to State Human Rights Committee which shall review and make its recommendations to the Commissioner who may then approve the proposed intrusive aversive therapy plan for a period not to exceed ninety days. The plan shall be monitored through unannounced visits by a designated advocate. In order for the plan to be continued, the Local Human Rights Committee shall again make the determinations required in § 2.7. ]

[ § 2.9. The advocate or regional advocate shall be promptly informed of each application of a noxious stimulus in an approved intrusive aversive therapy program. ]

[ § 2.10. The resident subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical review of the necessity and propriety of their use at any time. ]

Approved by the State Mental Health, Mental Retardation and Substance Abuse Services Board, August 26, 1987

/s/ Howard M. Cullum, Commissioner

Date: September 28, 1987

Approved by the Governor of Virginia

/s/ Gerald L. Baliles, Governor of Virginia

Date: October 15, 1987

Received by the Registrar of Regulations

/s/ Ann M. Brown, Deputy Registrar of Regulations

Date: October 20, 1987 - 1:37 p.m.



# STATE CORPORATION COMMISSION

## STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 6, 1987

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS870293

Ex Parte: In the matter of  
adopting Rules to Implement Transitional  
Requirements for the Conversion  
of Medicare Supplement Insurance  
Benefits and Premiums to Conform  
to Medicare Program Revisions.

### ORDER SETTING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction and Virginia Code § 38.2-223, §§ 38.2-3516 through 38.2-3520, §§ 38.2-3600 through 38.2-3607 and § 38.2-514 provide that the Commission is authorized to issue such reasonable rules and regulations to provide minimum standards for individual accident and sickness insurance and medicare supplement policies as well as require certain disclosure information;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions" which is designed to ensure the orderly implementation and conversion of medicare supplement insurance benefits and premiums due to changes in the federal medicare program; provide for the reasonable standardization of the coverage, terms and benefits of medicare supplement policies or contracts; facilitate public understanding of such policies or contracts; eliminate provisions contained in such policies or contracts which may be misleading or confusing in connection with the purchase of such policies or contracts; modify or eliminate policy or contract provisions which may duplicate medicare benefits; provide full disclosure of policy or contract benefits and benefit changes; and provide for refunds of premiums associated with benefits duplicating medicare program benefits;

WHEREAS, said regulation concerns a subject appropriate for Commission regulation; and

WHEREAS, the Commission is of the opinion that a hearing should be held on the proposed regulation, at which hearing all persons in interest may appear and be heard,

#### IT IS ORDERED:

(1) That the proposed regulation entitled "Rules to

Implement Transitional Requirements for the conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions" be appended hereto and made a part hereof, filed and made a part of the record herein;

(2) That this matter be docketed and assigned Case No. INS870293, and that a hearing be held before the Commission's Hearing Examiner, who is hereby appointed to conduct a hearing on behalf of the Commission pursuant to the authority granted the Commission in Virginia Code § 12.1-31, in the Commission's Courtroom, Jefferson Building, 3rd Floor, Bank and Governor Streets, Richmond, Virginia at 10:00 a.m. on November 10, 1987, for the purpose of considering the adopting of the proposed regulation, at which time and place all interested persons may appear and be heard with respect to the proposed regulation;

(3) That, in accordance with § 12.1-31 of the Code of Virginia, the Hearing Examiner hereinbefore appointed shall conduct all further proceedings in this matter on behalf of the Commission, concluding with the filing of the Examiner's final Report to the Commission. In the discharge of such duties, the Hearing Examiner shall exercise all the inquisitorial powers possessed by the Commission, including, but not limited to, the power to administer oaths, require the appearance of witnesses and parties and the production of documents, schedule and conduct pre-hearing conferences, admit or exclude evidence, grant or deny continuances, and rule on motions, matters of law and procedural questions. Any party objecting to any ruling of action of said Examiner shall make known its objection with reasonable certainty at the time of the ruling, and may argue such objections to the Commission as a part of its comments to the final report of said Examiner; provided, however, if any ruling by the Examiner denies further participation by any party in interest in a proceeding not thereby concluded, such party shall have the right to file a written motion with the Examiner for his immediate certification of such ruling to the Commission for its consideration. Pending resolution by the Commission of any ruling so certified, the Examiner shall retain procedural control of the proceeding;

(4) That the Hearing Examiner hereinbefore appointed shall cause the testimony taken at such hearing to be reduced to writing and promptly deliver his written findings together with the transcript of the hearing to the Commission for its consideration and judgment;

(5) That an attested copy hereof together with a copy of the proposed regulation be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Stephen J. Kaufman who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order together with a copy of the proposed regulation to every insurance company licensed to sell accident and sickness insurance or medicare supplement policies; and

(6) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (5) above.

\* \* \*

**Title of Regulation: Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions.**

**§ 1. Authority.**

This regulation is issued pursuant to the authority vested in the Commission under § 38.2-223, §§ 38.2-3516 through 38.2-3520, §§ 38.2-3600 through 38.2-3607 and § 37.2-514 of the Code of Virginia.

**§ 2. Purpose.**

This regulation is designed to:

- (a) Ensure the orderly implementation and conversion of medicare supplement insurance benefits and premiums due to changes in the federal medicare program;
- (b) Provide for the reasonable standardization of the coverage, terms and benefits of medicare supplement policies or contracts;
- (c) Facilitate public understanding of such policies or contracts;
- (d) Eliminate provisions contained in such policies or contracts which may be misleading or confusing in connection with the purchase of such policies or contracts;
- (e) Modify or eliminate policy or contract provisions which may duplicate medicare benefits;
- (f) Provide full disclosure of policy or contract benefits and benefit changes; and
- (g) Provide for refunds of premiums associated with benefits duplicating medicare program benefits.

**§ 3. Effective date.**

This regulation shall be effective on January 1, 1988.

**§ 4. Applicability and scope.**

This regulation shall take precedence over other rules and requirements relating to medicare supplement policies or contracts only to the extent necessary to assure that benefits are not duplicated, that applicants receive adequate notice and disclosure of changes in medicare supplement policies and contracts, that appropriate premium adjustments are made in a timely manner, and

that premiums are reasonable in relation to benefits.

A. All medicare supplement policies and contracts delivered, or issued for delivery within this Commonwealth, or which are otherwise subject to the jurisdiction of this Commonwealth, and

B. All certificates issued under group medicare supplement policies as provided in (A) above.

This regulation applies to all medicare supplement policies, contracts, and certificates as described in (A) and (B), above, delivered, or issued for delivery on or after the effective date hereof. In addition, § 6 applies to all medicare supplement policies, contracts and certificates as described in (A) and (B), above, in effect on January 1, 1988.

**§ 5. Definitions.**

For purposes of this regulation:

A. "Applicant" means:

- 1. In the case of an individual medicare supplement policy or contract, the person who seeks to contract for insurance benefits, and
- 2. In the case of a group medicare supplement policy or contract, the proposed certificate holder.

B. "Certificate" means any certificate issued under a group medicare supplement policy.

C. "Medicare Supplement Policy" means an individual or group policy of accident and sickness insurance or an individual or group subscriber contract of a health services plan, or health maintenance organization or a certificate issued under a group policy or group subscriber contract, offered to individuals who are entitled to have payment made under Medicare, which is designed primarily to supplement Medicare by providing benefits for payment of hospital, medical or surgical expenses, or is advertised, marketed or otherwise purported to be a supplement to Medicare. Such term shall not include:

- 1. A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or
- 2. A policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) Is composed of individuals all of whom are actively engaged in the same profession; trade or

# State Corporation Commission

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occupation;

(b) Has been maintained in good faith for purposes other than obtaining insurance; and

(c) Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members.

## § 6. Benefit conversion requirements.

A. Effective January 1, 1988, no medicare supplement insurance policy, contract, or certificate subject to this regulation, in effect on January 1, 1988, shall contain benefits which duplicate benefits provided by medicare.

### B. General requirements.

#### 1. On the later of:

(a) Thirty days prior to the effective date of medicare benefit changes, or

(b) Sixty days after enactment of federal law mandating medicare benefit changes,

every insurer, health services plan, health maintenance organization or other entity providing medicare supplement insurance or benefits shall notify its policyholders, contract holders, and certificate holders of modifications it has made to medicare supplement insurance policies or contracts. Such notice shall be in a format prescribed in Exhibit A and be written in outline form in clear and simple terms so as to facilitate comprehension. Such notice shall not contain or be accompanied by any solicitation.

2. No modifications to an existing medicare supplement contract or policy shall be made at the time of or in connection with the notice requirements of this regulation except to the extent necessary to eliminate duplication of medicare benefits and any modifications necessary under the policy or contract to provide indexed benefit adjustment.

3. As soon as practicable, but no longer than 45 days after the effective date of the medicare benefit changes, every insurer, health services plan, health maintenance organization or other entity providing medicare supplement insurance or contracts in this Commonwealth shall file with the Commission, in accordance with the applicable filing procedures of this Commonwealth:

(a) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

(b) Any appropriate riders, endorsements, or policy

forms needed to accomplish the medicare supplement insurance modifications necessary to eliminate benefit duplications with medicare. Any such riders, endorsements, or policy forms shall provide a clear description of the medicare supplement benefits provided by the policy or contract.

4. Upon satisfying the filing and approval requirements of this Commonwealth, every insurer, health services plan, health maintenance organization or other entity providing medicare supplement insurance shall provide each covered person with any rider, endorsement or policy form necessary to eliminate any benefit duplications under the policy or contract with benefits provided by medicare.

5. No insurer, health services plan, health maintenance organization or other entity shall require any person covered under a medicare supplement policy or contract which was in effect prior to January 1, 1988, to purchase additional coverage under such policy or contract unless such additional coverage was provided for in the policy contract.

6. Every insurer, health services plan, health maintenance organization or other entity providing medicare supplement insurance shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for medicare supplement policies and which is expected to result in a loss ratio at least as great as that originally anticipated by the insurer, health services plan, health maintenance organization or other entity for such medicare supplement insurance policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein should be made with respect to a policy at any time other than upon its renewal date. Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if credit is given, or within 60 days of the renewal date if a refund is provided to the premium payor.

## § 7. Requirements for new policies and certificates.

A. Effective January 1, 1988, no medicare supplement insurance policy, contract, or certificate shall be issued or issued for delivery in this Commonwealth which provides benefits which duplicate benefits provided by medicare. No such policy, contract or certificate shall provide less benefits than those required under Title 38.2, Chapter 36 or existing Regulation 20, Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act with respect to medicare supplement policies except where duplication of medicare benefits would result.

### B. General requirements.

1. Within 90 days of the effective date of this regulation, every insurer, health services plan, health maintenance organization or other entity required to file its policies or contracts with the Commission shall file new medicare supplement insurance policies or contracts which eliminate any duplication of medicare supplement benefits with benefits provided by medicare and which provide a clear description of the policy or contract benefit.

2. The filing required under 7(B)(1) shall provide for loss ratios which are in compliance with all statutory or regulatory requirements.

