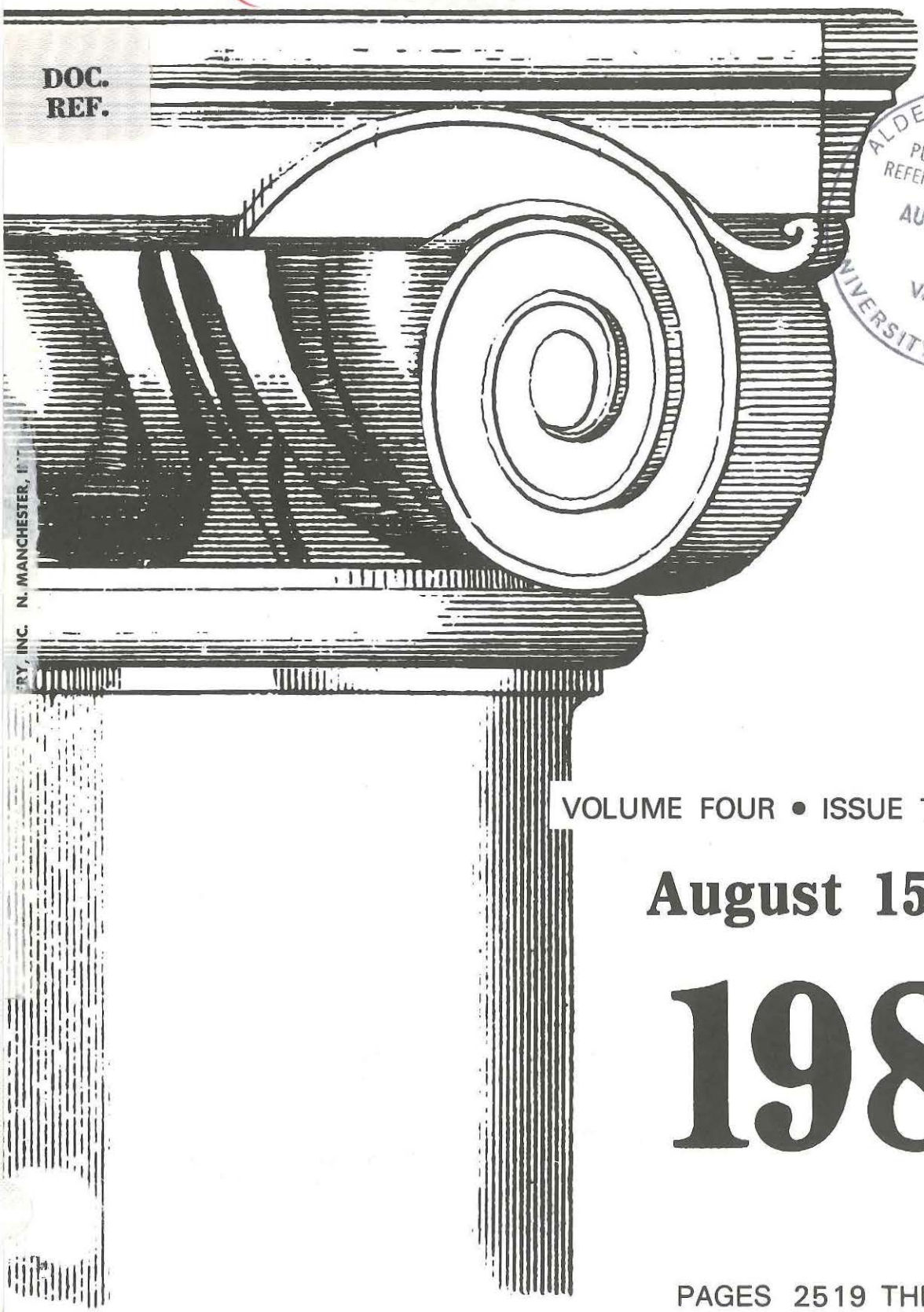
THE VIRGINIA REGISTER

OF REGULATIONS



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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

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Volume 5 - 1988-89	
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Oct. 5	Oct. 24
Oct. 19	Nov. 7
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Symbol Key

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DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD OF)

Title of Regulation: **VR 120-99-01. Regulation for the Control of Motor Vehicle Emissions.**

Statutory Authority: § 46.1-326.6 of the Code of Virginia.

Public Hearing Date: October 18, 1988 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation concerns the inspection of motor vehicle emissions in the Northern Virginia area (Arlington County, Fairfax County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park) and subsequent repairs as necessary to meet air pollution control requirements, and is summarized below:

A. Definitions.

This part contains the definitions necessary to support and clarify the remaining parts.

B. General provisions.

This part contains the general provisions necessary to support the remaining parts. Subjects covered include: applicability, establishment of regulations and orders, hearings and proceedings, variances, appeals, right of entry, conditions on approvals, and procedural information and guidance.

C. Emission standards for motor vehicle air pollution.

This part contains emission standards for vehicle exhaust emissions (hydrocarbons, carbon monoxide and smoke) and emissions control systems.

D. Inspection station licensing and operation.

This part contains the requirements and procedures for obtaining a license to become an emissions inspection station, to include fleet stations; the facility and equipment required for an inspection; the analyzer system operations and document usage; and mechanic/inspector number and security code usage.

E. Emissions mechanic/inspector testing and licensing.

This part contains the requirements and procedures for qualifying and licensing emissions mechanics, or inspectors, or both.

F. Inspection procedures.

This part contains the requirements and procedures for conducting emissions inspections. Key steps in the procedure are as follows:

1. An agreement with the customer, oral or written, to perform an emissions inspection.

2. The inspection of emissions control systems.

3. The test of emissions levels using an analyzer system.

4. The inspection for visible smoke.

5. Document distribution.

6. Customer advisement.

7. Free retest, if necessary, within 15 days of original test.

Also covered are the requirements for low-emissions tune-up, emissions related repairs and engine changes.

G. Enforcement procedures.

This part contains the procedures to enforce the regulation, including specifics concerning penalties and suspensions that may be imposed upon a station or mechanic/inspector for various infractions of the regulation.

VR 120-99-01. Regulation for the Control of Motor Vehicle Emissions.

PART I.
DEFINITIONS.

§ 1.1. General.

A. For the purpose of this regulation and subsequent amendments or any order issued by the board, the words or terms shall have the meanings given them in § 1.2.

B. Unless specifically defined in the Virginia Motor Vehicle Emissions Control Law or in this regulation, terms used shall have the meanings commonly ascribed to them by recognized authorities.

§ 1.2. Terms defined.

"Access code" means the security phrase or number which allows emissions mechanics/inspectors, department personnel, and service technicians to perform specific assigned functions using the certified analyzer system, as determined by the department.

"Administrative Process Act" means Title 9, Chapter 1.1:1 of the Code of Virginia.

"Air intake systems" means those systems which allow for the induction of ambient air (to include preheated air) into the engine combustion chamber for the purpose of mixing with a fuel for combustion.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air systems" means a system for providing supplementary air into a vehicle's exhaust system to promote further oxidation of hydrocarbons and carbon monoxide gases and to assist catalytic reaction.

"Basic engine systems" means those parts or assemblies which provide for the efficient conversion of a compressed air/fuel charge into useful power to include but not limited to valve train mechanisms, cylinder head to block integrity, piston-ring-cylinder sealing integrity and post-combustion emissions control device integrity.

"Board" means the State Air Pollution Control Board or its designated representative.

"Calibration" means the process of establishing or verifying the total response curve of an exhaust gas analyzer, using several different calibration gases having precisely known concentrations.

"Calibration gases" means gases of precisely known concentration which are used as references for establishing or verifying the calibration curve of an exhaust gas analyzer.

"Catalytic converter" means a post-combustion device which oxidizes hydrocarbon and carbon monoxide gases or reduces oxides of nitrogen, or both.

"Certificate of emissions inspection" means the official document issued by the department to emissions inspection stations and used by those stations to report the results of the vehicle emissions inspection. The results may indicate (i) approval, which means that a motor vehicle has satisfactorily complied with the applicable emission standards and passed the requisite emissions inspection; (ii) rejection, which means that a motor vehicle has not complied with the applicable emission standards and failed the requisite inspection; or (iii) waiver which means that compliance with the applicable emissions standards has been waived. Part B of the Certificate of Emissions Inspection is the official document of the department and is to be used by vehicle owners as proof of the vehicle emissions inspection. If it indicates approval or waiver, Part B shall be submitted to the Department of Motor Vehicles for registration, both initial and renewals.

"Certified analyzer system" means the complete system which samples and reads concentrations of hydrocarbon, carbon dioxide, and carbon monoxide gases and which is approved for use in the Vehicle Emission Control Program by the department in accordance with VR 120-99-02. The system includes the sample handling system, the exhaust gas analyzer, associated automation hardware and software, and the enclosure cabinet.

"Consent agreement" means an agreement that the owner will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with these regulations, by mutual agreement of the owner and the board.

"Consent order" means a consent agreement issued as an order. Such orders may be issued without a hearing.

"Data medium" means the medium contained in the certified analyzer system and used to electronically record test data.

"Day" means a 24-hour period beginning at midnight.

"Department" means any employee or other representative of the Virginia Department of Air Pollution Control, as designated by the executive director.

"Division" means the Division of Mobile Source Operations of the Virginia Department of Air Pollution Control.

"Electrical," "electronic," or "electromechanical span" means the adjustment of an exhaust gas analyzer and electronic signal rather than a calibration or span gas as a reference source.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

"Emission standard" means any provision of Part III which prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

"Emissions control systems" means those parts, assemblies or systems originally installed by the manufacturer in or on a vehicle for the sole purpose of

reducing emissions.

"Emissions inspection station" means any official inspection station authorized by the superintendent to make safety inspections pursuant to Article 10 (§ 46.1-315 et. seq.) of Chapter 4 of Title 46.1 of the Code of Virginia and which has applied for and obtained an emissions inspection station license from the department which authorizes the official inspection station to perform motor vehicle emissions inspections in accordance with the provisions of this regulation.

"Executive director" means the executive director of the Department of Air Pollution Control or his designated representative.

"Exhaust gas analyzer" means an instrument which is capable of measuring the concentrations of certain air pollutants in the exhaust gas emanating from a motor vehicle.

"Federal Clean Air Act" means 42 USC 7401 et seq., 91 Stat 685.

"Fleet emissions inspection station" means a licensed emissions inspection station with 20 or more vehicles owned, leased, or consigned to the same entity that holds the station license. Fleet stations are authorized to perform emissions inspections, repairs and adjustments only on vehicles in their fleet.

"Fuel control systems" means those mechanical, electromechanical, galvanic or electronic parts or assemblies which regulate the air/fuel ratio in an engine for the purpose of providing a combustible charge.

"Fuel filler neck restrictor" means the orifice and obstruction in the vehicle gas tank filler neck that prevents the insertion of a "leaded gasoline" nozzle.

"Gas span" means the adjustment of an exhaust gas analyzer to correspond with known concentrations of span gases.

"Gas span check" means a procedure using known concentrations of span gases to verify the gas span adjustment of an analyzer.

"General Assembly" means both houses of the Commonwealth of Virginia legislature.

"Gross vehicle weight" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and expressed on a permanent identification label affixed to the motor vehicle.

"Idle mode" means a condition where the vehicle engine is warm and running at the rate specified by the manufacturer's curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position.

"Ignition systems" means those parts or assemblies which are designed to cause and time the ignition of a compressed air/fuel charge.

"Inspection area" means the area that is occupied by the certified analyzer system and the vehicle being inspected.

"Inspector" means a person licensed by the department to perform inspections of vehicles required under the Virginia Motor Vehicle Emissions Control Law who is employed at a licensed emissions inspection station and is qualified in accordance with this regulation.

"Locality" means a city, town, county or other public body created by or pursuant to state law.

"Low emissions tune-up" means the performance of the following procdures on a motor vehicle:

1. Inspection of the choke, and the cleaning, repair or replacement as required.

2. Adjustment of the idle speed and air-fuel mixture according to the manufacturer's specifications.

3. Adjustment of the ignition dwell or gap and ignition timing according to manufacturer's specifications.

4. Inspection of the positive crankcase ventilation valve and vacuum hoses and the repair and replacement of those parts as required.

5. Inspection of the spark plugs and spark plug wires and the repair and replacement of those parts as may be required.

6. Inspection of the air filter and fuel filter and the replacement of those parts as required.

7. Inspection of distributor and distributor cap and the replacement of those parts as required.

"Mechanic" means a person licensed by the department to perform vehicle repairs required under the Virginia Motor Vehicle Emissions Control Law who is employed at a licensed emissions inspection station and is qualified in accordance with this regulation.

"Mechanic/inspector access code" means the security phrase or number issued by the department to a licensed mechanic/inspector that identifies the licensed mechanic/inspector.

"Mechanic/inspector number" means the alpha or numeric identifier issued by the department to every licensed mechanic/inspector at the time of licensing.

"Motor vehicle" means any vehicle which:

1. Is subject to registration in Virginia by the Department of Motor Vehicles;

2. Is designed for the transportation of persons or property;

3. Is more than one year but less than 21 years old, measured from the model year of such motor vehicle or, if the motor vehicle does not have a model year, measured from the year of manufacture;

4. Is powered by an internal combustion engine; and

5. Has a gross vehicle weight of 8,500 pounds or less.

The term "motor vehicle" does not include any:

1. Vehicle powered by a diesel engine;

2. Motorcycle;

3. Vehicle which, at the time of its manufacture, was not designed to meet the emissions standards set by the federal government; or

4. Motor vehicle which is either (i) of the same model year as the current calendar year or (ii) less than one year old, measured from the model year of such motor vehicle.

"Normal business hours" for emissions inspection stations, means Monday through Friday, 9 a.m. through 5 p.m., with the exception of national holidays, temporary closures noticed to the department and closures due to the inability to meet the requirements of § 6.1 C of this regulation.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Order" means any decision or directive of the board rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of these regulations. Unless specified otherwise in these regulations, orders shall only be issued after the appropriate hearing.

"Original condition" means the condition as installed by the manufacturer but not necessarily to the original level of effectiveness.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"Person" as used in these regulations, shall have no connotation other than that customarily assigned to the term "person," but shall include bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals.

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Retest" means a type of test selected when a request for an inspection is accompanied by a completed certificate of emissions inspection indicating a previous failure.

"Span gas" means gases of known concentration used as references to adjust or verify the accuracy of an exhaust gas analyzer that are approved by the department and are so labeled.

"Standard conditions" means a temperature of 68°F and a pressure of 29.92 inches of mercury.

"Standarized instruments" means laboratory instruments calibrated with precision gases traceable to the National Bureau of Standards and accepted by the board as the standards to be used for comparison purposes. All candidate instruments are compared in performance to the standardized instruments.

"State Implementation Plan" means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under § 110 of the federal Clean Air Act, and which implements the requirements of § 110.

"Superintendent" means the Superintendent of the Department of State Police.

"Test" means an inspection of a vehicle performed by a licensed mechanic/inspector employed by a licensed station, using the procedures and provisions set forth in this regulation.

"Thermometer, certified" means a laboratory grade ambient temperature measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least +/-1°F with increments of 1°, with protective shielding and approved by the department.

"These regulations" means this regulation (VR 120-99-01) and the Regulation for Vehicle Emissions Control Program Analyzer Systems (VR 120-99-02).

"True concentration" means the concentration of the gases of interest as measured by a standardized instrument which has been calibrated with 1.0% precision gases traceable to the National Bureau of Standards.

"Variance" means the temporary exemption of an owner or other person from these regulations, or a temporary

change in these regulations as they apply to an owner or other person.

"Virginia Air Pollution Control Law" means Title 10.1, Chapter 13 of the Code of Virginia.

"Virginia Motor Vehicle Emissions Control Law" means Title 46.1, Chapter 4, Article 10.1 of the Code of Virginia.

"Virginia Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle emissions established by Virginia Motor Vehicle Emissions Control Law.

"Zero gas" means a gas, usually air or nitrogen, which is used as a reference for establishing or verifying the zero point of an exhaust gas analyzer.

PART II.
GENERAL PROVISIONS.

§ 2.1. Applicability.

A. The provisions of these regualtions, unless specified otherwise, shall apply to the owner of any motor vehicle registered in Arlington County, Fairfax County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

B. The provisions of these regulations, unless specified otherwise, shall only apply to those pollutants for which emission standards are set forth in Part III.

C. The provisions of these regulations, unless specified otherwise, shall apply to any owner or other person which conducts emissions inspections.

D. No provision of these regulations shall limit the power of the board to take such appropriate action as necessary to control and abate air pollution in emergency situations.

§ 2.2. Establishment of regulations and orders.

A. Regulations for the Control of Motor Vehicle Emissions are established to implement the provisions of the Virginia Motor Vehicle Emissions Control Law, the Virginia Air Pollution Control Law, and the Federal Clean Air Act.

B. Regulations for the Control of Motor Vehicle Emissions shall be adopted, amended or repealed in accordance with the provisions of §§ 46.1-326.4, 46.1-326.5 and 46.1-326.14 of the Motor Vehicle Emissions Control Law, § 10.1-1308 of the Virginia Air Pollution Control Law, Articles 1 and 2 of the Administrative Process Act and the Public Participation Guidelines in Appendix E of VR 120-01.

C. Regulations, amendments and repeals shall become effective as provided in § 9-6.14:9.3 of the Administrative Process Act, except in no case shall the effective date be less than 60 days after adoption by the board.

D. If necessary in an emergency situation, the board may adopt, amend or stay a regulation as an exclusion under § 9-6.14:6 of the Administrative Process Act, but such regulation shall remain effective no longer than one year unless readopted following the requirements of subsection B of this section.

E. Orders may be issued pursuant to § 10.1-1307 D of the Virginia Air Pollution Control Law.

§ 2.3. Hearings and proceedings.

A. Hearings and proceedings by the board may take any of the following forms:

1. The public hearing and informational proceeding required before considering regulations or variances, in accordance with §§ 10.1-1308 and 10.1-1307 C of the Virginia Air Pollution Control Law. The procedure for a public hearing and informational proceeding shall conform to § 9-6.14:7.1 of the Administrative Process Act, except as modified by § 10.1-1307 C and F and § 10.1-1308 of the Virginia Air Pollution Conrol Law.

2. The informal fact finding proceeding which, with all parties consenting, may be used to ascertain facts upon which decisions of the board are based, in accordance with § 9-6.14:11 of the Administrative Process Act. The procedure for an informal fact finding proceeding shall conform to § 9-6.14:11 of the Administrative Process Act.

3. The formal hearing for the determination of violations, and for the enforcement or review of its orders and regulations, in accordance with § 10.1-1307 D of the Virginia Air Pollution Control Law. The procedure for a formal hearing shall conform to § 9-6.14:12 of the Administrative Process Act, except as modified by § 10.1-1307 D and F of the Virginia Air Pollution Control Law.

B. Records of hearings by the board may be kept in either of the following forms:

1. Oral statements or testimony at any public hearing or informational proceeding will be stenographically or electronically recorded, and may be transcribed to written form.

2. Formal hearings will be recorded by a court reporter, or electronically recorded for transcription to written form.

C. Availability of record of hearings by the board.

1. A copy of the transcript of a public hearing or informational proceeding, if transcribed, will be

provided within a reasonable time to any person upon receipt of a written request and payment of the cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.

2. Any person desiring a copy of the transcript of a formal hearing recorded by a court reporter may purchase the copy directly from the court reporter; if not transcribed, the additional cost of preparation will be paid by the person making the request.

§ 2.4. Variances.

A. Pursuant to § 10.1-1307 C of the Virginia Air Pollution Control Law, the board at its descretion may grant variances to any provision of these regulations after a public hearing in accordance with subsection B of this section.

B. Notices of public hearings on applications for variances shall be advertised in at least one major newspaper of general circulation in the affected Air Quality Control Region at least 30 days prior to the date of the hearing. The notice shall include the subject, location, date, and time of the hearing.

§ 2.5. Appeals.

A. Any owner or other person aggrieved by any action of the board taken without a formal hearing, or by inaction of the board, may demand a formal hearing in accordance with § 9-6.14:12 of the Administrative Process Act, provided a petition requesting such hearing is filed with the board. In cases involving actions of the board, such petition shall be filed within 30 days after notice of such action is mailed or delivered to such owner or other person.

B. Prior to any formal hearing, the board shall, provided all parties consent, ascertain the fact basis for its decision in accordance with § 9-6.14:11 of the Administrative Process Act.

C. Any decision of the board resultant from a formal hearing shall constitute the final decision of the board.

D. Any owner or other person aggrieved by a final decision of the board may appeal such decision in accordance with § 10.1-1318 of the Virginia Air Pollution Control Law and § 9-6.14:16 of the Administrative Process Act. Any petition for appeal shall be filed within 30 days after the date of such final decision.

E. Nothing in this section shall prevent disposition of any case by consent.

F. Any petition for a formal hearing or for an appeal by itself shall not constitute a stay of decision or action.

§ 2.6. Right of entry.

Whenever it is necessary for the purposes of these regulations the department may at reasonable times enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigation as authorized by § 10.1-1315 of the Virginia Air Pollution Control Law.

§ 2.7. Conditions on approvals.

A. The department may impose conditions upon licenses and other approvals which may be necessary to carry out the policy of the Virginia Motor Vehicle Emissions Control Law and Virginia Air Pollution Control Law, and which are consistent with these regulations. Except as specified herein, nothing in these regulations shall be understood to limit the power of the department in this regard. If the owner or other person fails to adhere to such conditions, the department may automatically cancel such licenses or approvals. Without limiting the generality of this section, this section shall apply to: approval of variances, issuance of emissions mechanic/inspector licenses and issuance of emissions inspection station licenses.

B. An owner or person may consider any condition imposed by the department as a denial of the requested approval or license, which shall entitle the applicant to appeal the decision pursuant to § 2.5.

§ 2.8. Procedural information and guidance.

A. The department may develop detailed procedures which:

1. Require data and information in addition to and in amplification of the provisions of these regulations;

2. Are reasonably designed to determine compliance with applicable provisions of these regulations; and

3. Set forth the format by which all data and information shall be submitted.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the department or other similar phrasing, the owner may request information and guidance concerning the proper procedures and methods and the department shall furnish in writing such information on a case-by-case basis.

§ 2.9. Export/import of motor vehicles.

A. Any person may remove the catalyst and restrictive filler inlet from used motor vehicles scheduled for shipment overseas provided that:

1. The export/import of the motor vehicle meets the provisions of subsection B of this section; and

2. The removal of the emission control devices does not take place prior to 10 days before the vehicle is

turned into the port authorities and the reinstallation of the emission control devices takes place within 10 days after receipt of the vehicle by the owner from the port authorities.

B. To be exempted under the provisions of subsection A of this section, the motor vehicle must:

1. Be exported/imported under a U.S. Environmental Protection Agency (EPA) approved catalyst control program; or

2. Be exported/imported under a Department of Defense (DOD) privately owned vehicle import control program; or

3. If not under an EPA or DOD program, upon reimport to the United States must be entered through U.S. Customs under cash bond and formal entry procedures (19 CFR Part 12 - Special classes of merchandise) and must be modified to bring it into conformity with applicable federal motor vehicle emission standards (40 CFR Part 86 - Control of air pollution from new motor vehicle engines: Certification and test procedures).

PART III.
EMISSION STANDARDS FOR MOTOR VEHICLE AIR POLLUTION.

§ 3.1. Exhaust emission standards.

A. No motor vehicle shall discharge carbon monoxide (CO) and hydrocarbons (HC) in its exhaust emissions in excess of standards set forth in Table III-1 when measured with a certified analyzer system and by the inspection procedures prescribed in Part VI.

TABLE III-1.
EXHAUST EMISSION STANDARDS.

Model Year	CO (%)	HC (ppm)
1968-69	8.0	800
1970-74	6.0	600
1975-79	4.0	400
1980	2.0	220
1981 and later	1.2	220

B. The board may annually review and adjust the exhaust emission standards in Table III-1, +/- 2% for carbon monoxide and +/- 200 parts per million for hydrocarbons, if it finds the motor vehicle failure rate too high or too low to obtain the desired emission reduction required by the State Implementation Plan.

§ 3.2. Emissions control systems standards.

A. No motor vehicle manufactured for the model year 1973 or for subsequent model years shall be operated on the highways of the Commonwealth unless it is equipped with an air pollution control system or device, or combination of such systems or devices, such as a crankcase emission control system or device, exhaust emission control system or device, fuel evaporative emission control system or device, or other air pollutant control system or device which has been installed in accordance with federal laws and regulations.

B. No motor vehicle or engine shall be operated if the purpose of any motor vehicle pollution control system or device has been defeated by installing any part or component which is not a standard factory replacement part or component of the device.

C. No motor vehicle or engine shall be operated with the motor vehicle pollution control system or device removed or otherwise rendered inoperable.

D. The provisions of this section shall not prohibit or prevent shop adjustments or replacement, or both, of equipment for maintenance or repair, or the conversion of engines to low polluting fuels such as, but not limited to, natural gas or propane.

§ 3.3. Visible emissions standards.

No motor vehicle shall discharge visible air pollutants for longer than five consecutive seconds after the engine has been brought up to operating temperature.

PART IV.
EMISSIONS INSPECTION STATION LICENSING AND OPERATIION.

§ 4.1. Station licenses.

A. The department is authorized to issue or deny licenses and approve procedures and other instructions for the operation of emissions inspection stations.

B. Application for licenses shall be made on forms issued by and in accordance with procedures approved by the department.

C. Applicants shall demonstrate to the department the ability to conform to applicable motor vehicle laws and this regulation.

D. No facility shall be represented as a licensed station unless the owner holds a valid license issued by the department.

E. Licenses obtained by false statement or misrepresentation of identity to the department shall be cancelled or revoked.

F. Certificates of emissions inspection shall only be issued by stations holding valid licenses issued by the department.

G. The department will endeavor to notify stations prior

to the expiration of their license. However, it is the responsibility of the station to have a current valid license.

H. Within five days of notification of cancellation, revocation or suspension stations shall surrender to the department all licenses, forms, data media and documents issued by or purchased from the department.

I. It is the responsibility of the station to notify the department of the termination of a suspension period and apply for reinstatement with the department.

J. All stations shall cooperate with the department during the conduct of audits, investigations and complaint resolutions.

K. Station licenses shall be issued to qualified applicants in the following categories, as determined by the department.

1. Emissions inspection station.

2. Fleet emissions inspection station meeting the requirements of § 4.7.

L. Station licenses shall not be issued to any facility not authorized by the superintendent to make safety inspections pursuant to Article 10 (§ 46.1-315 et. seq.) of Chapter 4 of Title 46.1 of the Code of Virginia.

M. Station licenses shall be valid only at the location for which they are issued and may not be transferred, loaned or used by any person other than the original applicant.

N. Transfer of or sale of business, changes in partnership, the addition or deletion of partners or changes in location will require a new license application.

O. The department may require proof of business ownership, articles of incorporation, partnership agreements, and lease agreement prior and proof of conformity with local zoning, use, or business licensing laws, ordinances or regulations to licensing a facility.

P. No license shall be issued to a business in violation of local zoning, use or business licensing laws, ordinances or regulations; and licenses shall be cancelled when a business no longer conforms to local zoning, use, or business licensing laws, ordinances or regulations.

Q. All station licenses shall be posted in a conspicuous place on the licensed premises, available to the public and approved by the department.

R. Licenses shall not be issued to businesses having owners, partners, or stockholders who have had licenses previously revoked or are currently under suspension by the department.

S. Licenses are valid only for the station to which they are issued.

T. Licenses are valid for three years.

U. Upon expiration of the license, the station shall no longer be authorized to perform inspections or emission related repairs.