3. Every applicant for a medicare supplement insurance policy, contract, or certificate shall be provided with an outline of coverage which in simple accurate terms describes benefits provided by medicare and the medicare supplement policy or contract along with benefit limitations.

§ 8. Buyer's guide.

No insurer, health services plan, health maintenance organization or other entity shall make use of or otherwise disseminate any buyer's guide or informational brochure which does not accurately outline current medicare benefits.

§ 9. Separability.

If any provision of this regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

EXHIBIT A

NOTICE OF MODIFICATION TO YOUR MEDICARE SUPPLEMENT POLICY (CONTRACT)

The federal government has recently revised the medicare program. As a result your existing policy contains some provisions which may duplicate medicare benefits. The purpose of this notice is to fully disclose to you:

- (a) The changes in the medicare program,
- (b) The modifications that will be made to your policy to eliminate policy (contract) provisions which may duplicate medicare benefits, and
- (c) Provide for premium adjustments under your policy because of these changes.

A. Revisions to the Medicare Program.

(Include a description of revisions to the Medicare Program)

B. Modifications to Your Medicare Supplement Policy (Contract)

(Include a description of each modification made to the coverage provided under the Medicare Supplement Policy (contract)

C. Applicable premium adjustments to your policy (contract)

(Specify any premium adjustment due to changes in the Medicare Program)

If you have any questions about this notice you may contact our company at (include telephone number and address)

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER FIFTY-THREE (87)

### CONTINUING 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 continue Executive Order Number 27 (86), which established the Virginia Military Advisory Commission.

This Executive Order will become effective on October 22, 1987 and will remain in full force and effect until October 21, 1988, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 19th day of October, 1987.

/s/ Gerald L. Baliles  
Governor

# DELEGATIONS OF DUTIES AND RESPONSIBILITIES

The 1987 General Assembly passed Legislation allowing an agency's chief executive officer to delegate to any officer or employee of his agency the duties and responsibilities conferred upon him by law and, in the case of an agency with a supervisory board, such board may delegate its duties and responsibilities. Section 1-17.2 of the Code of Virginia requires that when duties and responsibilities conferred or imposed upon a chief executive officer or supervisory board are delegated, such reports are to be published in the Virginia Register of Regulations as soon after filing as practicable.

## DEPARTMENT OF HEALTH REGULATORY BOARDS

### Address:

Department of Health Regulatory Boards  
1601 Rolling Hills Drive  
Richmond, Virginia 23229

Telephone: (804) 662-9900

**Title of Chief Executive Officer:**  
Director

### Duty or Responsibility Delegated:

In accordance with § 54-955. A, B, C, H, and I of the Code; enter into contracts for goods or services, supervise investigative, inspection, financial and other services provided to regulatory boards; and in accordance with §§ 54-955, 54-960, and 54-961 of the Code all duties of the Director in his absence. All delegation subject to the Director's continuing ultimate authority, responsibility, and direction.

**Position Receiving Delegation:**  
Deputy Director

\*\*\*\*\*

**Title of Chief Executive Officer:**  
Director

### Duty or Responsibility Delegated:

In accordance with § 54-955 B and D.1 of the Code, the duties of Human Relations Officer and the employment of temporary employees (P-14) subject to my continuing supervision and direction.

**Position Receiving Delegation:**  
Human Relations Officer

\*\*\*\*\*

**Title of Chief Executive Officer:**  
Director

### Duty or Responsibility Delegated:

In accordance with § 54-955 C, H, and I of the Code, prepare preliminary budgets, collect and account for all fees and monies, account for all expenditures and disbursements, enter into contracts of less than \$2,000, and provide consolidated administrative support services for all boards subject to continuing agency management and direction.

**Position Receiving Delegation:**  
Fiscal Officer

\*\*\*\*\*

**Title of Chief Executive Officer:**  
Director

### Duty or Responsibility Delegated:

In accordance with § 54-955 B and E of the Code, the operation of a clearinghouse for all complaints made against regulated health care professionals, provide investigative services and track the status of all complaints until closure, subject to continuing agency management and direction.

**Position Receiving Delegation:**  
Chief of Investigations

\*\*\*\*\*

**Title of Chief Executive Officer:**  
Director

### Duty or Responsibility Delegated:

In accordance with § 54-955 E of the Code, provide inspection and background investigations needed for boards to enforce their respective laws and regulations subject to continuing agency management and direction.

**Position Receiving Delegation:**  
Chief of Inspections

\*\*\*\*\*

**Title of Chief Executive Officer:**  
Director

### Duty or Responsibility Delegated:

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Boards of Optometry and Veterinary Medicine which may assist their operation subject to continuing agency management direction.

### Position Receiving Delegation:

Board Administrator for the Board of Optometry and the Board of Veterinary Medicine

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**Title of Chief Executive Officer:**  
Director

# Delegations

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**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code provide or perform administrative services or functions for the Board of Dentistry which may assist its operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Board Administrator for the Board of Dentistry

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Board of Funeral Directors and Embalmers which may assist its operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Board Administrator for the Board of Funeral Directors and Embalmers

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Board of Pharmacy which may assist its operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Executive Director of the Board of Pharmacy

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**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Boards of Nursing which may assist its operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Executive Director of the Board of Nursing

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Board of Medicine which may assist its operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Board Administrator for the Board of Medicine

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Board of Medicine which may assist its operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Executive Director of the Board of Medicine

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

In accordance with § 54-955 B of the Code, provide or perform administrative services or functions for the Boards of Social Work, Psychology, and Professional Counselors which may assist their operation subject to continuing agency management and direction.

**Position Receiving Delegation:**

Board Administrator for the Board of Social Work, the Board of Psychology, and the Board of Professional Counselors

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

Address:

Department of Medical Assistance Services  
600 East Broad Street  
Suite 1300  
Richmond, Virginia 23219

**Telephone:** (804) 786-1465

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

Delegated responsibility for signing contracts with hospitals for purposes of nursing home preadmission screening and for signing provider agreements with personal care provider agencies.

**Position Receiving Delegation:**  
Manager of Community-Based Care Section

Program Support Technician

**COUNCIL ON THE STATUS OF WOMEN**

**Agency Name (if different from agency with authority and responsibility):**  
Department of Social Services

**Address:**  
Council on the Status of Women  
8007 Discovery Drive  
Richmond, Virginia 23229-8699

**Telephone:** (804) 281-9200

**Title of Chief Executive Officer:**  
Executive Director

**Duty or Responsibility Delegated:**  
Processing for payment all prepared invoices and vouchers, reconciliation of monthly accounting records with CARS report, preparation of financial statements, preparation of payroll records, and deposit of all revenues.

**Position Receiving Delegation:**  
Fiscal Director B

**Agency Name (if different from agency with authority and responsibility):**  
Department of Social Services

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Executive Director

**Duty or Responsibility Delegated:**  
Personnel recruitment for all agency positions, includes development of recruitment ads, and receipt of applications.

**Position Receiving Delegation:**  
Human Resource Director Senior

**Agency Name (if different from agency with authority and responsibility):**  
Department of Social Services

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Executive Director

**Duty or Responsibility Delegated:**  
Procurement responsibilities for printing publications. Delegated responsibilities include soliciting and obtaining telephone and/or written bids on printing; completion of purchase order and arranging for delivery of completed printing requisition. Final selection and award of contract is the responsibility of the agency Executive Director.

**Position Receiving Delegation:**



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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
† Indicates entries since last publication of the Virginia Register

## STATE AIR POLLUTION CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution: Kraft Pulp Mill Rule (4-13)**. The purpose of the proposed regulation is to require the owner/operator to limit total reduced sulfur emissions from the kraft pulp mill to a level resultant from the use of reasonably available control technology and necessary for the protection of public welfare.

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

Written comments may be submitted until December 15, 1987.

**Contact:** M. E. Lester, Division of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240-0089, telephone (804) 786-7564

## DEPARTMENT OF COMMERCE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider promulgating regulations entitled: **Asbestos Licensing Regulations**. The purpose of the proposed regulation is to carry out the provisions of Chapter 7, § 54-145.10:11 of Title 54, regarding training and licensing of any person or entity engaging in work as an asbestos worker, contractor/supervisor, or inspector.

Statutory Authority: § 54-145.5 of the Code of Virginia.

Written comments may be submitted until November 12, 1987.

**Contact:** Peggy Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8595, SCATS 327-8595 or toll-free 1-800-552-3016

## DEPARTMENT OF CORRECTIONS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Standards for Youth Institutional Services Facilities**. The purpose of the proposed regulation is to provide standards for operating learning centers with respect to the provision of adequate care, treatment, and supervision; and suitable education, training, and employment of such children committed to the Department of Corrections.

Statutory Authority: §§ 53.1-5, 53.1-248 and 53.1-249 of the Code of Virginia.

Written comments may be submitted until November 30, 1987, to Tom Foster, Manager Division of Youth Services, Region II, 11150 Main Street, Suite 500, Fairfax, Virginia 22030.

**Contact:** Thaddeus Aubry, Manager, State & Local Youth Facilities, 11150 Main St., Suite 500, Fairfax, Va. 22030-5066, telephone (703) 591-9422 or SCATS 466-3084

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Standards for Pre and Post Dispositional Group Homes**. The purpose of the proposed regulations is to provide standards for operating locally and state-administered pre and post dispositional group homes with respect to the provision of adequate care, treatment, and supervision; and suitable education, training and employment of such children ordered or referred to said facilities by the Juvenile Court and other youth-serving agencies.

Statutory Authority: §§ 16.1-311, 53.1-5, and 53.1-249 of the Code of Virginia.

Written comments may be submitted until November 30, 1987, to Mary Johnson, Manager, Division of Youth Services, Region IV, 540 East Constance Road, Suffolk, Virginia 23434.

**Contact:** Thaddeus Aubry, Manager, State & Local Youth Facilities, 11150 Main St., Suite 500, Fairfax, Va. 22030, telephone (703) 591-9422 or SCATS 466-3084

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Standards for Family Group Homes**. The purpose of the proposed regulations is to provide standards for operating locally and state-administered family group homes with respect to the provision of adequate care, treatment, and supervision, and suitable education, training, and employment of such children ordered or referred to said homes by the Juvenile Court and other youth-serving agencies.

Statutory Authority: §§ 16.1-311, 53.1-5 and 53.1-249 of the Code of Virginia.

Written comments may be submitted until November 30, 1987, to William Lieb, Director, Family Group Home of Charlottesville, P. O. Box 155, Charlottesville, Va. 22902.

**Contact:** Thaddeus Aubry, Manager, State & Local Youth Facilities, 11150 Main St., Suite 500, Fairfax, Va. 22030, telephone (703) 591-9422 or SCATS 466-3084

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Standards for Outreach Detention**. The purpose of the proposed regulation is to provide standards for operating locally and state-administered pre and post dispositional outreach, outreach detention and intensive supervision programs with respect to the provision of adequate care, treatment, and supervision, and suitable education, training and employment of such children ordered to said programs by the Juvenile Court.