§ 4.2. Station operations.

A. All stations shall be open for business during normal business hours, except stations licensed under § 4.1 K 2.

B. All stations shall have records available for inspection by the department any time during normal business hours.

C. All stations shall employ at least one emissions mechanic and one emissions inspector. One person may serve in both capacities, if so defined in the license.

D. All stations shall have a licensed emissions mechanic/inspector on duty during normal business hours, except stations licensed under § 4.1 K 2.

E. All station operations shall be conducted in accordance with applicable statutes and this regulation.

F. All test records shall be maintained by the licensee until transferred to the department.

G. All unused certificates of emissions inspection and other documents shall be kept in a secure location and only be available to licensed mechanics/inspectors or authorized personnel, as approved by the department.

H. Mechanics/inspectors may conduct inspections, repairs and adjustments as defined by the type of license issued.

I. Missing or stolen certificates of emissions inspection or other official documents shall be reported to the department within 24 hours.

J. Stations shall be accountable for all documents issued to them by the department.

K. Stations shall provide a free retest upon request within 15 days of the first test failure.

L. Stations subject to temporary closure due to the requirements of § 6.1 C or any other reason shall refund any inspection fee collected when a customer requests a free retest and cannot be accommodated due to the temporary closure.

§ 4.3. Sign posting.

A. All stations, except those licensed under § 4.1 K 2, shall post a department approved sign designating the

location as an Official Vehicle Emissions Control Program Inspection Station in a conspicuous location on the licensed premises, available to the public and approved by the department.

B. All stations will post the applicable exhaust emissions standards prescribed in Part III in a conspicuous location on the licensed premises, available to the public, and approved by the department.

C. All stations, except those licensed under § 4.1 K 2, shall post in a conspicuous location in a clearly legible fashion a department approved sign indicating the fees charged for emissions inspections and maximum fees for emissions related adjustments and repairs.

D. All stations, except those licensed under § 4.1 K 2, shall post all signs that are issued by the department in a location approved by the department.

E. Signs shall be posted in a manner that does not violate local sign ordinances or codes.

§ 4.4. Equipment and facility requirements.

A. All stations shall have adequate facilities to perform all elements of the test at all times.

B. All stations shall be equipped in accordance with this regulation and applicable statutes.

C. Licensed stations which no longer meet the requirements of this section shall be subject to enforcement actions in accordance with Part VII.

D. The following list of equipment, tools and reference material are the minimum requirements for licensing of stations.

1. A certified analyzer system as approved in accordance with VR 120-99-02.

a. As a provision of continued license to perform inspections, the certified analyzer system must be updated as required by the department.

b. Stations are encouraged to take advantage of available service/maintenance and extended warranty contracts. These contracts are not a requirement of licensing.

2. An automotive tachometer with a minimum revolutions per minute range of 0 through 3,000.

3. An automotive dwell meter.

4. An automotive ignition timing light.

5. Artificial enrichment (propane) kit for mixture adjustment or verification.

6. Span gas approved by the department and labeled with the department label and equipment for performing gas span checks.

7. Hand tools and diagnostic equipment for the proper performance of inspections, adjustments and repairs as approved by the department.

8. Suitable nonreactive exhaust hoses, or a probe adapter for inspecting vehicles with screened or baffled exhaust, or over length vehicles.

9. Automotive reference manuals which contain manufacturer's specifications for ignition dwell, ignition timing, idle mixture, idle speed, and fast idle. Additionally, references covering the emissions control systems description, diagnostic and repair procedures for the models of vehicles subject to this regulation.

10. An emissions control systems application guide which contains a quick reference for emissions control systems and their uses on specific make, model, and model year vehicles.

11. Analyzer manufacturer's maintenance and calibration manual.

12. Certified thermometer as defined within this regulation.

13. A fuel filler neck inspection gauge, as approved by the department.

14. This regulation (VR 120-99-01) and VR 120-99-02.

15. Telephone.

16. Lockable storage for securing documents.

17. Sufficient print medium supplies (ink cartridge, ribbon, etc.) to ensure proper legible documents are produced.

E. All equipment, tools, and reference manuals shall be in proper working order and available on the licensed premises at all times.

§ 4.5. Analyzer operation and certificate of emissions inspection usage.

A. All licensed stations shall maintain the analyzer in such a manner that will permit the proper operation in accordance with the requirements of this regulation and applicable statutes.

B. The analyzer shall be gas spanned and leak checked once every seven days.

C. No additions or modification shall be made to the analyzer unless approved by the analyzer manufacturer and the department.

D. No analyzer replacement parts shall be used that are not original equipment replacement, or equivalent, as approved by the department.

E. The licensee shall be responsible that all certificates of emissions inspection printed are legible, and properly printed with all information appearing in the correct location on the form.

F. All certificates of emissions inspection voided due to damage, misfeed, or operator error shall be retained in a secure manner and be available for audit by the department.

G. Certificates of emissions inspection shall be used only for documentation of official test results and the issuance for registration of vehicles as appropriate. Certificates shall not be used to record the results of engine diagnosis.

H. No person shall tamper or circumvent any system or function of the analyzer.

I. Stations shall be responsible for preventing any tampering or unauthorized use of the analyzer or its functions.

J. Analyzer lockout conditions shall be removed only by authorized service or department personnel.

K. Data media used for the collection of official test data shall be property of the department.

L. Only data media issued by the department shall be used for data collection of official test result.

M. Only department or authorized analyzer manufacturers service personnel shall exchange data media.

N. Stations shall notify the department when the analyzer indicates that storage capacity for 50 or less test records is available.

O. The department will endeavor to respond to data media exchange requests in a timely manner. The department is not responsible for any loss of business incurred due to inoperable data media.

P. Stations shall give the department three weeks notification when additional certificates of emissions inspection are needed.

§ 4.6. Mechanic/inspector number and security code usage.

A. Each licensed emissions mechanic/inspector shall be assigned a unique numerical code to gain access to the analyzer at the mechanic's/inspector's place of employment.

B. Access codes and mechanic/inspector numbers shall be added and deleted only by department personnel.

C. An access code shall be used only by the licensee to whom it was assigned.

D. A mechanic/inspector number printed on a certificate of emissions inspection shall be electronic signature and an endorsement that the entire test was performed by the licensee to whom the number was assigned.

E. Mechanics/inspectors shall report any unauthorized use of an access code to the department within 24 hours of the discovery of unauthorized use.

F. Mechanics/inspectors shall be responsible for any violation or fraudulent inspection which occurs using his mechanic/inspector number.

G. Mechanics/inspectors shall be responsible for all certificates of emissions inspection bearing his mechanic/inspector number.

H. A maximum of 10 mechanic/inspector number access code combinations will be assigned to an analyzer.

§ 4.7. Fleet emissions inspection stations.

A person to whom there are 20 or more vehicles registered may be licensed as a "fleet emissions inspection station" and conduct inspection of that fleet.

PART V.
EMISSIONS MECHANIC/INSPECTOR TESTING AND LICENSING.

§ 5.1. Requirements for licensing.

A. Application for licenses shall be made on forms issued by and in accordance with procedures approved by the department.

B. Applicants shall demonstrate to the department the ability to conform with applicable motor vehicle laws and this regulation.

C. No person shall be represented as a licensed mechanic/inspector without holding a valid license issued by the department.

D. Licenses obtained by false statement or misrepresentation of identity to the department shall be cancelled or revoked.

E. Certificates of emissions inspection shall only be signed by persons employed by stations holding valid licenses issued by the department.

F. The department will endeavor to notify mechanics/inspectors prior to the expiration of their license. However, it is the responsibility of the mechanic/inspector to have a current valid license.

G. Upon notification of cancellation, revocation or

suspension mechanic/inspector shall surrender to the department all licenses issued by the department.

H. It is the responsibility of the mechanic/inspector to notify the department of the termination of a suspension period and apply for reinstatement with the department.

I. Licenses are valid only for the person to whom they are issued.

J. All mechanics/inspectors shall cooperate with the department during the conduct of audits, investigations and complaint resolution.

K. A person shall qualify under § 5.2 prior to being issued an emissions mechanic/inspector license.

L. Qualified persons may, after filing application, obtain a temporary license valid for a period not to exceed 60 days from date of issuance.

M. Mechanics/inspectors changing employment must have their license transferred by the department to the new place of employment prior to performing emission inspections.

N. Mechanics/inspectors shall keep their current mailing address and place of employment on file with the department.

O. All mechanic/inspectors licenses may be required by the department to be posted in a conspicuous place on the licensed premises, available to the public and approved by the department.

P. Mechanics/inspectors may be licensed to perform tests at more than one licensed station after filing an application.

Q. Requalification for a mechanic/inspector license may be required at any time by the department.

R. Licenses are valid for three years.

S. Upon expiration of the license, the mechanic/inspector shall no longer be authorized to perform emissions inspections or emission related repairs.

§ 5.2. Testing and licensing of applicants for emissions mechanics/inspectors.

A. Qualification requirements for emissions mechanic/inspector licenses.

1. Applications to qualify for emissions mechanic/inspector licenses shall be filed with the department and the issuance of the licenses shall be administered by the department. Applications for such licenses shall be completed on forms provided by the department. Before an applicant may be given a license, he must comply with the requirements of this section. The department will notify applicants of the evaluation requirements prior to testing.

2. An applicant shall demonstrate the ability to properly operate the certified analyzer system on the licensed premises and perform a test as required by this regulation.

3. An applicant shall demonstrate knowledge, skill, and competence concerning either the conduct of emissions inspections or the adjustment and repair of vehicles to manufacturers' specifications or both depending upon license classification. Such knowledge, skill and competence will be shown by passing a qualification test including, but not limited to, knowledge of the following:

a. Operation and purpose of emissions control systems.

b. Relationship of hydrocarbon and carbon monoxide emissions to timing and air/fuel ratio control.

c. Adjustment and repair to manufacturers' specifications.

d. This regulation.

e. Contemporary diagnostic and engine tune-up procedures.

f. The provisions of the Emissions Control Systems Performance Warranty pursuant to § 207(b) of the Federal Clean Air Act as it applies to this regulation.

g. Visual inspection of the required emissions control equipment for 1973 and newer vehicles.

h. Operation of and proper use, care, maintenance, and gas span checking of certified analyzer systems.

i. Proper use of and distribution of inspection forms, certificates of emissions inspection, and supplemental documents.

j. Emissions related adjustment and repair requirements for all vehicles failing the initial emissions inspection.

k. Inspecting for visible smoke emissions.

B. Requalification requirements for all emissions mechanics/inspectors.

1. Upon the determination by the department of the necessity of technically updating the qualifications for emissions mechanics/inspectors, and upon development or approval of retraining courses and retesting requirements for emissions mechanics/inspectors to

demonstrate said qualifications, holders of emissions mechanics/inspectors licenses shall be required to requalify.

2. Emissions mechanics/inspectors shall be required to requalify within 90 days from the date of written notification by the department. Said notice shall be mailed to the address of record as maintained by the department. The notice shall inform the person of the necessity of requalification and the nature of such skills, systems, and procedures requiring the retraining for the continued performance of the emissions inspection. The notice shall give the name and location of training sources approved or accredited for purposes of retraining, the necessity of requalification by a certain date, and the nature and evidence of documentation to be filed with the department evidencing such requalification, and state that failure to requalify within said period of time shall result in suspension or revocation of the emissions mechanic/inspector license.

C. Issuance of emissions mechanics/inspectors licenses.

1. The department is authorized to issue or deny licenses to persons to conduct either emissions inspections (inspector) or adjustments and repairs (mechanic) or both at an emissions inspection station.

2. The department shall issue a license to any person so qualified or requalified under § 5.2.

PART VI.
INSPECTION PROCEDURES.

§ 6.1. General.

The key steps in the emissions inspection procedure are as follows:

1. An agreement with the customer, oral or written, to perform an emissions inspection.

2. The inspection of emissions control equipment.

3. The test of emissions levels using a certified analyzer system.

4. The test for visible smoke.

5. Document distribution.

6. Customer advisement.

7. Free retest, if necessary, within 15 days of original test.

§ 6.2. Inspection procedure.

A. All aspects of the inspection shall be performed by a licensed emissions mechanic/inspector, using the instructions programmed in the certified analyzer system, within the inspection area, and on the licensed premises.

B. The emissions mechanic/inspector shall notify the customer prior to initiating an emissions inspection if the emissions inspection station is unable to perform the low emissions tune-up and emission related repairs required by §§ 6.3 and 6.4 for that particular vehicle should that vehicle fail the inspection. Otherwise the emissions mechanic/inspector shall not conduct an inspection on a motor vehicle unless that emissions mechanic/inspector so notifies the customer or knows that the station is able to perform the low emissions tune-up and emission related repairs for that particular vehicle as prescribed by the manufacturer and specified by §§ 6.3 and 6.4.

C. The entire inspection shall take place within the reach of the analyzer hose.

D. The consideration of maintaining inspection integrity.

1. The temperature of the inspection area shall be between 35°F and 110°F during the inspection. Inspection area temperatures shall be accurately recorded and monitored in a well-ventilated location away from vehicle engine and exhaust heat sources and out of direct sunlight.

2. The analyzer system shall be kept in a stable environment which affords adequate protection from the weather.

3. The electrical supply to the analyzer system shall be able to meet the manufacturer's requirements for voltage and frequency stability.

4. The inspection location shall be permanent and meet all applicable zoning requirements. Electrical supply shall be public utility designated for that area.

E. The emissions mechanic/inspector shall accurately identify and enter vehicle and owner information as required for vehicle emissions inspection records. The date entered into the analyzer and recorded on the certificate of emissions inspection must be the data from the vehicle being inspected and obtained from that vehicle (not the vehicle registration).