Statutory Authority: §§ 16.1-311, 16.1-233 and 53.1-5 of the Code of Virginia.

Written comments may be submitted until November 30, 1987.

**Contact:** Eleanor Dye, Manager, State & Local Youth Facilities, 5306-A Peters Creek Road, Roanoke, Va. 24019, telephone (703) 982-7186 or SCATS 676-7244

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Minimum Standards for Court Services in Juvenile and Domestic Relations District Courts**. The purpose of the proposed regulation is to provide standards to aid in the effective operation of the Court Service Units in each of the Juvenile and Domestic Relations District Courts in Virginia by defining their roles, ensuring that services are delivered in an appropriate manner, and

establishing criteria that will ensure that the quality and quantity of services provided are sufficient to meet the needs of the courts and the public.

Statutory Authority: §§ 16.1-233 and 53.1-5 of the Code of Virginia.

Written comments may be submitted until November 30, 1987.

**Contact:** Austen C. Micklem, Jr., Regional Administrator, Division of Youth Services, Fifty/Sixty Six Bldg., 11150 Main St., Fairfax, Va. 22030, telephone (703) 591-9422

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Standards for Secure Detention**. The purpose of the proposed regulation is to provide standards for operating locally administered secure detention facilities and programs with respect to the provision of adequate care, treatment, and supervision, and suitable education and training of such children ordered to said facilities, pre-dispositionally or post-dispositionally by the juvenile court.

Statutory Authority: §§ 16.1-284.1.E, 16.1-311 and 53.1-5 of the Code of Virginia.

Written comments may be submitted until November 30, 1987, to Kitty Hardt, Manager, Division of Youth Services, Region III, 302 Turner Road, Richmond, Virginia 23225.

**Contact:** Thaddeus Aubry, Manager, State & Local Youth Facilities, 11150 Main St., Suite 500, Fairfax, Va. 22030-5066, telephone (703) 591-9422 or SCATS 466-3084

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs**. The purpose of the proposed regulation is to provide standards for operating locally administered programs developed and implemented under Virginia Delinquency Prevention and Youth Development Act grants with respect to program administration, services, personnel fiscal management, staff training and development, and monitoring and evaluation.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until January 15, 1988.

**Contact:** Thomas J. Northen, III, Delinquency Prevention

# General Notices/Errata

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Specialist, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-1633 or SCATS 327-1633

## STATE BOARD OF EDUCATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **Regulations Governing Education Programs in Secure Regional Detention Homes and Certain Local Detention Homes**. The purpose of the proposed regulation is to provide standards for the operation of education programs in secure regional detention homes and certain local detention homes.

Statutory Authority: §§ 22.1-16 and 22.1-209.2 of the Code of Virginia.

Written comments may be submitted until November 12, 1987.

**Contact:** Nancy W. Haynes, Supervisor Institutional & Related Services, Department of Education, P. O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2883, SCATS 335-2883 or toll-free 1-800-422-2083

## DEPARTMENT OF HEALTH Division of Water Programs

### 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: **Commonwealth of Virginia/State Board of Health, Waterworks Regulations**. The purpose of the proposed amendments is to update Drinking Water Standards, current treatment technology and update other Design Requirements, etc.

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

Written comments may be submitted until November 9, 1987, to Allen Hammer, P.E., Director, Bureau of Water Supply Engineering, Department of Health, 109 Governor Street, James Madison Building, Room 927, Richmond, Virginia 23219.

**Contact:** E. Paul Farrell, Jr., Applications Engineer, Department of Health, Division of Water Programs, 109 Governor St., Madison Bldg., Room 927, Richmond, Va. 23219, telephone (804) 786-1758

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Cost Report Filing Requirements and Audit Requirements Applicable to Provider Reimbursement**. The purpose of the proposed regulation is to establish requirements, applicable to all provider types, for financial information, to be filed by providers, which is needed to settle cost reports; establish new requirements for mandatory nursing home audits.

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

Written comments may be submitted until November 9, 1987.

**Contact:** N. 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

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Rehabilitative Services**. The purpose of the proposed regulations is to make certain modifications to existing regulations regarding inpatient/outpatient admission authorization requirements increase professional staff providing cognitive therapy, define rehabilitative nursing, technical corrections.

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

Written comments may be submitted until November 9, 1987.

**Contact:** Tinnie B. Conover, Manager, Institutional Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 225-4220

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Agency Placement Adoptions**. The purpose of the proposed amendments is to clarify and strengthen agency placement adoption policy to facilitate the more timely and appropriate placement of children who have become permanently and legally separated from their birth

parents. The amended regulations will implement Senate Bill 334, promote the use of adoptive assistance in agency placements which has been a barrier to adoption, and strengthen local agency decision making. Particular focus on Adoption Assistance (Subsidy) and policy to enact Senate Bill 334.

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

Written comments may be submitted until November 12, 1987.

**Contact:** Brenda Kerr, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9081

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Foster Care**. The purpose of the proposed amendments is to strengthen foster care policy to facilitate the achievement of permanent plans for children committed or entrusted to a local agency in a timely manner. These changes will implement Senate Bill 334 and enhance state compliance to Public Law 96-272.

Statutory Authority: §§ 16.1-382, 16.1-281 and 63.1-25 of the Code of Virginia.

Written comments may be submitted until November 12, 1987.

**Contact:** Pamela T. Fitzgerald, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9081

### Division of Licensing Programs

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Standards and Regulations for Licensed Homes for Adults**. The purpose of the proposed action is to (i) amend standards relating to residents' rights, (ii) revise definition of "nursing and convalescent care," (iii) amend standards addressing the maintenance of records, (iv) amend standards relating to the maintenance of residents' personal funds, (v) revise definition of "maintenance and care," (vi) amend planned activity requirement, and (vii) review standards relating to restraints.

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of Virginia.

Written comments may be submitted until November 30, 1987.

**Contact:** Jeffrey A. Setien, Program Development Supervisor, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free 1-800-552-7091)

### DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **Minimum Standards of Entrances to State Highways**. The purpose of the proposed regulation is to establish guidelines for controlling the use of highway right-of-way where it is necessary to provide access to commercial, private and industrial properties abutting state roads.

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

Written comments may be submitted until February 23, 1988.

**Contact:** John L. Butner, Assistant State Traffic Engineer, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2965

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **Rappahannock River Basin Water Quality Management Plan**. The purpose of the proposed regulation is to set forth measures for the State Water Control Board to implement in order to reach and maintain applicable water quality goals in general terms and also by establishing numeric loading for five day biochemical (BOD5) and/or nitrogenous oxygen (NOD5).

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

Written comments may be submitted until 5 p.m., November 27, 1987.

**Contact:** Dale F. Jones, Office of Water Resources Planning, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6422, SCATS 327-6422

# General Notices/Errata

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## GENERAL NOTICES

### 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: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

#### FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01  
NOTICE OF COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE OF MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE  
OR GUBERNATORIAL OBJECTIONS - RR08

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

### EXECUTIVE

#### STATE AIR POLLUTION CONTROL BOARD

**November 10, 1987 - 10 a.m.** – Public Hearing  
Chesterfield County Central Library, Lori Road,  
Chesterfield, Virginia

Following a 30-day comment period, a public hearing will be held on a permit application from Virginia Power to construct and operate two combined cycle gas turbine power plants at its Chesterfield Power Station in Chester, Virginia.

**Contact:** Robert L. Beasley, Director, 8205 Hermitage Rd., Richmond, Va. 23228, telephone (804) 264-3067

**November 23, 1987 - 9 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A general meeting of the board.

**Contact:** Dick Stone, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5478

#### ALCOHOLIC BEVERAGE CONTROL BOARD

**November 17, 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 Rd., Richmond, Va., telephone (804) 257-0617

\* \* \* \* \*

**November 19, 1987 - 10 a.m.** – Public Hearing  
2901 Hermitage Road, 1st Floor Hearing Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Alcoholic Beverage Control Board intends to adopt and amend regulations concerning the possession, sale, distribution and consumption of alcoholic beverages. The proposed amendments will affect the following six categories:

Procedural Rules for the Conduct of Hearings Before the Commission and its Hearing Officers and the Adoption or Amendment of Regulations (VR 125-01-1);

Advertising (VR 125-01-2);

Tied-House (VR 125-01-3);

Requirements for Product Approval (VR 125-01-4);

Retail Operators (VR 125-01-5);

Manufacturers and Wholesalers Operators (VR 125-01-6).

Statutory Authority: § 4-11 of the Code of Virginia.

Written comments may be submitted no later than 10 a.m. on November 19, 1987.

**Contact:** Robert N. Swinson, Secretary, P. O. Box 27491, 2901 Hermitage Rd., Richmond, Va. 23261, telephone (804) 257-0616

#### STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

##### State Board of Professional Engineers

**November 17, 1987 - 9 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to approve minutes of the August 4, 1987

# Calendar of Events

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meeting; (ii) review applications; and to (iii) review enforcement cases.

**Contact:** Bonnie S. Salzman, Assistance Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8512

## AUCTIONEERS BOARD

† **February 9, 1988 - 9 a.m.** — Public Hearing  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Auctioneers intends to amend regulations entitled: **VR 150-01-3. Rules and Regulations of the Virginia Auctioneers Board.** The proposed amendments will bring this provision more in line with the Code of Virginia and clarify the role of auctioneers who are unregistered.

### STATEMENT

#### Statement of basis, purpose, impact and summary:

Pursuant to §§ 54-1.28 (5), 54-824.9:1 and 54-824.9:3 of the Code of Virginia, and in accordance with Chapter 1.1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Auctioneers Board proposes to amend its existing regulations governing the registration of auctioneers in Virginia.

The regulations apply directly to approximately 1200 actively registered auctioneers, and indirectly to those individuals who utilize their services.

The Virginia Auctioneers Board proposes to delete § 2.1 C-Insurance in lieu of bond to bring this provision more in line with that of the Code of Virginia governing auctioneers. Clarifying language is intended for Part III, § 3.1-Advertising; § 3.2-Contracts; § 3.3-Conduct at Auctions, and § 3.6-Escrow Funds. A new § 3.10 is added to the regulations clarifying the role of auctioneers who are unregistered.

The amended regulations also delete actual fee amounts for the registration application and the renewal.

Due to the continuing necessity for the board to comply with § 54-1.28:1 in its financial revenues and expenditures, fees were deleted from the regulation. Unpredictable changes in operating costs, number of applicants, etc., frequently necessitate changing fees to comply with § 54-1.28:1. In removing fees from the regulations, the board can better comply and avoid unnecessary revision to regulations. This measure may actually help keep applicant and registrant costs down by avoiding unnecessary regulatory expense. Fees will be indicated on all applications. The impact should not affect the applicant or registrant. All fees will be recorded in the official minutes

of the Auctioneers Board.

The proposed amendments to the regulations will affect all 1200 auctioneers. It is anticipated that there will be no increase in fees or new forms associated with the addition of these provisions.