F. For 1973 and later model year vehicles, the emissions mechanic/inspector shall then perform an inspection for integrity of the emissions control systems. The inspection shall include:

1. Examining the emissions control information decal (sticker) under the hood or checking the reference manual or applications guide to determine if the vehicle, as manufactured or certified for sale, or both, or use within the United States, should be equipped with a catalytic converter, air system (air pump), fuel evaporative system, positive crankcase ventilation valve, or requires the use of unleaded fuel.

2. Visually inspecting for the presence and operability of the air system (air pump), catalytic converter system, fuel evaporative system, positive crankcase ventilation valve, and fuel filler neck restrictor. If these parts or systems are inoperable, or have been removed or damaged, the vehicle will not qualify for a certificate of emissions inspection approval. If the necessary parts will not be available prior to the month of expiration of the present vehicle registration, and the owner obtains a signed form or statement to that effect from a manufacturer's dealer for that make vehicle, or from an automotive parts supplier which in the normal course of business supplies parts for that vehicle and presents the form or statement to the department, the department after verification may issue a temporary certificate of emissions inspection waiver valid up to 30 days. The form or statement provided must specifically identify by part numbers and description, the necessary parts. The owner then has until the expiration of the temporary waiver to complete the necessary repairs or replacement.

3. If the vehicle fails the fuel filler neck restrictor inspection, the fuel filler neck restrictor as well as the catalytic converters and, if applicable, exhaust gas oxygen (02) sensors shall be replaced to ensure the efficient operation of these emissions control systems. Any exception from this provision shall be verified as a result of a department approved performance test.

G. The entire vehicle shall be in normal operating condition and at normal operating temperature, which may be determined by feeling the top radiator hose, by checking the temperature gauge, or operating the vehicle prior to performing the idle mode emissions inspection.

H. The inspection shall be performed with the transmission in park or neutral and with all accessories off.

I. 1. The analyzer probe shall be inserted into the tailpipe at least 12 inches or as recommended by the manufacturer for a quality sample whichever is greater.

2. For all vehicles equipped with a multiple exhaust system, the analyzer system's dual exhaust procedure shall be used.

3. If a baffle or screen prevents probe insertion to an adequate depth, a suitable probe adapter or snug fitting hose which effectively lengthens the tailpipe may be used.

4. The emissions inspection procedure shall be as follows:

a. For all model year vehicles, the emissions inspection shall be an idle mode test, conducted in the following manner: the vehicle shall be accelerated and stabilized at 2500 +/- 300 revolutions per minute for 30 seconds and shall be returned and stabilized at normal curb idle for the reading. An accurate tachometer as provided by the analyzer system shall be used to verify engine speeds when performing the test. For pass/fail determination, the vehicle's emissions level shall be the same as or less than the applicable exhaust emission standards at idle speed in order to pass the emissions inspection.

b. The appropriate emissions standards shall be selected by the analyzer system. In selecting appropriate emissions standards, the emissions mechanic/inspector shall identify that particular vehicle's make and model year by examining the vehicle information (metal) plate or sticker. If the vehicle information plate or sticker is missing, illegible or the information is not otherwise available, the emissions mechanic/inspector shall examine the engine exhaust emissions control information label which is permanently affixed to the engine and determine the model year status.

J. The vehicle shall be evaluated for the presence of visible smoke emissions at normal curb idle. Those vehicles exhibiting any gray, blue, blue-black, or black smoke emissions from the engine crankcase or tailpipe, or both, shall be denied a certificate of emissions inspection approval.

K. A certificate of emissions inspection approval shall be issued if the vehicle meets the emissions control systems standard (for 1973 and newer model year vehicles only), the exhaust emissions standards, and there is no evidence of smoke emissions.

L. If the vehicle fails the initial emissions inspection a certificate of emissions inspection rejection shall be issued and the owner shall have 15 days in which to have repairs or adjustments made and return the vehicle to the station which performed the initial inspection for one free reinspection. A temporary certificate of emissions inspection waiver may be issued by the department to those vehicles failing the initial emissions inspection. continue to exceed applicable emissions standards after the adjustments specified in subsections A through F of § 6.3 have been accomplished, and for which emissions related parts are not presently available in order to make corrective repairs to that specific vehicle. Proof of parts nonavailability as described in subsection E 2 of this section shall be required. In order to obtain a vehicle registration from the Department of Motor Vehicles, the owner shall have one of the certificates specified below. For purposes of vehicle registration, a certificate shall be valid for 120 days from date of issuance.

1. A certificate of emissions inspection approval may be issued if all of the following conditions are met:

a. The vehicle emissions levels are the same as or

less than the applicable exhaust emission standards.

b. There are no smoke emissions visible from the vehicle engine crankcase or tailpipe, or both.

c. For 1973 and newer model year vehicles, the vehicle passes the emissions control systems standards.

2. A certificate of emissions inspection waiver may be issued if all of the following conditions are met:

a. The vehicle passes the emission control systems standards (1973 and newer model year vehicles only) required by subsection F 2 of this section.

b. The vehicle continues to exceed applicable emissions standards after the low emissions tune-up and emission related repairs required by §§ 6.3 and 6.4 have been performed by an emissions mechanic.

c. At least the designated amount (for a particular model year as specified below) has been spent on emissions related repairs as specified in § 6.4 performed by an emissions mechanic, provided that proof of repair costs for that specific vehicle has been provided to the emissions inspection station in the form of an itemized bill, invoice, work order, manifest, or statement in which emissions related parts or repairs, or both, are specifically identified.

(1) $60 for pre-1972 model vehicles.

(2) $125 for 1972-1974 model vehicles.

(3) $175 for 1975-1979 model vehicles.

(4) $200 for 1980 and new model vehicles.

3. A waiver shall not be issued to a vehicle which is eligible for the emissions control systems performance warranty, under the provisions of § 207(b) of the Federal Clean Air Act. Per the provisions of § 207(b), the repair costs necessary for compliance with emissions standards specified in Part III of this regulation will be borne by the vehicle manufacturer or his authorized dealer representative.

M. The analyzer system shall generate the appropriate certificate of emissions inspection and the emissions mechanic/inspector shall make distribution. The emissions mechanic/inspector shall remove any previously issued emissions inspection stickers. The certificate of emissions inspection is to be signed by the issuing emissions mechanic/inspector.

N. The emissions mechanic/inspector shall advise the customer as specified below upon completion of the procedure.

1. If the test is not completed, explain defect in vehicle and advise of free retest.

2. If the vehicle passes, give certificate of emissions inspection approval and advise of registration requirement (including distribution of Part B of certificate of emissions inspection approval).

3. If the vehicle fails:

a. Give certificate of emissions inspection rejection or waiver to customer;

b. Advise of type of failure;

c. Advise of free retest; and

d. Advise of waiver requirements.

O. In cases of complaints or disputes between the emissions mechanic/inspector or emissions inspection station and the customer, the customer shall be advised of the location and phone number of the department to be contacted to obtain assistance in resolving disputes.

§ 6.3. Low emissions tune-up.

A. If the vehicle exceeds the applicable emission standards, the vehicle shall undergo the six adjustment steps specified below:

1. With a dwell meter, check to determine if the ignition dwell is within the recommended tolerance of +/- 2° of specifications. Reset if the ignition dwell is not within tolerance.

2. Connect tachometer to determine if idle speed is correct. If not, set the manufacturer's specifications with a tolerance of +/- 50 revolutions per minute.

3. With the engine idling at the correct speed, check ignition timing to determine if it is within +4° to -2° of the recommended setting.

4. Using an infrared analyzer, propane enrichment kit, or tachometer, adjust the idle air/fuel ratio using manufacturer's suggested procedures and specifications, if applicable.

5. After completing the preceding steps, readjust idle speed to manufacturer's specifications, if not within tolerance.

6. Using the manufacturer's suggested procedure, check the fast idle speed and adjust to manufacturer's specifications.

B. If the vehicle continues to exceed the applicable emissions standards, the vehicle shall undergo a low emissions tune-up, and if still not in compliance specific emissions related repairs in accordance with § 6.4. The low emissions tune-up and repairs shall be accomplished

to the point of compliance or the applicable cost ceiling specified in § 6.2 L 2 c shall have been met.

§ 6.4. Emissions related repairs.

A. Emissions related repairs generally include only those adjustments to and maintenance and repair of the motor vehicle which are directly related to the reduction of exhaust emissions necessary to comply with the applicable emissions standards. The expenditure for emissions related repairs does not include the inspection fee as specified in § 46.1-326.8 of the Motor Vehicle Emissions Control Law, the expense of emissions related adjustments, repairs or replacements required by subsection F 2 of § 6.2 or the expenses associated with the adjustments to and maintenance, replacement, and repair of air pollution control equipment on the vehicle if the need for such adjustment, maintenance, or repair is due to obvious disconnection of, tampering with, or abuse to such air pollution control equipment. Air pollution control equipment is any part, assembly or system originally installed by the manufacturer for the sole or primary purpose of reducing emissions.

B. Repairs and maintenance to the following systems shall qualify as emissions related repairs insofar as the purpose is to reduce exhaust emissions:

1. Air intake systems

2. Ignition systems

3. Fuel control systems

4. Emissions control systems

5. Basic engine systems

6. For microprocessor (O2) based air/fuel control systems, cooling systems

§ 6.5. Engine changes.

A. For those vehicles in which the original engine has been replaced, the emissions standards and applicable emissions control equipment for the year and model of the vehicle body/chassis, as per registration/title, shall apply. For those diesel powered vehicles which have been converted to operate on fuels other than diesel; the emissions standards and applicable emissions control equipment for the year, make and model of the gasoline equivalent for the vehicle body/chasis, per the registration, shall apply.

B. For those vehicles titled/registered as model year 1973 and newer, that were assembled by other than a licensed manufacturer, such as kit-cars, the applicable emissions control equipment shall be based upon a determination by the department of the vintage of the vehicle engine. The year of the engine shall be presumed to be that stated by the vehicle owner unless it is determined by the department, after physical inspection of the vehicle engine, that the year of the engine is other than stated by the owner. The emissions standards for a vehicle of this classification shall be determined by the model year of the vehicle as registered/titled.

C. In order to provide for the accurate inspection and registration coordination of motor vehicles in which the original engine has been replaced, emission inspections shall be conducted at an inspection referee station operated by the department.

PART VII.
ENFORCEMENT PROCEDURES.

§ 7.1. Enforcement of regulations and orders.

A. Whenever the department has reason to believe that a violation of any provision of these regulations or any order has occurred, notice shall be served on the alleged violator or violators, citing the applicable provision of these regulations or the order involved and the facts on which the violation is based. The department may act as the agent of the board to obtain compliance through either of the following enforcement proceedings:

1. Administrative proceedings.

The department may negotiate to obtain compliance through administrative means. Such means may be a consent agreement or any other mechanism that ensures or obtains compliance, including but not limited to those means prescribed in § 7.2. In cases where the use of an administrative means is expected to result in compliance within 90 days or less, preferential consideration shall be given to the use of a consent agreement. Unless specified otherwise in these regulations, the administrative means shall be approved by the board.

2. Judicial proceedings.

The department may obtian compliance through legal means pursuant to § 46.1-326.13 of the Virginia Motor Vehicle Emissions Control Law.

B. Nothing in this section shall prevent the department from making efforts to obtain voluntary compliance through conference, warning or other appropriate means.

C. Orders and consent orders are considered administrative means and the board reserves the right to use such means in lieu of or to provide a legal basis for the enforcement of any administrative means negotiated or approved by the department under subsection A of this section.

D. Any enforcement proceeding under this section may be used as a mechanism to insure that the compliance with this regulation is reasonably maintained by the owner or other person.

§ 7.2. Penalties.

A. Schedule.

The complete operation of an official emissions inspection station shall be the responsibility of the owner. Failure to comply with the appropriate provisions of the Motor Vehicle Emissions Control Law or this regulation will be considered sufficient cause for suspension of emission inspection privileges. In addition thereto, violators are also subject to criminal prosecution. Every emissions inspection station and certified emissions mechanic/inspector shall be subject to the following schedule of penalties and suspension:

Type of Violation - Category One

Issuance or possession of altered, forged, stolen, or counterfeit certificate of emissions inspection

Maximum Duration of Suspension

1st Offense	2nd Offense	3rd and Subsequent Offense
1 year	Permanent	

Type of Violation - Category One

Furnish, lend, give, sell or receive a certificate of emissions inspection without inspection

Maximum Duration of Suspension

1st Offense	2nd Offense	3rd and Subsequent Offense
1 year	Permanent	

Type of Violation - Category One

Fraudulent record keeping

1st Offense	2nd Offense	3rd and Subsequent Offense
1 year	Permanent	

Type of Violation - Category One

Issuance of certificate of emissions inspection that does not accurately reflect results of inspection or when no inspection takes place

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	1 year	3 years

Type of Violation - Category Two

Failure to produce records upon demand by department personnel

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	6 months	1 year

Type of Violation - Category Two

Inspection by unlicensed mechanic/inspector

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	6 months	1 year

Type of Violation - Category Two

Unnecessary repairs for purposes of inspection

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	6 months	1 year

Type of Violation - Category Two

Misstatement of fact

1st Offense	2nd Offense	3rd and Subsequent Offense
1 month	3 months	1 year

Type of Violation - Category Two

Improper assigning of certificate of emissions inspection

1st Offense	2nd Offense	3rd and Subsequent Offense
1 month	3 months	1 year

Type of Violation - Category Three

Improper certificate of emissions inspection security

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning	3 months	1 year

Type of Violation - Category Three

Unclean inspection area

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning	3 months	3 months

Type of Violation - Category Three

Improper or careless record keeping

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning	3 months	6 months

Type of Violation - Category Three

Required tools or equipment missing or broken

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning if tools are repaired or replaced, if not, suspension or replaced.	1 month or until tools are repaired or replaced, whichever is greater.	6 months or until tools are repaired or replaced, whichever is greater.