Statutory Authority: §§ 54-1.28, 54-824.9:1 and 54-823.9:3 of the Code of Virginia.

Written comments may be submitted until January 8, 1988.

**Contact:** Gerald W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508, toll-free 1-800-552-3016, or SCATS 327-8508

## STATE BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

† **December 2, 1987 - 10 a.m.** — Open Meeting  
Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

An open board meeting to consider (i) adoption of proposed regulations; (ii) discussion of revenue and expenditures; (iii) election of officers; and (iv) signing of certificates.

**Contact:** Gerald W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508, toll-free 1-800-552-3016, or SCATS 327-8508

## VIRGINIA BOATING ADVISORY BOARD

**November 19, 1987 - 10 a.m.** — Open Meeting  
Naval Surface Weapons Center, Dahlgren, Virginia. ☒

A joint general quarterly meeting with the Maryland Boating Act Advisory Board.

**Contact:** Wayland W. Rennie, 8411 Patterson Avenue, Richmond, Va. 23227, telephone (804) 740-7206

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

**November 20, 1987 - 10 a.m.** — Open Meeting  
Fourth Street State Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☒  
(Interpreter for deaf provided if requested) ☒

A meeting to consider (i) requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code, and (iii) to approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

## CHESAPEAKE BAY COMMISSION

November 12, 1987 - 9:30 a.m. - Open Meeting  
November 13, 1987 - 9:30 a.m. - Open Meeting  
The Tides Inn, Irvington, Virginia

Topics on the agenda will include the 1987 Chesapeake Bay Agreement and legislative proposals for the 1988 General Assembly sessions.

Contact: Margaret R. Johnston, 60 West St., Suite 200A, Annapolis, MD 21401, telephone (301) 263-3420

## GOVERNOR'S ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

† December 4, 1987 - 10 a.m. - Open Meeting  
Koger Executive Center, 8001 Franklin Farms Drive, Koger Building, Room 124, Richmond, Virginia. ☐

A regular quarterly meeting.

Contact: D. Ray Sirry, Division Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9308

## GOVERNOR'S CORPORATE ADVISORY COMMISSION ON EMPLOYERS' INITIATIVES FOR CHILD DAY CARE

† November 9, 1987 - 1:30 p.m. - Open Meeting  
General Assembly Building, Capitol Square, Conference, 6th Floor, Richmond, Virginia. ☐

A meeting to formulate recommendations regarding employers' initiatives for the Governor's consideration.

Contact: Martha Norris Gilbert, Director, Virginia Department for Children, 805 E. Broad St., telephone 786-5507

## CHILD DAY-CARE COUNCIL

November 12, 1987 - 9 a.m. - Open Meeting  
November 13, 1987 - 8:30 a.m. - Open Meeting  
Holiday Inn Civic Center, 501 Orange Avenue, Roanoke, Virginia. ☐ (Interpreter for deaf provided if requested) ☎

A general meeting of the council. An agenda will be available prior to the meeting.

Contact: Meredyth Partridge, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 281-9025

## BOARD OF COMMERCE

November 20, 1987 - 10:30 a.m. - CANCELLED  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☐

The tentative meeting of the board has been cancelled.

Contact: Catherine M. Walker, Policy Analyst, 3600 W. Broad St., 5th Fl, Richmond, Va. 23230, telephone (804) 257-8564

## DEPARTMENT OF COMMERCE (BOARD OF)

December 29, 1987 - 10 a.m. - Public Hearing  
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **VR 190-03-01. Polygraph Examiners Regulations.** The purpose of this action is to regulate polygraph examiners and interns by establishing standards of education, experience and training to assure only qualified individuals become licensed and to assure valid polygraph examinations are performed.

Statutory Authority: § 54-917 of the Code of Virginia.

Written comments may be submitted until December 28, 1987.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8516/8563 (toll-free 1-800-552-3016)

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Falls of the James Advisory Committee

November 20, 1987 - noon - Open Meeting  
Richmond City Hall, 3rd Floor Conference Room, Richmond, Virginia. ☐

A regular meeting to discuss general business and issues affecting the portion of the James River that runs through the City of Richmond.

### Rappahannock River Advisory Committee

† November 19, 1987 - 7 p.m. - Open Meeting  
C. M. Bradley Elementary School, Library, Warrenton, Virginia

A meeting to discuss business and issues affecting the



# Calendar of Events

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scenic portion of the Rappahannock River.

**Contact:** Richard G. Gibbons, Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-4132

## Virginia Soil and Water Conservation Board

**December 9, 1987 - 9 a.m. - Open Meeting**  
Omni Richmond Hotel, Cary Street, Richmond, Virginia. ☐

A regular bi-monthly business meeting.

**Contact:** Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-4356

## STATE BOARD FOR CONTRACTORS

† **November 17, 1987 - 10 a.m. - Open Meeting**  
Travelers Building, 3600 West Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia. ☐

The board will meet to conduct a formal administrative hearing: State Board for Contractors v. Sue C. Hecker, individually, and d/b/a Superior Ceiling & Floor Covering.

**Contact:** Sylvia Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

## STATE BOARD OF CORRECTIONS

**November 18, 1987 - 10 a.m. - Open Meeting**  
† **December 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

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**December 16, 1987 - 10 a.m. - Public Hearing**  
Department of Corrections, 4615 West Broad Street, Board Room, 3rd Floor, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to amend regulations entitled: **VR 230-30-001. Minimum Standards for Jails and Lockups.** The purpose of these regulations is to establish minimum standards for the administration and operation of jails and lockups.

Statutory Authority: §§ 53.1-5 and 53.1-68 of the Code of Virginia.

Written comments may be submitted until November 30, 1987.

**Contact:** Gayle L. Turner, Acting Manager, Certification Unit, Department of Corrections, 5001 West Broad St., Suite 300, Richmond, Va. 23230, telephone (804) 281-9240

## VIRGINIA BOARD OF DENTISTRY

**December 5, 1987 - 9 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, House Room C (Tentative), Richmond, Virginia. ☐

An informational hearing for the purpose of receiving comment on (i) regulation of administration of general anesthesia, conscious sedation and nitrous oxide oxygen inhalation analgesia; (ii) all restraint techniques; (iii) exam fees; (iv) Infectious disease control; (v) Posting Radiation Certification Certificates; and to (vi) review any new and existing regulations believed to be necessary by the public.

**Contact:** N. Taylor Feldman, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906

## STATE BOARD OF EDUCATION

**November 16, 1987 - 9 a.m. - Open Meeting**  
James Monroe Building, 101 North 14th Street, Conference Rooms D & E, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested) ♣

A regularly scheduled meeting to conduct business 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

**December 8, 1987 - 1:30 p.m. - Public Hearing**  
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested) ♣

This meeting will constitute an official public hearing on the proposed permanent regulations governing Literary Loan Applications in Virginia. The proposed regulations are identical to emergency regulations which became effective on March 23, 1987.

**Contact:** M. E. Cale, Associate Superintendent for Financial and Support Services, Department of Education, P. O. Box 6-AG, Richmond, Va. 23216-2060, telephone (804) 225-2025

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**December 8, 1987 - 1:30 p.m. – Public Hearing**  
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to repeal existing regulations and adopt new regulations entitled: **VR 270-02-0009. Regulations Governing Literary Loan Applications in Virginia.** The purpose of the regulations is to precribe the application process and release of funds for loans from the Literary Fund to school divisions for school construction.

Statutory Authority: §§ 22.1-16, 22-1-142 through 22.1-161 of the Code of Virginia.

Written comments may be submitted until December 11, 1987.

**Contact:** M. E. Cale, Associate Superintendent for Financial and Support Services, Department of Education, P. O. Box 6-Q, Richmond, Va. 23216-2060, telephone (804) 225-2025

## STATE BOARD OF ELECTIONS

† **November 23, 1987 - 10 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

Canvass November 3, 1987 general and special elections.

**Contact:** Ginny Zimmerman, 101 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-6551

## JOINT EMERGENCY PLANNING COMMITTEE OF THE CITIES OF HAMPTON, NEWPORT NEWS, WILLIAMSBURG, AND POQUOSON AND THE COUNTY OF YORK

† **November 24, 1987 - 9 a.m. – Open Meeting**  
Peninsula Planning District Commission, 2017 Cunningham Drive, Suite 300, Hampton, Virginia. ☒

A meeting to discuss business.

**Contact:** Henry M. Cochran, Executive Director, Peninsula Planning District Commission, 2017 Cunningham Dr., Suite 300, Hampton, Va., telephone (804) 838-4238

## VIRGINIA EMERGENCY RESPONSE COUNCIL

**November 20, 1987 - 9 a.m. – Open Meeting**  
Best Western Springfield Inn, 6550 Loisdale Court, Springfield, Virginia

**November 24, 1987 - 9 a.m. – Open Meeting**  
Roanoke Civic Center, 710 Williamson Road, N.E., Roanoke, Virginia

† **November 30, 1987 - 9 a.m. – Open Meeting**  
Radisson Hotel, 700 Settlers Landing Road, Hampton, Virginia

† **December 3, 1987 - 9 a.m. – Open Meeting**  
Holiday Inn Hotel, Junction US 11 and I-81, Wytheville, Virginia

† **December 7, 1987 - 9 a.m. – Open Meeting**  
Sheraton Hotel, Exit 58 off I-81, Staunton, Virginia

The council will conduct a conference on Title III, Superfund Amendments and Reauthorization Act of 1986 (SARA). The conference is designed to give an indepth overview of the requirements of Title III to elected and appointed officials of local governments, to emergency responders, and to industry representatives.

**Contact:** Norman S. McTague, Department of Emergency Services, 310 Turner Rd., Richmond, Va. 23225-6491, telephone (804) 323-2185

## VIRGINIA FARMERS' MARKET BOARD

† **November 19, 1987 - 3 p.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☒

A business meeting to determine funding approach for Farmers' Markets network in 1988 General Assembly.

**Contact:** R. Duke Burruss, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3824

## GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

**November 10, 1987 - 10:30 a.m. – Open Meeting**  
Handley Public Library, Braddock and Piccadilly Streets, Winchester, Virginia

A regular meeting of the board.

**Contact:** Marilyn Mandel, Director, Planning, Research and Policy Anaylsis, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2385

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**November 16, 1987 - 9 a.m. – Open Meeting**  
**November 17, 1987 - 9 a.m. – Open Meeting**  
Omni Charlottesville Hotel, 235 West Main Street,

# Calendar of Events

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Charlottesville, Virginia.

November 16, 1987 - Examination - National Conference

November 17, 1987 - A meeting to administer the Virginia State Board Examination, and a general board meeting. Regulations may also be discussed.

† November 24, 1987 - 1 p.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

An informal conference committee meeting.

Contact: Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

## DEPARTMENT OF GENERAL SERVICES

### State Insurance Advisory Board

December 10, 1987 - 9:30 a.m. - Open Meeting  
The College of William and Mary, Campus Center, Room C, Williamsburg, Virginia. ☒

A quarterly meeting.