Type of Violation - Category Four

Failure to notify the department of changes of ownership, location or other changes affecting an official inspection station

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	6 months	1 year

B. Official documents.

Whenever an emissions inspection station or emissions mechanic/inspector license is suspended or cancelled, the department may order the surrender, upon demand, to an authorized representative of the department of the following items:

1. Inspection records/data media.

2. Station license.

3. Signature cards.

4. Unused certificates of emissions inspection.

5. Mechanic/inspector license.

6. All fees due the department for all inspections that have been performed.

C. Warning.

The department, in its discretion, may permit the station to consent to the acceptance of the warning in lieu of a first violation suspension, if the station owner licensee and supervisors were without knowledge of the violation and reasonably could not have prevented or known of the violation. The consent warning shall only be issued to stations which have had no suspendable violations for a period of one year prior to the date of the violation which is being considered. The station bears the burden of proving that it provided proper supervision of the employee who committed the violation but that such supervision could not have prevented the violation. Consent warnings replace the first violations suspension, and a second violation will be considered a second violation. Consent warnings will be issued only for the following types of violations:

1. Furnishing, lending, giving, selling or receiving certificate of emissions inspection without inspection.

2. Fraudulent record keeping.

3. Improper record keeping.

4. Faulty inspection.

D. Subsequent violations.

Determination of second or subsequent violations is made on the basis of previous violations in the same category within a three-year period.

E. Multiple violations.

In the case of multiple violations considered at one time, the department will impose seperate penalties for each violation as required by the schedule. However, in the case of multiple violations considered at one time, the department may, in its discretion, direct that suspensions be served concurrently.

F. Voluntary discontinuance.

A license shall be cancelled by the department whenever the owner voluntarily discontinues the operation of an emission inspection station. Remaining emissions inspection materials shall be returned to the department immediately.

G. Abandonment.

A license shall be cancelled by the department, and inspection materials confiscated when the owner of record abandons the place of business and cannot be located.

H. Sale of business.

If an emissions inspection station is sold or leased to a new owner, an application will not be considered while the station is suspended or restored pending an appeal of a suspension.

I. Confiscated materials.

Certificates of emissions inspection and records confiscated as the result of an investigation will be retained by the department. Certificates of emissions inspection and records confiscated as the result of a supension will be returned to the department. They shall be returned if inspection privileges are restored or the station is relicensed.

§ 7.3. Reapplication.

After a suspension have been served, inspection privileges shall not be restored until an application for relicensing has been received by the department. Upon receipt of an application for relicensing following a suspension of more than three months or more, a complete and thorough investigation by the department will be conducted to determine if the applicant qualifies for relicensing under the requirements of the department. Other applications for relicensing are subject to investigation at the discretion of the department.

PART A

VEHICLE EMISSIONS INSPECTION CERTIFICATE
COMMONWEALTH OF VIRGINIA

STATION ID

VEHICLE ID

TAMPERING INSPECTION

RETEST INFORMATION

PART B

DO NOT DESTROY OR DISPOSE OF THIS REPORT - KEEP IN VEHICLE
IMPORTANT - THIS IS YOUR PROOF OF EMISSION INSPECTION

VEHICLE NO.
INSPECTION NO.
MAKE
STATION
MODEL
DATE
YEAR
OVERALL INSPECTION RESULT

ANY ATTEMPT TO ALTER, FABRICATE, OR DUPLICATE THIS EMISSION CERTIFICATE CONSTITUTES FRAUD AND IS PUNISHABLE BY A FINE AND IMPRISONMENT.

IF VEHICLE PASSES OR IS ISSUED A WAIVER, THE OWNER MUST, AT THE TIME OF REGISTRATION OR RENEWAL, SUBMIT TO DMV THIS SECTION OF THE INSPECTION CERTIFICATE AS PROOF OF EMISSION PROGRAM COMPLIANCE. LOST CERTIFICATES MAY BE REPLACED ONLY ONCE BY CONTACTING THE INSPECTION STATION.

EMISSION QUESTIONS: CALL 703-440-8321
DEPT. AIR POLLUTION CONTROL
DIV. MOBILE SOURCE OPERATIONS
SPRINGFIELD TOWERS, SUITE 1102
6320 AUGUSTA DRIVE
SPRINGFIELD, VA 22150

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Title of Regulation: **VR 120-99-02. Regulation for Vehicle Emissions Control Program Analyzer Systems.**

Statutory Authority: § 46.1-326.6 of the Code of Virginia.

Public Hearing Date: October 18, 1988 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation concerns the procedures and specifications for the approval of Vehicle Emissions Control Program analyzer systems; the specific provisions cover, in addition to definitions and general provisions: specifications for construction and materials, hardware and design, environmental conditions, and performance requirements.

VR 120-99-02. Regulation for Vehicle Emissions Control Program Analyzer Systems.

PART I.
DEFINITIONS.

§ 1.1. General.

A. For the purpose of this regulation and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in § 1.2.

B. Unless specifically defined in the Virginia Motor Vehicle Emissions Control Law or in this regulation, terms used shall have the meanings commonly ascribed to them by recognized authorities.

§ 1.2. Terms defined.

"Access code" means the security phrase or number which allows emissions mechanics/inspectors, department personnel, and service technicians to perform specific assigned functions using the certified analyzer system, as determined by the department.

"Administrative Process Act" means Title 9, Chapter 1.1:1 of the Code of Virginia.

"Board" means the State Air Pollution Control Board or its designated representative.

"Calibration" means the process of establishing or verifying the total response curve of an exhaust gas analyzer, using several different calibration gases having precisely known concentrations.

"Calibration gases" means gases of precisely known concentration which are used as references for establishing or verifying the calibration curve of an exhaust gas analyzer.

"Catalytic converter" means a post-combustion device which oxidizes hydrocarbon and carbon monoxide gases or reduces oxides of nitrogen, or both.

"Certificate of emissions inspection" means the official document issued by the department to emissions inspection stations and used by those stations to report the results of the vehicle emissions inspection. The results may indicate (i) approval, which means that a motor vehicle has satisfactorily complied with the applicable emission standards and passed the requisite emissions inspection; (ii) rejection, which means that a motor vehicle has not complied with the applicable emission standards and failed the requisite inspection; or (iii) waiver which means that compliance with the applicable emissions standards has been waived. Part B of the Certificate of Emissions Inspection is the official document of the department and is to be used by vehicle owners as proof of the vehicle emissions inspection. If it indicates approval or waiver, Part B shall be submitted to the Department of Motor Vehicles for registration, both initial and renewals.

"Certified analyzer system" means the complete system which samples and reads concentrations of hydrocarbon, carbon dioxide, and carbon monoxide gases and which is approved for use in the Vehicle Emission Control Program by the department in accordance with this regulation. The system includes the sample handling system, the exhaust gas analyzer, associated automation hardware and software, and the enclosure cabinet.

"Data medium" means the medium contained in the certified analyzer system and used to electronically record test data.

"Day" means a 24-hour period beginning at midnight.

"Department" means any employee or representative of the Virginia Department of Air Pollution Control, as designated by the executive director.

"Electrical," "electronic," or "electromechanical span" means the adjustment of an exhaust gas analyzer and electronic signal rather than a calibration or span gas as a reference source.

"Emission standard" means any provision of Part III of VR 120-99-01 which prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

"Emissions control systems" means those parts, assemblies or systems originally installed by the manufacturer in or on a vehicle for the sole purpose of reducing emissions.

"Emissions inspection station" means any official inspection station authorized by the superintendent to make safety inspections pursuant to Article 10 (§ 46.1-315 et. seq.) of Chapter 4 of Title 46.1 of the Code of Virginia

and which has applied for and obtained an emissions inspection station license from the department which authorizes the official inspection station to perform motor vehicle emissions inspections in accordance with the provisions of VR 120-99-01.

"Executive director" means the executive director of the Department of Air Pollution Control or his designated representative.

"Exhaust gas analyzer" means an instrument which is capable of measuring the concentrations of certain air pollutants in the exhaust gas emanating from a motor vehicle.

"Federal Clean Air Act" means 42 USC 7401 et seq., 91 Stat 685.

"Fuel filler neck restrictor" means the orifice and obstruction in the vehicle gas tank filler neck that prevents the insertion of a "leaded gasoline" nozzle.

"Gas span" means the adjustment of an exhaust gas analyzer to correspond with known concentrations of span gases.

"Gas span check" means a procedure using known concentrations of span gases to verify the gas span adjustment of an analyzer.

"Gross vehicle weight" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and expressed on a permanent identification label affixed to the motor vehicle.

"Idle mode" means a condition where the vehicle engine is warm and running at the rate specified by the manufacturer's curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position.

"Inspector" means a person licensed by the department to perform inspections of vehicles required under the Virginia Motor Vehicle Emissions Control Law who is employed at a licensed emissions inspection station and is qualified in accordance with this regulation.

"Mechanic" means a person licensed by the department to perform vehicle repairs required under the Virginia Motor Vehicle Emissions Control Law who is employed at a licensed emissions inspection station and is qualified in accordance with VR 120-99-01.

"Mechanic/inspector access code" means the security phrase or number issued by the department to a licensed mechanic/inspector that identifies the licensed mechanic/inspector.

"Mechanic/inspector number" means the alpha or numeric identifier issued by the department to every licensed mechanic/inspector at the time of licensing.

"Motor vehicle" means any vehicle which:

1. Is subject to registration in Virginia by the Department of Motor Vehicles;

2. Is designed for the transportation of persons or property;

3. Is more than one year but less than 21 years old, measured from the model year of such motor vehicle or, if the motor vehicle does not have a model year, measured from the year of manufacture;

4. Is powered by an internal combustion engine; and

5. Has a gross vehicle weight of 8,500 pounds or less.

The term "motor vehicle" does not include any:

1. Vehicle powered by a diesel engine;

2. Motorcycle;

3. Vehicle which, at the time of its manufacture, was not designed to meet the emissions standards set by the federal government; or

4. Motor vehicle which is either (i) of the same model year as the current calendar year or (ii) less than one year old, measured from the model year of such motor vehicle.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Original condition" means the condition as installed by the manufacturer but not necessarily to the original level of effectiveness.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"Person" as used in these regulations, shall have no connotation other than that customarily assigned to the term "person," but shall include bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals.

"Retest" means a type of test selected when a request for an inspection is accompanied by a completed certificate of emissions inspection indicating a previous failure.

"Span gas" means gases of known concentration used as references to adjust or verify the accuracy of an exhaust gas analyzer that are approved by the department and are so labeled.

"Standard conditions" means a temperature of 68°F and a pressure of 29.92 inches of mercury.

"Standarized instruments" means laboratory instruments calibrated with precision gases traceable to the National Bureau of Standards and accepted by the board as the standards to be used for comparison purposes. All candidate instruments are compared in performance to the standardized instruments.

"Test" means an inspection of a vehicle performed by a mechanic/inspector employed by a licensed station, using the procedures and provisions set forth in Part VI of VR 120-99-01.

"True concentration" means the concentration of the gases of interest as measured by a standardized instrument which has been calibrated with 1.0% precision gases traceable to the National Bureau of Standards.

"Virginia Air Pollution Control Law" means Title 10.1, Chapter 13 of the Code of Virginia.

"Virginia Motor Vehicle Emissions Control Law" means Title 46.1, Chapter 4, Article 10.1 of the Code of Virginia.

"Virginia Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle emissions established by Virginia Motor Vehicle Emissions Control Law.

"Zero gas" means a gas, usually air or nitrogen, which is used as a reference for establishing or verifying the zero point of an exhaust gas analyzer.

PART II.
GENERAL PROVISIONS.

§ 2.1. Applicability.

A. The provisions of this regulation apply to any instrument or equipment used for measuring exhaust gases from motor vehicles in the Vehicle Emissions Control Program.

B. No emissions inspection required by the Vehicle Emissions Control Program shall be performed unless the instrument used for measuring exhaust gases from motor vehicles meets the requirements of this regulation.

§ 2.2. Design goals.

The analyzer system shall be designed for maximum operational simplicity with a minimum number of operational decisions required in the performance of a complete exhaust emissions analysis. The analyzer systems shall be unaffected by ambient conditions in a typical repair facility environment and its use shall be primarily for compliance inspection purposes. It shall, however, be capable of providing emission characteristics, independent of the inspection function, which can be used for vehicle diagnostic work as well. The purchase of a separate diagnostic system or component is not required.

§ 2.3. Useful life.

The useful life of the analyzer system shall be a minimum of five years.

§ 2.4. Nameplate data.

A. A nameplate with provisions for and including the following data shall be permanently affixed to the housing of the analyzer:

1. Name and address of manufacturer.

2. Model description.

3. Serial number.

4. Date of assembly.

B. The serial number and date of assembly may be combined into one entry on the nameplate.

C. After installation, the manufacturer shall affix a stick-on type label to the analyzer which contains a telephone number for customer service.

§ 2.5. Manuals.

A. Each analyzer shall be delivered with one or more manuals containing the following:

1. Easy reference operating instructions.

2. Operation instructions.

3. Maintenance instructions.

4. Initial start-up instructions.

B. The manuals shall be constructed of durable materials and shall not deteriorate as a result of normal use over a five-year period. Each manual shall be attached to the analyzer in a manner that will:

1. Allow convenient storage.

2. Allow easy use.

3. Prevent accidental loss or destruction.

§ 2.6. Warranty coverage.

A. A written warranty coverage agreement must

accompany the sale or lease of each certified analyzer system. The warranty agreement shall include the manufacturer's name, address and telephone number, and terms of agreement. The warranty agreement shall extend for one year with guaranteed renewals available for an additional cost for a period of at least four years.

B. Manufacturers shall submit their warranty agreements at the time of submission of an analyzer system to be approved as a Virginia Certified Analyzer System. The agreements shall be reviewed by the department for adequacy as part of the analyzer approval procedure. (See § 2.8.)

C. Printers and other peripheral devices shall be included under the general warranty unless otherwise specified in § 2.7.

§ 2.7. Manufacturer provided services.