Contact: Charles F. Scott, Department of General Services, Division of Risk Management, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 225-4619

### Division of Consolidated Laboratory Services

January 6, 1988 - 10 a.m. - Public Hearing  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to adopt new regulations and repeal existing regulations entitled: **VR 330-02-02. Regulations for the Approval of Independent Laboratories to Analyze Blood for Drugs in Driving Under the Influence Cases.** The regulations establish procedural and technical criteria for the approval of independent laboratories to analyze blood for drugs in driving under the influence cases.

Statutory Authority: §§ 2.1-424, 2.1-426 and 18.2-268 of the Code of Virginia.

Written comments may be submitted until January 6, 1988.

Contact: Dr. Paul B. Ferrara, Director, Bureau of Forensic Science, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-2281

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January 6, 1988 - 10 a.m. - Public Hearing  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to adopt new regulations and repeal existing regulations entitled: **VR 330-02-03. Regulations for the Approval of Independent Laboratories to Conduct Blood Alcohol Analysis in Driving Under Influence Cases.** The regulations describe the technical and administrative performance required to achieve and maintain approval for independent laboratories to conduct blood alcohol analysis.

Statutory Authority: §§ 2.1-424, 2.1-426 and 18.2-268 of the Code of Virginia.

Written comments may be submitted until January 6, 1988.

Contact: Dr. Paul B. Ferrara, Director, Bureau of Forensic Science, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-2281

## VIRGINIA BOARD OF GEOLOGY

November 13, 1987 - 9 a.m. - Open Meeting  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) approve minutes of the September 17, 1987 meeting, and (ii) review applications.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555

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November 13, 1987 - 10 a.m. - Public Hearing  
Travelers Building, 3600 West Broad Street, Room 395, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Geology intends to adopt, amend, and repeal regulations entitled: **VR 335-01-2. Rules and Regulations of the Virginia Board of Geology.** The purpose is to regulate the certification of professional geologists and their practice.

Statutory Authority: § 54-963 of the Code of Virginia.

Written comments may be submitted until November 3, 1987.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555 (toll-free 1-800-552-3016)

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**December 30, 1987 - 10 a.m. – Public Hearing**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 that the Virginia Department of Health intends to amend regulations entitled: **VR 355-20-1. Ionizing Radiation Rules and Regulations.** These regulations cover radioactive materials and radiation producing machines; provide radiation protection standards.

Statutory Authority: § 32.1-229.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m. December 26, 1987.

**Contact:** Leslie P. Foldesi, Radiation Safety Specialist, Bureau of Radiological Health, 109 Governor St., Room 916, Richmond, Va. 23219, telephone (804) 786-5932 (toll-free 1-800-468-0138)

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**November 18, 1987 - 9:30 a.m. – Open Meeting**  
† **December 16, 1987 - 9:30 a.m. – Open Meeting**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☐

A monthly business meeting of the council for the purpose of addressing financial, policy or technical matters which may have arisen since the last meeting.

**Contact:** Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371

## GOVERNOR'S COMMISSION TO STUDY HISTORIC PRESERVATION

**November 10, 1987 - 7 p.m. – Public Hearing**  
Jefferson/Madison Library, 201 East Market Street, Charlottesville, Virginia

**November 12, 1987 - 7 p.m. – Public Hearing**  
Frederick County Courthouse, 5 North Kent Street, Winchester, Virginia

**November 18, 1987 - 7 p.m. – Public Hearing**  
The Lyceum, 201 South Washington Street, Alexandria, Virginia

**December 3, 1987 - 7 p.m. – Public Hearing**  
Norfolk City Hall, 810 Union Avenue, Council Chambers, Norfolk, Virginia. ☐

A public hearing to receive comment on the preservation program in Virginia.

† **November 19, 1987 - 10 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, 5th and 7th Floors, Conference Room East and West, Richmond, Virginia. ☐

The following committees will meet:

General state legislation  
State-owned landmarks  
Local legislation  
Budget and finance.

† **November 19, 1987 - 1:30 p.m. – Open Meeting**  
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☐

A general business meeting.

**Contact:** Margaret Peters, Information Officer, Division of Historic Landmarks, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

### Board of Commissioners

† **November 17, 1987 - 10 a.m. – Open Meeting**  
13 South 13th Street, Richmond, Virginia. ☐

A regular monthly meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**November 16, 1987 - 10 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-2. Certification of Tradesmen Standards.** The purpose of the amendments is to update minimum, statewide standards for the Certification of Tradesmen to be used by local governments that choose to require tradesmen who work within their boundaries to be certified.

# Calendar of Events

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Statutory Authority: § 15.1-11.4 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

**Contact:** Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

\* \* \* \* \*

**November 16, 1987 - 10 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-04. Virginia Amusement Device Regulations/1987.** The purpose of these regulations is to provide uniform safety standards for the construction, maintenance, operation and inspection of amusement devices.

Statutory Authority: §§ 36-98 and 36-98.3 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

**Contact:** Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

\* \* \* \* \*

**November 16, 1987 - 10 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987.** The purpose of these regulations is to provide uniform fire prevention standards for the protection of life and property in the use and maintenance of buildings.

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

**Contact:** Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

\* \* \* \* \*

**November 16, 1987 - 10 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I - New Construction Code/1984.** The purpose is to provide for minimum safety to life and property for the construction and use of buildings and structures.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

**Contact:** Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

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**November 16, 1987 - 10 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1984.** The purpose is to provide uniform building maintenance standards for the protection of life and property in the use and maintenance of buildings.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

**Contact:** Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

\* \* \* \* \*

**November 16, 1987 - 10 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-31. Virginia Industrialized Building and Mobile Home Safety Regulations/1984.** The purpose of these amendments is to provide for safety to life and property from fire in manufactured

buildings as defined in §§ 36-70 - 36-85.1 of the Code of Virginia.

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

Contact: Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

\* \* \* \* \*

November 16, 1987 - 10 a.m. - Public Hearing  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: VR 394-01-41. Virginia Public Building Safety Regulations/1984. These amendments are proposed to provide for safety to life and property from fire in public buildings.

Statutory Authority: § 27-72 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

Contact: Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

\* \* \* \* \*

November 16, 1987 - 10 a.m. - Public Hearing  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: VR 394-01-42. Virginia Liquefied Petroleum Gas Regulations. The purpose of the amendment is to establish minimum general standards covering design, installation and operation of LP Gas equipment and the odorization thereof for the protection of health, welfare and safety of the people.

Statutory Authority: § 27-87 of the Code of Virginia.

Written comments may be submitted until November 16, 1987.

Contact: Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

Amusement Device Technical Advisory Committee

November 10, 1987 - 8:30 a.m. - Open Meeting  
205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. ☐

A meeting to develop recommended regulations pertaining to the construction, maintenance, operation and inspection of amusement devices for consideration by the Board of Housing and Community Development.

Contact: Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4651

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

† November 19, 1987 - 10 a.m. - Open Meeting  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

The board will meet to consider the following: (i) requests for variances from Boiler and Pressure Vessel Code requirements; (ii) amendment to Hazard Communication Standard, 1910.1200; (iii) amendment to Field Sanitation Standard, 1928.110; (iv) revision to Construction Industry Test and Inspection Records and Amendment; 1926.550, 1926.552, and 1926.903; (v) revision of Telecommunications Training Records Amendment, 1910.268(c); and (vi) servicing of single and multi-piece rim wheels at marine terminals; 1910.16, 1910.177, and Part 1917.

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

COMMISSION ON LOCAL GOVERNMENT

November 9, 1987 - 10 a.m. - Open Meeting  
November 10, 1987 - 10 a.m. - Open Meeting  
The Homestead, Parlor A, Hot Springs, Virginia

A regular meeting to consider such matters as may be presented.

Contact: Barbara W. Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

MARINE RESOURCES COMMISSION

December 1, 1987 - 9:30 a.m. - Open Meeting  
Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia. ☐

# Calendar of Events

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The Virginia Marine Resources Commission will meet on the first Tuesday of each month, except November, which is a state holiday, at 9:30 a.m. in Newport News City Council Chambers, located at 2400 Washington Avenue, Newport News, Virginia. The commission will hear and decide cases on fishing licensing; oyster ground leasing; environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It will also hear and decide appeals made on local wetlands board decisions.

Fishery management and conservation measures will be 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 measure within 5 days.

**Contact:** Sandra S. Schmidt, 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)

**November 30, 1987** – Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.194. Nursing Home Payment System.** The purpose is to establish methods and standards for Medicaid reimbursement of nursing home providers.

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

Written comments may be submitted until November 30, 1987.

**Contact:** N. 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

\* \* \* \* \*

† **January 8, 1988** – 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.191. Extended Repayment of Overpayments.** The purpose of these amendments is to provide the director with the regulatory authority to approve an extended repayment schedule, with an interest charge, when a provider can document that immediate repayment

would cause severe financial hardship.

## STATEMENT

**Basis and authority:** Section 32.1-325A of the Code of Virginia grants authority to the Board of Medical Assistance Services to administer and amend the Plan for Medical Assistance subject to the approval of the Governor. The board is expected to approve these proposed changes on October 8, 1987 to proceed to public comment.

**Purpose:** The purpose of this amendment is to provide the director the regulatory authority to approve an extended repayment schedule with an interest charge when the provider can document that immediate repayment would cause severe financial hardship.

**Summary and analysis:** This amendment reflects a change in the language for extended repayment schedules for inpatient hospital, long term care services.

The Health Care Financing Administration requires, in 42 CFR 447.202, this program to audit appropriate records when payment is based on costs of services or on a fee plus cost of materials. From time-to-time, overpayments to providers are determined to have occurred. These overpayments are considered immediately due and payable. When a provider can demonstrate that the immediate repayment of the overpayment would place a financial hardship on their operations, an extended payment schedule, with appropriate applicable interest charges, is used to recover all or part of the overpayment.

Existing regulation currently limits the payment schedule to 12 months. This proposed amendment would allow the director to approve an extended payment schedule for a time period not to exceed 36 months.

**Impact:** The department's action is to add to the existing language an allowance to extend repayments up to 36 months, with the approval of the director, in cases of severe financial hardship. These extended repayment schedules will be subject to interest charges as contained in § 32.1-325.1 of the Code of Virginia.

There is little or no estimated budgetary impact on the program. There are about 198 licensed and operating nursing homes and 103 short-term nonfederal hospitals in the state. Of these facilities, approximately 10 nursing homes and five hospitals currently have extended payment schedules of 12 months or less. Approximately 30 fee-for-service providers annually request extended repayment schedules.

**Forms:** The department will use currently existing forms to administer this plan amendment.

**Evaluation:** The department will include the monitoring of the implementation of this action in its ongoing plan monitoring activities. The department is also monitored

closely by the federal Department of Health and Human Services' Health Care Financing Administration in this area of institutional provider reimbursement.

### Recommendation:

It is recommended that the Board of Medical Assistance Services, by virtue of their authority in § 32.1-325 A of the Code of Virginia, adopts these proposed regulations and approves them for public notice, as required by 42 CFR § 447.205 and the Commonwealth's Administrative Process Act, § 9-6.14:1 of the Code of Virginia (et seq.).

A copy of the regulation may be obtained from Victoria P. Simmons.

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

Written comments may be submitted until January 8, 1988.

**Contact:** N. Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical Assistant Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7931

### **COMMISSION ON MEDICAL CARE FACILITIES CERTIFICATE OF PUBLIC NEED**

**November 9, 1987 - 10 a.m. – Open Meeting**  
James Monroe Building, 101 North 14th Street, Conference Room D & E, Richmond, Virginia. ☐

By Executive Order 31 (86) Governor Baliles created an advisory commission with two responsibilities: (i) to examine the effectiveness of the Certificate of Public Need program in controlling medical care costs while making good quality, accessible health care available to all Virginians; and (ii) if this examination demonstrates that the Commonwealth's existing health planning process no longer effectively meets these objectives, the commission shall assess alternatives and recommend revisions to the existing Certificate of Public Need process.

**Contact:** E. George Stone, State Health Department, James Madison Bldg., 109 Governor St., Room 1010, Richmond, Va. 23219, telephone (804) 786-6970

### **VIRGINIA STATE BOARD OF MEDICINE**

**November 19, 1987 - 8:15 a.m. – Open Meeting**  
**November 20, 1987 - 8:15 a.m. – Open Meeting**  
**November 21, 1987 - 8:15 a.m. – Open Meeting**  
**November 22, 1987 - 8:15 a.m. – Open Meeting**  
The Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia. ☐

The board will meet to review reports, interview licensees and make decisions on discipline matters

before the board on Thursday, Friday, Saturday afternoon and Sunday. At 8:15 a.m. on Saturday, November 21, 1987, the full board will meet in open session and conduct general board business, review regulations governing the practice of nurse practitioners, physical therapy, physician assistants and discuss any other items which may come before the board.

### **Chiropractic Examination Committee**

**December 11, 1987 - noon – Open Meeting**  
Embassy Suites Hotel, 2925 Commerce Center, Richmond, Virginia. ☐

The Chiropractic Examination Committee will meet in open and executive session for the purpose of reviewing and developing chiropractic questions for the January, 1988 exam.

### **Informal Conference Committee**

† **December 11, 1987 - 10:30 a.m. – Open Meeting**  
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☐

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

### **Podiatry Examination Committee**

† **December 18, 1987 - 9 a.m. – Open Meeting**  
Springfield Hilton, 6550 Loisdale Road, Springfield, Virginia. ☐

A workshop is being conducted and the committee has invited 11 podiatrists to attend this workshop. The role of the participants will be to assess individual questions used in the examination and offer a judgment on the proportion of entry-level candidates. This committee may also discuss any other items which may come before them.

**Contact:** Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

### **STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD**

**November 18, 1987 - 10 a.m. – Open Meeting**  
Southern Virginia Mental Health Institute, Danville, Virginia

A regular monthly meeting. The agenda will be published on November 11, 1987 and may be obtained by calling Jane Helfrich.



# Calendar of Events

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**Contact:** Jane V. Helfrich, State Board Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**January 6, 1988 - 10 a.m. - Public Hearing**  
Department of Mines, Minerals and Energy, 2201 West Broad Street, Conference Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to adopt new regulations and repeal existing regulations entitled: **VR 480-01-1. Public Participation Guidelines.** The proposed regulations are procedures for the solicitation and participation of interested parties in the initiation, development and adoption of regulations required by the law of the Commonwealth.

Statutory Authority: §§ 9-6.14:7.1 and 45.1-3.1(4) of the Code of Virginia.

Written comments may be submitted until January 6, 1988.

**Contact:** Bill Edwards, Policy Analyst, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 257-0330

### Division of Mined Land Reclamation

† **November 27, 1987 - 2 p.m. - Public Hearing**  
The Division's AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ☒

The purpose of this public meeting is to give interested persons an opportunity to be heard in regard to the FY1988 Virginia Abandoned Mine Land Construction and Administration Grant applications to be submitted to the Federal Office of Surface Mining.

**Contact:** Roger L. Williams, Abandoned Mine Land Manager, P. O. Drawer U, 622 Powell Ave., Big Stone Gap, Va. 24219, telephone (703) 523-2925

## VIRGINIA MUSEUM OF FINE ARTS

### Board of Trustees Ad Hoc Legislative Committee

† **November 12, 1987 - 3 p.m. - Open Meeting**  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Conference Room, Richmond, Virginia. ☒

The purpose of the meeting is to develop a strategy for advancing the museum's legislative agenda and to assign specific tasks.

### Finance Committee

† **November 19, 1987 - 10:30 a.m. - Open Meeting**  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, The Payne Room, Members' Dining Room, Richmond, Virginia. ☒

Budget review.

### Programs Committee

† **November 18, 1987 - 1 p.m. - Open Meeting**  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Library Reading Room, Richmond, Virginia. ☒

A discussion of future directions of the Education and Outreach Division of the VMFA.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Ave., Richmond, Va. 23221, telephone (804) 257-0553

## VIRGINIA STATE BOARD OF NURSING

† **November 10, 1987 - 1 p.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

Two 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 regarding:

1 p.m. - Ruby F. Dunn, L.P.N.  
2 p.m. - Anna B. Kinney, R.N.

**November 16, 1987 - 9 a.m. - Open Meeting**  
**November 17, 1987 - 9 a.m. - Open Meeting**  
**November 18, 1987 - 9 a.m. - Open Meeting**  
Ramada Oceanside Tower and Conference Center, 57th and Oceanfront, Virginia Beach, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A regular meeting of the board to consider (i) matters related to nursing education programs, (ii) discipline of licensees, (iii) licensing by examination and (iv) endorsement and other matters under jurisdiction of the board. The board will also consider proposed Regulations Governing the Certification of Nurse Practitioners as recommended by the committee of the Joint Boards of Medicine and Nursing.

† **November 24, 1987 - 10 a.m. - Open Meeting**  
Roanoke Memorial Hospital, Belleview at Jefferson Street, 1st Floor Conference Room, Roanoke, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

Two 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 regarding:

10 a.m. - Shelby S. Lewis, R.N.  
1 p.m. - Kathy P. Ellis, L.P.N.

## Informal Conference Committee

† December 8, 1987 - 8:30 a.m. - Open Meeting

Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

## ADVISORY BOARD ON PHYSICAL THERAPY

November 20, 1987 - 8:15 a.m. - Open Meeting  
The Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia. ☒

A meeting to conduct general board business and respond to correspondence. The advisory board will also discuss any other items which may come before them.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, Va. 23229-5005, telephone (804) 662-9925

## BOARD OF COMMISSIONERS TO EXAMINE PILOTS

December 10, 1987 - 10 a.m. - Open Meeting  
Hasler and Company, 121 Tazewell Street, Norfolk, Virginia

A meeting to conduct routine business at its regular quarterly business meeting.

Contact: David E. Dick, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515/8563; or William L. Taylor, 3329 Shore Dr., Virginia Beach, Va. 23451, telephone (804) 496-0995

## VIRGINIA BOARD OF PSYCHOLOGY

† November 19, 1987 - 9 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A business meeting to discuss (i) proposed regulations, and (ii) certify October 23, 1987 written examination results.

Contact: Phyllis Henderson, Administrative Assistant, 1601

Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

## BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

November 18, 1987 - 10:30 a.m. - Open Meeting  
Virginia Beach Pavilion, Director's Conference Room, Virginia Beach, Virginia. ☒

A meeting to consider preproposals and proposals from various localities requesting matching grand funds from the board.

Contact: Jack E. Frye, P. O. Box 1024, Gloucester Point, Va. 23062, telephone (804) 642-7121

## VIRGINIA REAL ESTATE BOARD

† November 20, 1987 - 10 a.m. - Open Meeting  
Massey Building, 4100 Chain Bridge Road, Board of Supervisors Meeting Room, "A" Level, Fairfax, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. R. Paul Sutherland.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

## BOARD OF REHABILITATIVE SERVICES

† November 19, 1987 - 9:30 a.m. - Open Meeting  
† November 20, 1987 - 10:15 a.m. - Open Meeting  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

On Thursday, November 19, the board and department management staff will conduct an all day discussion relating to information-sharing and processing, the Virginians With Disabilities Act, the department's Five-Year Plan, and the Conflicts of Interest Act. On Friday, November 20, the board will consider department reports, committee reports and conduct the regular business of the board.

## Finance and Program Committees

† November 20, 1987 - 8 a.m. - Open Meeting  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A joint meeting to study grants and contracts entered into by the department, and to develop policies governing the awarding of grants and contracts, and the application for federal and other grants, public or private.

# Calendar of Events

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## Legislation and Evaluation Committee

† **November 20, 1987 - 8 a.m. - Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☒

A meeting to consider legislative initiatives to study evaluation reports on the Woodrow Wilson Rehabilitation Center, to consider the department's Five-Year Plan for recommendation to the board.

**Contact:** James L. Hunter, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-6446, 257-0280 TDD and voice, toll-free 1-800-552-5019

## VIRGINIA RESOURCES AUTHORITY

† **November 10, 1987 - 10 a.m. - Open Meeting**  
The Mutual Building, 909 East Main Street, 12th Floor Conference Room, Richmond, Virginia

A meeting to (i) approve minutes of the October 13, 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

† **December 9, 1987 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, Meeting 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:** Deborah E. Randolph, James Madison Bldg., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**November 13, 1987 -** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-01-9. Definition of a Home in the Aid to Dependent Children (ADC) and General Relief (GR) Programs.** The purpose of the amendments is to define as the home, the house in which the

applicant/recipient lives, the lot, and all property contiguous to the lot. For the purpose of establishing eligibility for assistance in the ADC and GR programs, the home is a disregarded resource.

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

Written comments may be submitted until November 13, 1987, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

**Contact:** Thomas J. Steinhauser, Program Specialist, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

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**November 27, 1987 -** Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-48-02. Employment Services Program Policy.** The purpose of the amendments is to (i) eliminate applicant job search as a condition of eligibility for ADC & GR; and (ii) waive the recipient job search requirements for ESP recipients under 21 years who participate in education or training activities.

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

Written comments may be submitted until November 27, 1987.

**Contact:** Penelope Boyd Pellow, Assistant State Employment Services Supervisor, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9032 (toll-free 1-800-552-7091)

## Division of Licensing Programs

**November 12, 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, Division of Licensing Programs intends to adopt regulations entitled: **VR 615-31-02. Regulation for Criminal Record Checks.** The purpose is to protect children in those licensed facilities by enforcing mandated requirements for criminal record checks.

Statutory Authority: §§ 63.1-25 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until November 12, 1987.

**Contact:** Sheila B. Rich, Program Development Supervisor, Blair Building, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free 1-800-552-7091)

## VIRGINIA BOARD OF SOCIAL WORK

**November 20, 1987 - 9 a.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) review applications; (iii) respond to correspondence; and (iv) discuss proposed regulations.