A. The manufacturer or its authorized representative shall agree to provide the following services to the emissions inspection station at an initial fixed cost per analyzer system to be agreed upon by both parties.

1. Delivery, installation, calibration, and verification of the proper operating condition of an analyzer system which has been approved in writing by the department.

2. Training of all mechanics/inspectors employed by the station at the time of installation in the proper use, maintenance, and operation of the analyzer system, including the step-by-step procedure for performing a vehicle idle inspection.

3. Annual updates of the preexisting internal computer software of the analyzer as specified by the department beginning in January 1, 1989, including:

a. Changes to the emission standards including additions up to a maximum of 30 categories;

b. Changes to the listed vehicle codes in Table A-3 of Appendix A;

c. Changes to the items in the printing system to correspond to changes in other requirements; and

d. Additions or changes to the tampering list (10 maximum).

4. The disk drive system shall conform to the specifications contained in Appendix A and shall be subject to a warranty period of two years from the date of installation.

5. It is required that the emissions inspection stations maintain their analyzer systems and keep them in good working condition. Any further arrangements regarding service or maintenance are at the discretion of the station and the manufacturer.

B. Major alterations or additions to the analyzer system hardware or software design may occasionally be necessary in response to changing program requirements, vehicle technology, etc. An additional fee may be required to facilitate these changes. The effective date of all changes must be present into the analyzer system to ensure that all analyzer systems automatically convert to updated programs simultaneously.

§ 2.8. Certification of analyzer systems.

A. No analyzer system may be installed, sold or represented as a Virginia Certified Analyzer System without prior official certification by the department. For a model to be certified, a system must be submitted to the department for evaluation. The manufacturer shall be notified in writing by the department of the disposition of each model evaluated. The emissions inspection stations shall be regularly notified by the department of systems meeting certification requirements and of system performance.

B. As an element of approval, the department will accept a certification statement for the exhaust gas analytical and sampling system portion of the analyzer system from the California Bureau of Automotive Repair or a recognized laboratory. The manufacturers' compliance with the revisions and additions to the specifications necessary for use of the instrument within the Vehicle Emissions Control Program will be determined by the department.

C. The following statement is not a requirement for approval of an analyzer system and is included to make manufacturers and purchasers of analyzer systems aware of the warranty requirements of § 207(b) of the Federal Clean Air Act.

Section 207(b) Warranty Requirements:

Unless an exhaust gas analyzer has been certified by the manufacturer as having met the specifications of 40 CFR Part 85, Subpart W as published in Part IX of the May 22, 1980, Federal Register, an inspection performed using that analyzer may not qualify a 1982 or later model year vehicle for warranty repair coverage according to the provisions of the Emission Control System Performance Warranty (§ 207(b) of the Federal Clean Air Act).

D. A manufacturer requesting the approval of an instrument for the measurement of exhaust gases for use in the Vehicle Emissions Control Program shall make application therefor to the department using procedures approval by the department.

§ 2.9. Span gases.

A. General.

The instrument manufacturer and his designated marketing vendors shall, on request, supply span gases approved by the department to any ultimate purchaser of his unit. The instrument manufacturer shall also provide the purchaser with a comprehensive, up-to-date list (with addresses and phone numbers) of gas blenders approved by the department. Each new or used instrument sold by the instrument manufacturer or marketing vendor shall have a full span gas container installed and operational at time of delivery if the instrument is designed to incorporate an integral span gas supply.

B. Span gas blends.

The span gas concentrations supplied to the stations shall conform to the specifications contained in § 2.10. Accuracy of the span gas blends shall be certified by the gas blender to be within +/- 2% of the labeled concentration and shall be traceable to the National Bureau of Standards. Only gas blends supplied by department approved blenders shall be offered for sale with the approved instrument.

C. Containers.

Span gases shall be supplied in containers which meet all the provisions of the Occupational Safety and Health Administration as specified in 36 Federal Register 105, dated May 29, 1971. Containers will be low pressure, 7.5 cubic feet Federal Department of Transportation 39 nonrechargeable.

D. Optional correction factor.

Each instrument shall be permanently labeled with its optional correction factor (also referred to as "C" factor, propane to hexane conversion factor), carried to at least two decimal places (within the gas accuracy limits), e.g., (0.52). Factor confirmation shall be made on each assembled analyzer by measuring both N-hexane and propane on assembly line quality checks.

E. Running changes and equipment updates.

Any changes to design or performance characteristics of component specifications which may affect instrument performance must be approved by the department. It will be the instrument manufacturer's responsibility to confirm that such changes have no detrimental effect on analyzer system performance. All analyzer systems will be updated as needed and specified in these regulations.

§ 2.10. Calibration of exhaust gas analyzers.

The calibration gases for standardizing instruments shall conform to the provisions outlined in 40 CFR, Part 86, Subpart B, § 86.114-79 for automotive exhaust emissions testing. Those gases shall be of "precision" quality, certified to be within +/- 1% of the labeled concentration, and traceable to the National Bureau of Standards.

B. Station instruments.

The span gases supplied to stations shall conform to the following:

1. The carrier gas shall be nitrogen; the hydrocarbon gas shall be propane. Three component (hydrocarbon, carbon monoxide, carbon dioxide and carrier) gases shall be provided.

2. The concentrations of the span gas blend shall be within limits established by the department to provide for uniform exhaust gas analyzer spanning.

3. The accuracy of the span gas blend shall be certified by the blender to the +/- 2% of labeled concentration and traceable to the National Bureau of Standards.

4. Stations will gas calibrate the exhaust gas instrument once each seven days as determined by the instrument or as needed in order to maintain accuracy.

5. All exhaust gas analyzers will be calibrated only with span gases bearing a department approval label.

C. Accuracy.

A gas supplier shall initially demonstrate its qualifications as a vendor of span gases. The department may require additional evidence of qualification at periodic intervals. All gas suppliers will be required to abide by the "Virginia Approved Span Gas Verification Program" established by the department.

D. Containers.

All gases shall be supplied in containers which meet the requirements of the Occupational Safety and Health Administration, as specified in 36 Federal Register 105, dated May 29, 1971.

PART III.
CONSTRUCTION AND MATERIALS.

§ 3.1. Materials.

All materials used in the fabrication of the analyzer system shall be new and of industrial quality and durability. Contact between nonferrous and ferrous metals shall be avoided where possible. Suitable protective coatings shall be applied where galvanic action is likely. All mechanical fasteners shall have appropriate locking features. All parts subject to adjustment or removal and reinstallation shall not be permanently deformed by the adjustment or removal/reinstallation process and this process shall not cause deformations to adjoining parts of the equipment. Only materials that are not susceptible to deterioration when in contact with vehicle exhaust gases shall be used.

§ 3.2. Construction.

The analyzer system shall be complete and all necessary parts and equipment required for satisfactory operation shall be furnished. A suitable means of storing the probes and sample hose shall be provided. All parts shall be manufactured and assembled to permit the replacement or adjustment, or both, of components and parts without requiring the modification of any parts or the basic equipment design. Where practical, components or subassemblies, or both, shall be modular. The analyzer system cabinet finish shall be baked enamel or equivalent.

§ 3.3. Mobility.

The analyzer system unit shall be designed for easy and safe movement over hard or graded surfaces. The center of gravity and wheel design shall be such that the analyzer system can negotiate a vertical grade separation of 1/2 inch without overturning when being moved in a prescribed manner. Industrial grade, swivel casters shall be used to permit 360 degree rotation of the unit. The caster wheels shall be equipped with oil-resistant tires and foot-operated brakes.

§ 3.4. Electrical-materials/construction.

Unless otherwise specified, all electrical components including motors, starters, switches, and wiring shall conform to provisions established by the Underwriters Laboratories, or a recognized equivalent.

§ 3.5. Power supply.

The analyzer system shall operate from unregulated 120 volt, 60 hertz supply. An input variation (at the analyzer power plug) of from 103 to 126 volts and +/- 1 hertz frequency variation shall not change analyzer performance more than 1.0% of full scale. The maximum power requirement is 15 amps. The power cable shall be equipped with a standard three-prong connector at the inlet, be extremely durable, and water resistant.

§ 3.6. Fault protection.

Each analyzer system shall incorporate safety devices to prevent conditions hazardous to personnel or detrimental to equipment. The system shall be ground to prevent electrical shock; adequate surge and circuit overload protection shall be provided.

PART IV.
HARDWARE AND DESIGN.

§ 4.1. Read-out display control panel.

A. The console shall contain numerical hydrocarbon (as hexane), carbon monixide, and carbon dioxide displays and a pass/fail display. Oxygen may also be included but is not a mandatory requirement of the specification.

B. The numerical display shall be of a digital format. The resolution of the displays shall be as follows:

Carbon monxide:	x.xx%
Hydrocarbons:	xxxx parts per million (as hexane)
Carbon dioxide:	xx.x%
Oxygen:	xx.x% (optional)

The display increments shall be 0.01% carbon monoxide, 1 part per million hydrocarbon, and 0.1% carbon dioxide. The displays shall be capable of displaying at least 9.99% carbon monoxide, 2,000 parts per million hydrocarbon (as hexane), and 20% carbon dioxide.

C. A cathode ray tube or equivalent display shall be provided to indicate pass and fail for hydrocarbons or carbon monoxide or both. The display or an additional indicator light is to be employed for an exhaust leak check. This indication will signal excess dilution in the exhaust system based upon measurement of carbon monoxide + carbon dioxide emissions.

D. The analyzer system shall be capable of selecting exhaust emission standards (cutpoints) based on vehicle model year, vehicle type, or other criteria for a potential of 30 vehicle groups. The system shall be designed in such a manner that the standards and vehicle groupings may be readily revised by a service technician. These 30 groups may, in the future, be used in any combination of car and truck groups with the total of all categories not to exceed 30. There may be up to four vehicle types used to establish groups based on emission standards. The four vehicle types should appear in numeric order starting with "1," and should contain no more than 13 alpha characters to describe any one type. Initially these vehicle types shall be represented by a "1" for vehicles with a gross vehicle weight under 6,000 pounds and "2" for vehicles with a gross vehicle weight of 6,000 to 8,500 pounds. Once entered, the pass/fail values (emission standards) for each test will be automatically selected by the unit as a result of operator input. Emission standards shall be prescribed in Part III of VR 120-99-01. The frequency and associated costs of such mandated changes shall conform to the requirements of § 2.6.

E. The layout of the keyboard, push button switches, lights, or appropriate display on the panel shall be determined by the manufacturer.

§ 4.2. Process control system.

A. The process control system shall perform the functions of accepting, displaying, and reporting all necessary data from the various input sources. The system shall also be capable of making pass/fail decisions and of initiating automatic zero and gas spanning, leak checking, and hydrocarbon hang-up procedures.

B. Analyzer system suppliers are required to submit a process control flow diagram or other appropriate documentation indicating the system logic requirements for each input and satisfaction of all program specifications. The required information will include only that portion of the logic that controls the emission inspection sequence.

C. The analyzer system shall be equipped with an internal clock which operates independently from the power source and will provide accurate and automatic data and time information for the following functions.

1. Each test performed.

2. Automatic gas span check (every 180 hours).

3. Automatic leak check (every 180 hours).

§ 4.3. Sampling system.

A. The sampling system consists of two subsystems: (i) external sampling subsystem, and (ii) internal sampling subsystem. The external subsystem shall include a sample probe, sample hose at least 20 feet in length, a water trap, and a filtration system. The internal subsystem shall include, but not necessarily be limited to, a sample pump and bypass pump.

B. The sample probe shall incorporate a positive means of retention to prevent it from slipping out of the tail pipe when in use. A thermally insulated, securely attached hand grip shall be provided on the probe in such a manner that easy probe insertion using one hand is ensured.

C. The probe shall be flexible enough to extend into a 1-1/2 inch diameter tail pipe having a three inch radius 90 degree bend, four inches from the end of the pipe. The probe shall allow an insertion depth of at least 12 inches from the end of the tail pipe or tail pipe extender. All flexible materials used in the probe construction shall be of a sealed construction to prevent sample dilution.

D. The probe assembly shall be replaceable as a unit separate from the sample line.

E. The probe shall also have a smooth surface between the probe tip and the flexible portion of the probe. This surface is to be used for sealing of the span gas adapter necessary for field or onboard leak checking (gas comparison) or response time checking equipment. For standardization, the sealing surface shall be 1/2 inches in outside diameter and 1/2 to one inch long.

F. Two sample probes may be provided for use in testing vehicles with dual exhaust outlets, provided both meet the requirements defined here. Averaging of two tests may also be used.

G. A probe tip cap shall be provided for the sample system check described in § 4.9.

H. The interconnecting hose shall be of such design and weight that it can be easily handled by the mechanic/inspector. The hose shall be of nonkinking construction and fabricated of materials that will not be affected by or react with the exhaust gases. Molecular hydrocarbon hang-up shall be minimized. The hose connection to the analyzer shall be reinforced at the point of maximum bending.

I. The system shall be designed with a water trap in the bypass sample stream. The water trap shall be continuously self-draining through a bypass pump. The trap bowl shall be constructed of a durable transparent material. The water trap shall be placed in a position readily visible to the operator. The sample for the analyzer shall be obtained from the top of the water trap.

J. The sampling system shall be equipped with a suitable particulate filter upstream of the optical bench. A secondary filter upstream of the sample pump is optional. This filter must have sufficient capacity to filter the samples obtained during the routine testing of normal vehicles in the inspection station for the period of one month.

K. The sample and bypass pumps shall be of the positive displacement diaphragm type, with corrosion resistant internal surfaces. The pumps shall be designed so that the average time between failures is no less than 2,000 hours.

L. The pumps may be either a single pump, multiple pumps for the sample and bypass streams, or a dual pump for bypass flow and sample flow. The sample pump shall have integral motor overload protection and permanently lubricated, sealed ball bearings. The bypass pump shall be connected in the sample system so that any water condensed in the water trap is removed by the pump and dumped outside the system. The bypass stream shall not pass through the particulate filter. Pumps shall be adequately dampened to avoid causing interference or damage to the data storage system.

M. The bypass and sample pumps shall be deactivated by a test standby switch or equivalent method. The flow rate from the pumps shall be sufficient to obtain an overall response time of less than 15 seconds for 95% response to a step input of gas having either or both contaminants.

§ 4.4. Analytical system.

The analytical system shall include carbon monoxide, carbon dioxide, and hydrocarbon analyzers. These analyzers shall be the nondispersive infrared type.

§ 4.5. Fail-safe features.

A. Functional operation of the unit shall remain

disabled through a system lockout until the instrument meets the warm-up requirements described in the specifications in BAR 80, § 3.1.10 or § 3.1.10.1, or both (see Appendix D).

B. A low flow indication and lockout shall be provided which will activate when the sample flow rate is decreased to a point which would not allow the analyzer system to meet the response time specifications in BAR 80, § 3.2.2.6 (see Appendix D).

§ 4.6. Automatic data collection.

The analyzer system shall be supplied with provisions for data entry, storage and retrieval as specified below.

A. Data entry system.

1. An alphanumeric keyboard shall be used for data entry. Control of the analyzer system shall be via a small computer. The system will perform a functional integrity audit for data entry items that can be integrity tested with reasonable amounts of software. The equipment manufacturer shall determine the complexity and extent of the functional integrity tests. The "vehicle test mode" shall be selected by using a dedicated key. This shall cause a sequential test number, a present station number, and the analyzer system number to be entered into the test record as well as the date and time to be entered for each test performed. The sequential test number shall not routinely reset and shall increment for the life of the analyzer system. An aborted test shall not result in an incrementation of the sequential test number. The following information will then be entered on the keyboard. A special "state" test selection shall be accessible to department personnel only and shall not appear in the standard menu.

a. Mechanic/inspector identification number.

b. Vehicle identification number.

c. Vehicle make (Table A-3 of Appendix A).

d. Vehicle model year.

e. Vehicle type (maximum of 4 categories).

f. Number of cylinders (2R for rotary) (#D for direct ignition).

NOTE: # = number of cylinders.

g. Odometer reading.

h. Type of test (initial, Nth retest, state).*

NOTE: N = 1 through 9.

i. Previous carbon monoxide and hydrocarbon values (retest and state test only).

j. Emission related repair costs (for retest and state tests only).

k. Repair codes (retest and state tests only).

l. Vehicle with/without air injection.*

m. Single/dual exhaust.*

n. Emissions control systems inspection results.

o. Visible smoke.

p. Certificate number.

q. City/town where repaired.*

r. Name of repair garage.*

s. Invoice number of repair.

t. Date of repair.*

u. Waiver number.

NOTE: Inputs denoted by an asterisk (*) may be chosen by default unless changed by the operator in specific cases.

2. Entering vehicle make and year shall key appropriate hydrocarbon and carbon monoxide limits for a pass/fail decision. Entering the number of cylinders shall key appropriate idle speed ranges described in § 4.16. Entering vehicles with or without air injection shall key an appropriate antidilution response described in § 4.16. Entering vehicles with or without air injection shall key an appropriate antidilution response described in § 4.15. Entering model year and odometer reading shall determine appropriate warranty messages to be printed and shall also, with the inclusion of repairs costs, determine waiver applicability. Prior to probe insertion in the vehicle tailpipe, an hydrocarbon hang-up check shall be performed (see §§ 4.10 and 6.8). After the probe is inserted into the vehicle tailpipe, the test shall be initiated by using a "start-test" key or equivalent function. Appropriate prompts and procedures will be required to ensure that all officially approved U.S. Environmental Protection Agency (EPA) preconditioning steps are performed prior to the activation of the test sequence. These steps should include, but not be limited to, the Federal Clean Air Act, § 207(b), specified restart procedures for vehicles manufactured by Ford Motor Company (40 CFR 85.2201(b)) and the U.S. Environmental Protection Agency recommended restart procedure for vehicles produced by the Honda Motor Car Company. Updates of analyzer system programming or hardware, or both, shall be

performed only by factory authorized representatives.

3. The emission test will be conducted automatically with no further operator action, i.e., the sample will be validated (dilution check), readings will be taken, values will be compared to limits, and a pass/fail determination will be made (see §§ 4.15 and 6.9). If the vehicle qualifies for a certificate of emissions inspection, an appropriate certificate number will be entered. The first four elements of the certificate number will be automatically generated by the analyzer system. The first entry shall be a single letter indicating the first letter in the manufacturer's name. This shall be followed by the three numbers designating the analyzer system identification number. The remainder of the certificate shall be six numeric characters entered manually. The procedure shall also apply to the generation of the certificate of emissions inspection waiver number; the waiver inputs listed above and specified in Table A-2 of Appendix A shall also be required prior to issuance of a waiver. A default option for station name and location shall be provided and a default repair date of the current date shall also be included. The hydrocarbon and carbon monoxide readings, a pass/fail determination, and other information indicated in §§ 4.6 B, 4.7 and 4.17 will then be printed on the form approved by the department and entered on the data storage media.

B. Data storage system.

Data storage systems shall conform to the specifications of Appendix A. The storage device shall be a 3-1/2 inch microdisk system and shall be dedicated to the recording of vehicle inspections and gas calibrations data. The device must be capable of reading as well as writing data. The device must read each inspection record after writing and verifying the entire record prior to printing a Certificate of Emissions Inspection (see Appendix A). Failure to verify the record shall result in the message "Drive Error" and the termination of the test.

C. Data reporting.

1. All vehicle inspection and gas calibration data shall be provided to state authorized personnel in the format specified in Appendix A. The analyzer system shall record to the media and store for state recovery at least 90% of all data bytes or such higher recovery rate as may be expected from that specific data recording technology. The data bytes of concern are all bytes which should properly result from vehicle inspections and gas calibrations. The recovery rate determination shall be made on the basis of paper certificates issued and minimally required routine calibration records. The department shall reserve the right to modify the requirement upward at a later date.

2. The storage device and storage media shall be secured by lock and access code; department personnel and manufacturer's representatives shall have access.

§ 4.7. Printing system.

A. The analyzer system shall have a printer which is capable of tractor feed and will provide for a Certificate of Emissions Inspection form size 8-1/2 inches wide by 11 inches long. The overall form size will be approximately 9-1/2 inches wide including the perforated tractor strips, by 11 inches long. The printer shall be capable of feeding from a supply of a maximum of 500 fanfolded forms. The form supply shall be within a secured enclosure, and a receiving container for the station copy of the Certificate Emissions of Inspection shall be part of or attached to the printer or its stand. The secured container shall be constructed of metal and the door shall have a lock that will prevent entry by unauthorized personnel.

B. The Certificate of Emissions Inspection specified above will be a preprinted serialized form with a space available for printing analyzer system produced test results. The top 2-1/2 inches of the form will be preprinted by the department as well as the bottom three inches. The overall inspection results will be printed as "PASSED, FAILED, CHARGE FOR TEST, INVALID or WAIVER ISSUED." Space shall be provided for printing vehicle warranty message as specified in § 4.17. The printer shall print the message "Repair Costs Less Than Waiver Requirements" when appropriate for failures under the state and recheck modes. The printer shall not print carbon monoxide or hydrocarbon standards for vehicles which fail due to tampering or smoke. Printing on the form shall conform to the official Certificate of Emissions Inspection which is available from the department.

C. This printer shall be dedicated to inspection functions only. Diagnostic and tune-up activity modes will be locked out from accessing this printer.

§ 4.8. Automatic gas span check.

A. The analyzer system shall be designed for automatic gas calibration and automatic electrical zero and span check. The frequency of automatic gas calibration shall be at least every 180 hours (approximately once per week) and activated by the internal clock. Electrical zero and span check (automatic) shall be required prior to each test sequence. If the system is not calibrated or the system fails the calibration or the zero and span check, an error message or fault indication shall be displayed and the analyzer will be unable to perform the next sequential function until the system is properly calibrated and passes the calibration and zero span check. Appropriate valves, switches, and electrical controls shall be installed to permit this operation.

B. The standard gases used to span and calibrate the analyzer system shall be 1.6% carbon monoxide, 600 parts per million hydrocarbon (as hexane), 11% carbon dioxide in nitrogen, +/- 2% accurate, +/- 0 blend tolerance and

satisfy the criteria included in the Federal Clean Air Act, § 207(b), and described in Subpart W of Part 85 of Chapter I, Title 40 of the Code of Federal Regulations. In order to ensure that the quality of the standard gases used in the program meet these specifications, all standard gases purchased by the owner or operator of a participating emissions inspection station for use in the analyzer system must conform to the requirements established in the BAR 80 Amendment Memorandum, Low Range Gas for Test Analyzer System (see Appendix D). These requirements include the testing and certification of the concentration, accuracy, precision, and purity of the standard gases to within the referenced limits and the labeling of individual gas canisters describing these and other specified parameters.

§ 4.9. Automatic leak check.

A. An automatic leak checking system shall be provided that will allow the vacuum side of the system to be checked for leakage. Appropriate valves, lines, and switches shall be installed to permit this operation. Minimal activity by the operator, such as setting the probe in a holder or capping the probe, is permitted, providing errors resulting from improper operator action would be identified by the computer and would require corrective action or improper operator action would tend to cause the system to fail a leak check.

B. A system leak check shall be accomplished every 180 calendar hours (approximately once per week) and activated by the internal clock. If the system is not leak checked or the system fails a leak check, an error message or fault indication shall be displayed, and the analyzer system will be unable to perform the next sequential function until the system is properly leak checked and passes. BAR 80, § 3.2.2.7 (see Appendix D) leak check requirements are deemed to be acceptable.

§ 4.10. Automatic hang-up check.

A. The analyzer system shall be designed for automatic hydrocarbon hang-up check of the sampling system using room air. The analyzer system shall have a selector switch or button with indicator light labeled "Hang-up Check, "or other equivalent CRT prompter/indicator. "Hang-up" activation shall cause the analyzer system to automatically sample room air through the sample line and probe. The check system shall continue to sample room air for a maximum time of 300 seconds or until the hydrocarbon response is below the value specified in § 6.8 (20 parts per million hexane). If after 300 seconds hang-up is not below 20 parts per million the test shall end and the inspection results shall be invalid. The message "possible dirty filter or sample line" will be displayed after 150 seconds and "hydrocarbon hang-up in the sample system" will be displayed at the 300 second mark. When the level stabilizes below or at the 20 parts per million value, an indication that testing may begin shall be displayed. The analyzer system shall be precluded from operating until the hydrocarbon level is met, or 300 seconds have elapsed.

B. The analyzer system shall also be locked out unless a successful hang-up check has been performed since the last activation of the test sequence or the hydrocarbon analyzer has not experienced an hydrocarbon level greater than that specified in § 6.8.

§ 4.11. Vehicle diagnosis.

A. For the purpose of vehicle diagnosis or repairs, or both, the analyzer system shall have a selector switch, a button, or other equivalent cathode ray tube indicator labeled "Vehicle Diagnosis" or "Vehicle Repair." Activation of "Vehicle Diagnosis" shall allow the analyzer system to continuously monitor the vehicle exhaust regardless of inspection status (e.g., system needs weekly span check, leak check, warm-up condition, etc.). An analyzer system which is in the "Vehicle Diagnosis" mode shall not activate the idle speed lockout function described in § 4.16.

B. The automatic data collection system shall be prevented from operating anytime the analyzer system is in a "Vehicle Diagnosis" status. The certificate printer shall be made unavailable during the diagnostic mode. A printer for use during activities other than vehicle testing may be included but is not part of the requirements of this specification. Auxiliary analog trend meters may be used provided that they are deactivated for official inspections.

§ 4.12. Analyzer system tamper protection.

A. The analyzer system shall be equipped with anti-tampering features to prevent intentional tampering with the system.

B. All switches or entry access for automatic zero and span check adjustments, antidilution limits, span gas concentration values, diagnostic switches, etc. shall be contained in a box or other tamper-proof mechanism protected by lock and access code.

C. The tamper-proof system shall allow convenient access by authorized personnel under special department or service menu options. Attempts to open gain access when the system is not in a department or service mode shall result in a system lockout requiring department or service reset.

§ 4.13. Automatic read system.

A. The analyzer system shall have a selector switch, equivalent prompter/command or button (with indicator light) labeled "start-test." Activation of "start-test" shall cause the analyzer system to begin the sequence outlined in § 4.14. The sample validation can occur prior to or simultaneously with the hydrocarbon and carbon monoxide sampling. Integrating or averaging the analyzer response shall begin 17 seconds after the switch is

activated, and continue integrating the analyzer response to a flowing sample for the next 15 seconds for hydrocarbon and carbon monoxide sampling. Alternate methods for sample validation will be considered provided that they can be demonstrated to meet the requirements of Subpart W of Part 85 of Chapter I, Title 40 CFR. Emissions sampling may occur immediately after validation. The sample and hold circuits can be either analog or digital. Digital sample rates shall be at least 10 hertz. However, the digital sample rate may be as low as two hertz provided the manufacturer satisfactorily demonstrates equivalent response (accuracy). If the manufacturer identifies that the response time to 99% of a step change is less than 17 seconds, the manufacturer may select anytime between the 99% time and 17 seconds to begin the integration. If the manufacturer elects this option, the integration start time must be boldly visible on the front of the analyzer. Failure to meet this new response time during field audit checks will constitute a failure of the audit.

B. The analyzer system read-out device shall display the integrated value and hold the display until reset. An indicator light or other equivalent means shall signal the operator when the integrated value is displayed. The automatic test sequence (see § 4.14) may interact with the automatic read system to reset the display at appropriate times or within the test sequence.

§ 4.14. Automatic test sequence.