**Contact:** Beverly Putnam, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9914

## COMMONWEALTH TRANSPORTATION BOARD

**November 19, 1987 - 10 a.m. - Open Meeting**  
**December 17, 1987 - 10 a.m. - Open Meeting**  
Department of Transportation, 1401 East Broad Street, 3rd Floor, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☎

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

## TREASURY BOARD

**November 18, 1987 - 9 a.m. - Open Meeting**  
**December 16, 1987 - 9 a.m. - Open Meeting**  
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. ☒

A regular monthly meeting.

**Contact:** Betty A. Ball, Department of Treasury, James Monroe Bldg., 3rd Fl., Richmond, Va. 23219, telephone (804) 225-2142

## VIRGINIA VOLUNTARY FORMULARY BOARD

**November 20, 1987 - 10 a.m. - Public Hearing**  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

The purpose of this hearing is to consider the proposed adoption and issuance of a revised Virginia

Voluntary Formulary. The proposed revision to the Virginia Voluntary Formulary adds and deletes drugs and drug products to the Formulary that becomes effective on November 1, 1987.

Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on November 20, 1987 will be made a part of the hearing record and considered by the board.

† **December 10, 1987 - 10:30 a.m. - Open Meeting**  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review public comments and product data for products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

**November 17, 1987 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A general business meeting to discuss proposed draft solid waste management regulations and the proposed draft infectious waste regulations; and possible amendments to public participation guidelines.

**Contact:** Cheryl Cashman, Information Officer, Virginia Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Fl., Richmond, Va. 23219, telephone (804) 225-2667 (toll-free 1-800-552-2075)

## STATE WATER CONTROL BOARD

**November 18, 1987 - 7 p.m. - Public Hearing**  
City of Charlottesville Council Chambers, City Hall, corner of 7th and Downtown Mall, Charlottesville, 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 680-16-03. Upper James River Basin Water Quality Management Plan.** The purpose of the amendment is to revise poundage limits on the Rivanna River at Charlottesville.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

# Calendar of Events

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Written comments may be submitted until November 30, 1987, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Charles T. Mizell, Water Resources Development Supervisor, Valley Regional Office, State Water Control Board, P. O. Box 268, Bridgewater, Va. 22812, telephone (703) 828-2595

† **November 23, 1987 - 10 a.m.** – Public Hearing  
Washington County Administration Building, 205 Academy Drive, Board of Supervisors Room, Abingdon, Virginia

† **November 30, 1987 - 2 p.m.** – Public Hearing  
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia

Public hearings for the purpose of receiving comments on the Revolving Loan Program which will provide loans to local governments for wastewater treatment improvements to publicly owned facilities.

† **December 7, 1987 - 9 a.m.** – Open Meeting  
† **December 8, 1987 - 9 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

A regular quarterly meeting.

**Contact:** Doneva A. Dalton, Virginia State Water Control Board, 2111 N. Hamilton St., P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

\* \* \* \* \*

† **January 11, 1988 - 2 p.m.** – Public Hearing  
Newport News City Hall, Council Chambers, 2400 Washington Avenue, Newport News, Virginia

† **January 13, 1988 - 7 p.m.** – Public Hearing  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

† **January 14, 1988 - 2:30 p.m.** – Public Hearing  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, 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 adopt regulations entitled: **VR 680-14-02. Policy for Nutrient Enriched Waters - Water Quality Standards.** The proposed regulation will provide for the control of discharges of phosphorus from point sources affecting designated "nutrient enriched waters."

## STATEMENT

Basis:

Section 62.1-44.15(3) of the Code of Virginia authorizes the 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 or policies established. Such standards shall be adopted only after a hearing is held and the board takes into consideration the economic and social costs and benefits which can reasonably be expected to be obtained as a result of the standards as adopted, modified or cancelled. Section 62.1-44.15(10) of the Code of Virginia authorizes the board to adopt regulations.

### Purpose:

The State Water Control Board recognizes that the quality of the state's surface waters, particularly those in the Chesapeake Bay drainage area, is being affected by the presence of excessive quantities of nutrients. Therefore, the board is proposing a water quality standard for designating as "nutrient enriched waters" those waters of the Commonwealth showing evidence of degradation attributable to the presence of excessive amounts of nutrients. A policy is also proposed for the control of certain discharges of phosphorus from point sources affecting state waters that have been designated as "nutrient enriched waters" in the proposed standard.

### Impact:

With adoption of the standard and policy, three lakes, one tributary to a lake, nine embayments or tributaries to the Potomac River, the Virginia portion of the Chesapeake Bay, and a large portion of the Bay's tributaries would be designated for nutrient control programs to prevent further degradation in water quality from the effects of nutrient enrichment. Certain municipal and industrial dischargers with effluents containing phosphorus would be required by the policy to maintain a monthly average total phosphorus concentration of 2 milligrams per liter or less. This proposed policy would initially impact 20 municipal and five industrial discharges at a cost of \$27.5 million to \$228 million, depending on the type of phosphorus removal technology selected.

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

Written comments may be submitted until 5 p.m., January 23, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6985

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† **January 11, 1988 - 7 p.m.** – Public Hearing  
Newport News City Hall, 2400 Washington Avenue, Council Chambers, Newport News, Virginia

† **January 13, 1988 - 2:30 p.m.** – Public Hearing  
Roanoke County Administration Center Community Room,  
3738 Brambleton Avenue, S.W., Roanoke, Virginia

† **January 14, 1988 - 7 p.m.** – Public Hearing  
County Administration Building, Spotsylvania County Board  
of Supervisors Room, Route 208 at Spotsylvania  
Courthouse, Spotsylvania, 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 adopt regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The proposed regulation would control and manage toxic pollutants discharged to surface waters of the Commonwealth.

## STATEMENT

### Subject:

The subject of this proposed regulation is the control and management of toxic pollutants discharged to surface waters.

### Substance:

This proposed regulation prohibits any regulated discharge from discharging toxic materials in toxic amounts to the surface waters of the Commonwealth. Specifically the affected discharges must not cause any of the following conditions to occur:

1. Lethal effects to aquatic organisms (lethal concentration that will kill 50% of test organisms ((LC50) greater than 100%).
2. Chronic effects (such as reduction in growth or reproduction) in the receiving stream (the no observed effect concentration must be greater than the instream waste concentration).
3. The discharge of substances which bioaccumulate (no compounds with a log octanol/water partition coefficient greater than 3.5).
4. The exceedance in the receiving stream of water quality standards or criteria for the protection of aquatic life or human health, where applicable.

Of the approximately 1900 National Pollutant Discharge Elimination System (NPDES) permits in the Commonwealth, this regulation proposes to impact approximately 400 NPDES permitted facilities.

### Issues:

An issue with this proposed regulation is whether the following requirements placed upon the discharges of the affected facilities are necessary and sufficient to protect the surface waters of the Commonwealth from any

adverse impacts from toxic pollutants.

1. The discharge shall not cause any lethal effects to aquatic organisms (lethal concentration that will kill 50% of test organisms ((LC50) greater than 100%).
2. The discharge shall not cause chronic effects (such as long-term effects such as reduction in growth or reproduction) in the receiving stream (the no observed effect concentration greater than the instream waste concentration).
3. The discharge shall not contain substances which bioaccumulate (no compounds with a log octanol/water partition coefficient greater than 3.5).
4. The discharge shall not cause the exceedance in the receiving stream of water quality standards or criteria for the protection of aquatic life or human health, where applicable.

The second issue with this proposed regulation is related to the control mechanism to be employed in the NPDES permit for the affected facilities. Should the above requirements be permit effluent limitations, or should they be permit monitoring requirements which indicate the need for toxicity reduction evaluations?

### Basis:

The basis for this proposed regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(2) authorizes the board to study and investigate all problems concerned with quality of state waters and to make reports and recommendations. Further, § 62.1-44.15(14) authorizes the State Water Control Board to establish requirements for the treatment of sewage, industrial wastes and other wastes that are consistent with the purposes of the State Water Control Law, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters. Statutory authority for the adoption of regulations can be found in § 62.1-44.15(10).

### Purpose:

This proposed regulation is designed to control and manage the discharge of toxic pollutants into the surface waters of the Commonwealth to insure that no adverse impacts occur.

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

Written comments may be submitted until 5 p.m., January 29, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Alan Anthony or Richard Ayers, Office of Environmental Research and Standards, State Water

# Calendar of Events

Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0791

\* \* \* \* \*

† **January 11, 1988 - 2 p.m. - Public Hearing**  
Newport News City Hall, 2400 Washington Avenue, Council Chambers, Newport News, Virginia

† **January 13, 1988 - 7 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

† **January 14, 1988 - 2:30 p.m. - Public Hearing**  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-07. Special Standards and Designations - Water Quality Standards.** The proposed amendment of the Water Quality Standards establishes a designation of "nutrient enriched waters."

## STATEMENT

### Basis:

Section 62.1-44.15(3) of the Code of Virginia authorizes the 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 or policies established. Such standards shall be adopted only after a hearing is held and the board takes into consideration the economic and social costs and benefits which can reasonably be expected to be obtained as a result of the standards as adopted, modified or cancelled. Section 62.1-44.15(10) of the Code of Virginia authorizes the board to adopt regulations.

### Purpose:

The State Water Control Board recognizes that the quality of the state's surface waters, particularly those in the Chesapeake Bay drainage area, is being affected by the presence of excessive quantities of nutrients. Therefore, the board is proposing a water quality standard for designating as "nutrient enriched waters" those waters of the Commonwealth showing evidence of degradation attributable to the presence of excessive amounts of nutrients. A policy is also proposed for the control of certain discharges of phosphorus from point sources affecting state waters that have been designated as "nutrient enriched waters" in the proposed standard.

### Impact:

With adoption of the standard and policy, three lakes, one

tributary to a lake, nine embayments or tributaries to the Potomac River, the Virginia portion of the Chesapeake Bay, and a large portion of the Bay's tributaries would be designated for nutrient control programs to prevent further degradation in water quality from the effects of nutrient enrichment. Certain municipal and industrial dischargers with effluents containing phosphorus would be required by the policy to maintain a monthly average total phosphorus concentration of 2 milligrams per liter or less. This proposed policy would initially impact 20 municipal and five industrial discharges at a cost of \$27.5 million to \$228 million, depending on the type of phosphorus removal technology selected.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 23, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6985

\* \* \* \* \*

† **January 11, 1988 - 11:30 a.m. - Public Hearing**  
Newport News City Hall, 2400 Washington Avenue, Council Chambers, Newport News, Virginia

† **January 13, 1988 - 2 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

† **January 14, 1988 - 2 p.m. - Public Hearing**  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, 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 680-21-08. River Basin Section Tables - Water Quality Standards.** The purpose of the proposed amendments is to designate public water supplies for the Quantico Marine Base, the Wintergreen Mountain Village, Fort Monroe, Tazewell and Austinville.

## STATEMENT

### Basis:

Section 62.1-44.15(3) of the Code of Virginia authorizes the 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 or policies established.

### Purpose:

The proposed amendment will establish as public water supplies under the requirements of the Water Quality Standards regulation, those waters serving as water supplies for Austinville, Tazewell, Wintergreen, Fort Monroe and Quantico Marine Corps Base. This designation as public water supplies is necessary to ensure proper water quality protection for these waters.

### Impact:

The proposed amendments will establish more stringent water quality standards for the affected water supplies. These standards will have to be met by any discharger to such waters and may result in requirements for more advanced levels of water treatment prior to discharge. At the present time no existing dischargers have been identified which would be impacted by the proposed amendment.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 29, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Stu Wilson, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0387

## COUNCIL ON THE STATUS OF WOMEN

**November 9, 1987 - 8 p.m. – Open Meeting**  
Embassy Suites Hotel, The Commerce Center, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the Virginia Council on the Status of Women.

**November 10, 1987 - 9 a.m. – Open Meeting**  
Embassy Suites Hotel, The Commerce Center, 2925 Emerywood Parkway, Richmond, Virginia

A regular meeting of the council to conduct general business and to receive reports from the council standing committees.

**Contact:** Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9200

## LEGISLATIVE

### HOUSE APPROPRIATIONS COMMITTEE

**November 16, 1987 - 9:30 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, 9th Floor, Committee Meeting Room, Richmond, Virginia. ☐

A regular monthly meeting of the full committee.

### General Government Subcommittee

**November 16, 1987 - 3 p.m. – Open Meeting**  
General Assembly Building, Capitol Square, 9th Floor, Committee Meeting Room, Richmond, Virginia. ☐

A working session chaired by Delegate J. Paul Councill, Jr.

### Higher Education Subcommittee

**November 16, 1987 - 1 p.m. – Open Meeting**  
General Assembly Building, Capitol Square, 9th Floor, West Conference Room, Richmond, Virginia. ☐

A working session chaired by Delegate V. Earl Dickinson.

**Contact:** Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Fl., Capitol Sq., Richmond, Va. 23219, telephone (804) 786-1837

### JOINT SUBCOMMITTEE STUDYING CHILD-SUPPORT FORMULAS

† **November 23, 1987 - 10 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

The joint subcommittee will meet to finalize proposed legislation. HJR 341

**Contact:** Susan Ward, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

### VIRGINIA CODE COMMISSION

**November 30, 1987 - 9:30 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☐

The commission will review the first draft of the revision of Title 10 (Conservation Generally) of the Code of Virginia.

**Contact:** Joan W. Smith, Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

### JOINT SUBCOMMITTEE STUDYING DEFENSE SYSTEMS FOR THE INDIGENT

† **November 18, 1987 - 2 p.m. – Open Meeting**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐



# Calendar of Events

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A work session to finalize proposed legislation. HJR 189

**Contact:** Mary P. Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## SPECIAL JOINT EDUCATION SUBCOMMITTEE

**November 9, 1987 - 2 p.m. - Open Meeting**  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to review the board's proposed revision of the Standards of Quality after it is finalized.

**Contact:** Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## HATE AND VIOLENCE IN THE COMMONWEALTH

† **November 18, 1987 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The final meeting and working session of this study committee. HJR 339

**Contact:** Oscar Brinson, Esquire, or Mary K. Geisen, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## JOINT SUBCOMMITTEE STUDYING ADOPTION OF NEW LYRICS FOR THE OFFICIAL SONG OF THE COMMONWEALTH

**December 11, 1987 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Hearings to receive testimony on changing or retaining lyrics of Virginia's official song.

**Contact:** Persons wishing to speak contact: Anne R. Howard, House of Delegates Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681; for additional information contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## JOINT SUBCOMMITTEE STUDYING OUTDOOR RECREATION NEEDS

**November 10, 1987 - 9:30 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☒

A work session to adopt final study recommendations. HJR 204

**Contact:** Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## SPECIAL HOUSE ROADS AND INTERNAL NAVIGATION SUBCOMMITTEE STUDYING ENFORCEMENT OF CERTAIN MOTOR CARRIER REGULATIONS

**November 23, 1987 - 2 p.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

First meeting of this special subcommittee that will study the enforcement of certain motor carrier regulations. HB 666 of the 1986 session

**Contact:** Persons wishing to speak contact: Jeff Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227; for additional information contact: Dr. Alan Wambold, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## SUBCOMMITTEE STUDYING WASTE REDUCTION AND RECYCLING METHODS

† **November 18, 1987 - 9:30 a.m. - Public Hearing**  
Roanoke County Administration Building, Community Room, Roanoke, Virginia

A public hearing and working session to discuss problems of waste management in the Commonwealth. HJR 292

**Contact:** Persons wishing to speak contact: Ann R. Howard, House of Delegates Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681; for additional information contact: John T. Heard, Staff Attorney, or Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## STATE WATER COMMISSION

† **December 9, 1987 - 9:30 a.m. - Open Meeting**  
Marriott Hotel, 500 East Broad Street, Richmond, Virginia

A meeting to consider possible recommendations for the protection of groundwater as it relates to drinking water supplies (HJR 324). The commission will also receive a report from the State Water Control Board on their analyses of Virginia's major water basins and an update from the Virginia Extension Service on the status of the reporting by farmers on their water withdrawals for irrigation.

Contact: Martin Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### November 9

† Child Day Care, Governor's Corporate Advisory Commission on Employers' Initiatives for Education Subcommittee, Special Joint Local Government, Commission on Medical Care Facilities Certificate of Public Need, Commission on Women, Council on the Status of

#### November 10

Farmworkers Board, Governor's Migrant and Seasonal Housing and Community Development, Board of - Amusement Device Technical Advisory Committee Local Government, Commission on † Nursing, Virginia State Board of Outdoor Recreation Needs, Joint Subcommittee Studying † Resources Authority, Virginia Women, Council on the Status of

#### November 12

Chesapeake Bay Commission Child Day-Care Council † Museum of Fine Arts, Virginia - Board of Trustees, Legislative Committee

#### November 13

Chesapeake Bay Commission Child Day-Care Council Geology, Virginia Board of

#### November 16

Appropriations Committee, House - General Government Subcommittee - Higher Education Subcommittee Education, State Board of Funeral Directors and Embalmers, Virginia Board of Nursing, Virginia State Board of

#### November 17

Alcoholic Beverage Control Board Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, Virginia State Board of - State Board of Professional Engineers † Contractors, State Board for Funeral Directors and Embalmers, Virginia Board of † Housing Development Authority, Virginia - Board of Commissioners Nursing, Virginia State Board of Waste Management Board, Virginia

#### November 18

Corrections, State Board of † Defense Systems for the Indigent, Joint Subcommittee Studying † Hate and Violence in the Commonwealth Health Services Cost Review Council, Virginia Mental Health, Mental Retardation and Substance Abuse Services Board, State † Museum of Fine Arts, Virginia - Programs Committee Nursing, Virginia State Board of Public Beaches, Board on Conservation and Development of Treasury Board

#### November 19

Boating Advisory Board, Virginia † Conservation and Historic Resources, Department of - Rappahannock River Advisory Committee † Farmers' Market Board, Virginia † Historic Preservation, Governor's Commission to Study † Labor and Industry, Department of - Safety and Health Codes Board Medicine, Virginia State Board of † Museum of Fine Arts, Virginia - Finance Committee † Psychology, Virginia Board of † Rehabilitative Services, Board of Transportation Board, Commonwealth

#### November 20

Building Code Technical Review Board, State Commerce, Board of Conservation and Historic Resources, Department of - Falls of the James Advisory Committee Emergency Response Council, Virginia Medicine, Virginia State Board of Physical Therapy, Advisory Board on † Real Estate Board, Virginia † Rehabilitative Services, Board of - Finance and Program Committees - Legislation and Evaluation Committee Social Work, Virginia Board of

#### November 21

Medicine, Virginia State Board of

#### November 22

Medicine, Virginia State Board of

#### November 23

Air Pollution Control Board, State † Child-Support Formulas, Joint Subcommittee Studying † Elections, State Board of Roads and Internal Navigation Subcommittee Studying Enforcement of Certain Motor Carrier Regulations, Special House

#### November 24

† Emergency Planning Committee of the Cities of

# Calendar of Events

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Hampton, Newport News, Williamsburg, and Poquoson and the County of York, Joint Emergency Response Council, Virginia  
† Funeral Directors and Embalmers, Virginia Board of  
† Nursing, Virginia State Board of

## November 30

Code Commission, Virginia  
† Emergency Response Council, Virginia

## December 1

Marine Resources Commission

## December 2

† Audiology and Speech Pathology, State Board of Examiners for

## December 3

† Emergency Response Council, Virginia

## December 4

† Child Abuse and Neglect, Governor's Advisory Board on

## December 5

Dentistry, Virginia Board of

## December 7

† Emergency Response Council, Virginia  
† Water Control Board, State

## December 8

Education, State Board of  
† Nursing, Virginia State Board of  
- Informal Conference Committee  
† Water Control Board, State

## December 9

Conservation and Historic Resources, Department of  
- Virginia Soil and Water Conservation Board  
† Sewage Handling and Disposal Appeals Review Board, State  
† Water Commission, State

## December 10

General Services, Department of  
- State Insurance Advisory Board  
Pilots, Board of Commissioners to Examine  
† Voluntary Formulary Board, Virginia

## December 11

Medicine, Virginia State Board of  
- Chiropractic Examination Committee  
† - Informal Conference Committee

## December 16

† Corrections, State Board of  
† Health Services Cost Review Council, Virginia  
Treasury Board

## December 17

Transportation Board, Commonwealth

## December 18

† Medicine, Virginia State Board of  
- Podiatry Examination Committee

## PUBLIC HEARINGS

## November 10

Air Pollution Control Board, State  
Historic Preservation, Governor's Commission to Study

## November 12

Historic Preservation, Governor's Commission to Study

## November 13

Geology, Virginia Board of

## November 16

Housing and Community Development, Board of

## November 18

Historic Preservation, Governor's Commission to Study  
† Waste Reduction and Recycling Methods, Subcommittee Studying  
Water Control Board, State

## November 19

Alcoholic Beverage Control Board

## November 20

Voluntary Formulary Board, Virginia

## November 23

† Water Control Board, State

## November 27

† Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation

## November 30

† Water Control Board, State

## December 3

Historic Preservation, Governor's Commission to Study

## December 8

Education, Department of

## December 11

New Lyrics for the Official Song of the Commonwealth, Joint Subcommittee Studying Adoption of

## December 16

Corrections, State Board of

## December 29

Commerce, Department of

**December 30**

Health, Department of

**January 6, 1988**

General Services, Department of  
- Division of Consolidated Laboratory Services  
Mines, Minerals and Energy, Department of

**January 11**

† Water Control Board, State

**January 13**

† Water Control Board, State

**January 14**

† Water Control Board, State

**February 9**

† Auctioneers Board

# Calendar of Events

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