A. The analyzer system shall be capable of being programmed to provide a variety of automatic features relating to operator input, prompting on cathode ray tube, determination of emissions categories, and testing sequences based on keyboard entries and data output into paper copy and data storage. The system shall perform the functions of accepting, displaying, and reporting all necessary data from the various input sources. The system shall also be capable of making pass/fail decisions and of initiating automatic zero and gas spanning, leak checking and hydrocarbon hang-up procedures. "Invalid Test" shall be displayed, printed, and stored when carbon monoxide + carbon dioxide limits or revolutions per minute limits are not met during the entire emission test portion of the test.

B. The following inspection sequence shall be utilized:

1. Warm-up and self-calibration procedure.

2. Mechanic/inspector identification number?

3. Vehicle identification number?

4. Vehicle make?

5. Vehicle model year?

6. Vehicle type?

7. Number of cylinders?

8. Odometer reading?

9. Type of test?

Initial

Retest number

State (not displayed on standard menu, state access only).

10. Input previous test carbon monoxide and hydrocarbon values (Retest and state test only).

11. Emissions related repair cost (only in retest and state tests), display appropriate repairs messgae.

12. Repair codes (retest and state test only) (see Standardized Repair Codes, Table 4.1).

13. Calculate percent emission reduction-carbon monoxide and hydrocarbon (Retest and state test only).

14. Air injection?

15. Single or dual exhaust?

16. Emissions control systems (P/F/N)

17. Based on the presence of an air pump and the number of cylinders, carbon monoxide + carbon dioxide level and revolutions per minute limit are automatically set.

18. Display cut points, actual levels, and previous values if entered:

a. Carbon monoxide %

b. Hydrocarbon parts per million

c. Carbon monoxide + carbon dioxide %

19. Exhaust emissions test (valid/invalid)

20. Exhaust emissions test (pass/fail)

21. Visible smoke (P/F)

22. Certificate number

23. City/town where repaired?

24. Name of repair garage?

25. Invoice number of repair?

26. Date of repair?

27. Waiver number (if waived)

28. Print certificate with appropriate messages.

C. Entry of vehicle make shall conform to the vehicle codes in Table A-3 of Appendix A.

D. On screen with the emissions repair prompt, the following message shall be desplayed: "Only repair costs related to the correction of vehicle's excess emissions may be entered as emissions repair costs. Cost of warranty items and most emission control devices are excluded."

E. The repair codes listed in Table 4.1 shall be displayed when the vehicle test type is identified as a retest or state test. The operator may select, from the items listed, a maximum of six repair actions. These will be stored on the data diskette. Selecting the appropriate alpha letter can be done using either the direct letter entry method or the moving cursor method of selection. The selection entries shall not be printed on the report.

TABLE 4.1.

STANDARDIZED REPAIR CODES.
(Alpha Entries)

A Air filter element

B Other induction system repairs

C Carburetor assembly

D Idle mixture adjustment

E Idle speed adjustment

F Fuel injection components

G Other carburetor repairs

H Choke adjustment

I Other choke repairs

J Distributor assembly

K Initial timing adjustment

L Spark plugs and/or wires

M Other ignition system repairs

N Exhaust gas recirculation valve

O Air injection system

P Positive crankcase ventilation valve

Q Catalyst

R Evaporative canister

S Miscellaneous hoses

T Other pollution control repairs

U Electrical control module

V Oxygen sensor

W Diagnostic system codes

X Other sensors

§ 4.15. Antidilution.

A. The analyzer shall be equipped with an antidilution feature to identify vehicle exhaust system leaks and sample dilution. The technique for identifying leaks shall be monitoring the carbon monoxide + carbon dioxide levels in the exhaust.

B. Two lower-limit carbon monoxide + carbon dioxide values shall be used:

1. Vehicle equipped with air injection: 4.0%

2. Vehicle without air injection: 6.0%

C. If the carbon monoxide + carbon dioxide reading is less than the lower limit, the analyzer output shall display, print, and store "Invalid Test" indication.

§ 4.16. Engine tachometer/excessive idle lockout.

A. A digital tachometer shall be integrated with the analyzer system for the purposes of measuring engine speed according to the number of cylinders indicated in data entry section. The hook-up to the engine shall be by means of a revolutions per minute pick-up. The operator should be prompted to shut the engine off while connecting revolutions per minute probe. Appropriate connection in order to obtain revolutions per minute from all current production on-road vehicles as of the release date of this specification shall be provided. A bypass option shall be available for 1989 and later vehicle model years.

B. Idle speed ranges are as follows:

More than 4 cylinders 300 - 1,200 revolutions per minute

4 or less cylinders 300 - 1,600 revolutions per minute

§ 4.17. Waivers and warranties.

A. During the retest procedure, software will not allow a waiver to be issued if the vehicle has less than 24,000 miles on the odometer and is less than two model years old. Under VR 120-09-01, waivers may be issued for any

vehicle. During a retest, other vehicles shall not be allowed a waiver until an appropriate repair cost has been reported. These costs are listed below:

1. $60 for pre-1972 model vehicles.

2. $125 for 1972-1974 model vehicles.

3. $175 for 1975-1979 model vehicles.

4. $200 for 1980 and newer model vehicles.

B. When a vehicle that has not exceeded 50,000 miles on the odometer and is less than five model years old fails a test, the following message shall be printed on the certificate: "Possible Warranty Repair Item-Contact Vehicle Manufacturer or Department of Air Pollution Control."

§ 4.18. Innovative technology.

The board recognizes that the requirements for a Virginia Certified Analyzer system are based on microcomputer technology and will therefore be subject to the rapid advances inherent with that technology. The board shall allow manufacturers to submit equipment representing new or innovative technology for Virginia Certified Analyzer System approval. It shall be the responsibility of the manufacturer to demonstrate that in areas where the requirements of this specification are not met, the innovative system shall provide equivalent or superior performance and place no undue burden on the Commonwealth. The criteria for evaluation of innovative technologies is contained in Appendix C.

PART V.
ENVIRONMENTAL.

§ 5.1. Storage temperature.

While in storage, the analyzer system and all components thereof shall be undamaged from ambient air temperatures ranging from -20° to 130°F.

§ 5.2. Operating temperature.

The analyzer system and all components shall operate without damage and within specifications in ambient air temperatures ranging from +35° to 110°F.

§ 5.3. Humidity conditions.

The analyzer system shall be designed for use inside a building or semiprotective shelter that is vented or open to outside ambient humidity. The BAR 80, § 3.1.5, specification for humidity conditions shall be used (see Appendix D).

§ 5.4. Temperature control.

Analyzer system components which affect sensitivity and calibration shall have their internal temperature controlled to design temperatures when exposed to the prevailing ambient conditions of any inspection station. These include the conditions noted in the sections titled "Operating Temperature" and "Humidity Conditions" above.

§ 5.5. Data storage device protection.

The data storage device shall be sealed within the cabinet by a solid door and other protection as necessary to minimize infiltration of dust and dirt.

PART VI.
PERFORMANCE.

§ 6.1. Overall accuracy.

A. Each analyzer system shall have an overall accuracy which limits the maximum error to +/- 3.0% of each range or portion thereof as follows, when calibrated with 1,600 parts per million hydrocarbon, 8.0% carbon monoxide and 11% carbon dioxide.

Hydrocarbons:	0 to 400 parts per million = +/- 12 parts per million
	400 to 1,000 parts per million = +/- 30 parts per million
	1,000 to 2,000 parts per million = +/- 60 parts per million
Carbon monoxide:	0 to 2% = +/- 0.06%
	2 to 5% = +/- 0.15%
	5 to 10% = +/- 0.3%
Carbon dioxide:	0 to 10% = +/- 0.3%
	10 to 16% = +/- 0.5%

B. This error shall include, but not be limited to, the resolution limitations incurred when reading the equivalent analyzer meters or other read-out devices, or both, by eye at the distance of 15 feet. (Reference: BAR 80, § 8.1.2 (see Appendix D).)

§ 6.2. Drift.

For span and zero drift, the analyzer shall not exceed +/- 12 parts per million hydrocarbon and +/- 0.06% carbon monoxide for the first hour of operation and shall not exceed +/- 8 parts per million hydrocarbon and +/- 0.04% carbon monoxide for each succeeding hour of operation. Both drift corrections shall be automatically activated at start-up each day and before every test. (Reference: BAR 80, § 3.1.8 (see Appendix D).) Failure of the system to zero and span successfully shall cause an error message to be displayed and prevent inspections of vehicles.

§ 6.3. Warm-up.

The analyzer shall reach stabilized operation in a garage environment within 15 minutes from power on (20 minutes at 40°F). (Reference: BAR 80, § 4.3.3 (see Appendix D).) The lockout feature shall stay engaged until zero is stabilized. While the analyzer shall continue to try to achieve the warm-up requirements, an error message shall be displayed if stabilization does not occur within 15 minutes.

§ 6.4. Response.

In response to a step change input concentration at the sample probe inlet, the analyzer shall meet the BAR specifications. (Reference: BAR 80, § 3.2.2.6 (see Appendix D).)

§ 6.5. Optical correction factor.

A. The hexane/propane conversion factor shall be limited to values between 0.49 and 0.54. The BAR 80, § 3.3.4, specification for optical correction factor may be substituted at the manufacturer's discretion. Factor confirmation shall be made on each assembly analyzer by measuring both n-hexane and propane on assembly line quality checks.

B. Each instrument shall be permanently labeled with its correction factor, carried to two decimal places (within the gas accuracy limits) on both the cabinet and the bench.

§ 6.6. Interference.

A. The effect of extraneous gas interference and electronic interference on the carbon monoxide and hydrocarbon analyzers shall be limited. The gas interference shall meet the requirements in BAR 80, §§ 3.1.6 and 4.3.9 (see Appendix D).

B. The electronic interference shall meet the requirements in BAR 80, §§ 3.2.1.6 and 4.3.11 (see Appendix D).

§ 6.7. Sampling system leakage.

The sample system shall be leak free to the extent that all BAR 80 sampling system leak check and accuracy requirements are met. (Reference: BAR 80, §§ 3.1.12, 3.1.2, 3.2.2.7, and 4.2.3 (see Appendix D).)

§ 6.8. Hydrocarbon hang-up.

The HC hang-up in the sampling system shall not exceed 20 ppm hexane before each test as measured by the analyzer zeroed on room air.

§ 6.9. Antidilution limits.

The carbon dioxide analyzer shall meet all the analyzer accuracy specifications between carbon dioxide values of 0 and 14%. Exceptions are (i) the carbon dioxide interference specification does not apply; and (ii) the uncertainty of the calibration curve shall be +/- 0.3% carbon dioxide in the range of 0 to 10% carbon dioxide and +/- 0.5% carbon doxide in the range of 10 to 15% carbon dioxide.

APPENDIX A.
DATA STORAGE SYSTEM.

I. Data storage system.

The information obtained from each vehicle inspection and weekly calibration shall be written to a 3-1/2 inch microdisk.

II. Disk format specification - general.

A. This document contains disk and data format specifications for using the 3-1/2 inch microdisk for data collection.

B. The specification presented in this document conforms to Sony's physical disk definition, IBM ® 3740 recording methods and Microsoft's logical disk format.

C. The specification further defines a null file of 351 Kbytes containing a header, system test and vehicle test records. This will allow the writing and reading of physical sectors without the complex overhead required to maintain an MS-DOS ® file system. The specification also defines the data fields for these records.

III. Physical disk definition.

The physical disk media shall be the double-sided, double density, 3-1/2 inch microdisk (see Appendix B).

IV. Physical disk specification.

Sony part number	OM-D4440 or equivalent, double sided 3-1/2 inch media
Recording method	Modified Frequency Modulation (MFM)
Recording density	8190 bits per inch
Track density	135 tracks per inch
Track format standard	IBM ® 3740 definition
Number of tracks	80
Sectors per tract	9
Net sector size	512 bytes
Usable sectors	1440

Unformatted capacity	1 megabyte
Formatted capacity	720 Kbytes
Performance specification	- Must be capable of storing data on disk(s) supplied by the department. At an accuracy rate not less than 1 bit in error for every 10,000,000 bits.

V. Logical disk definition.

A. The logical disk definition conforms to the Microsoft MS-DOS ® (IBM PC-DOS ®), version 3.30 for double-sided, double density, 3-1/2 inch disk format.

B. Contained on this standard IBM formatted disk will be a predefined data file of 351 Kbytes. It will always be located immediately following the directory as the first data file on the disk. The disk area beyond this file is undefined and may be used in any manner which conforms to the underlying MS-DOS ® disk format.

VI. Logical disk specification.

Physical sector allocation.

Boot sector	Sector 0
File Allocation Tables (FATs)	Sectors 1 to 10
Directory	Sectors 11 to 17
Predefined data file	Sectors 18 to 719
Header Record	Sector 18
System or Vehicle Test Record	Sectors 19 to 719
Undefined disk area	Sectors 720 to 1439

VII. Data file definition.

A. The predefined data file contains 702 contiguous physical sectors, each of which represents one logical record. These sectors can be individually written or read in a direct manner without conforming to the Microsoft protocol for using the File Allocation Tables or MS-DOS ® directory.

B. This predefined data file will always be located at physical sector 18 to 719 inclusive. The first sector of the file, sector 18, is always defined as the header record for the file. This record will be followed with any number of system test or vehicle test records up to a total of 701. These system test and vehicle test records will be written chronologically until the disk is full or has been collected.

C. All alphanumeric data will be left justified and in ASCII form, with unused field spaces or unused fields to be filled with ASCII spaces. Right justification will be used for all numeric fields with leading zeros, not spaces. Decimal points will not be stored. Negative signs shall be stored in the left most space of the field.

D. If the analyzer system encounters any disk errors during write or read after write, the disk read or write should be retried 10 times. If it is still not successful, a blank record with a record type of "BADREC" should be written, if possible, to that physical sector. The test in question should then be written to the next physical sector on the disk. If all disk activity fails, a call for service should be indicated on the analyzer.

E. When the disk subsystem is in operation, all other analyzer system operations will be inhibited. The department will be responsible for formatting, distributing and collecting the disks.

VIII. System test record definition.

A. A 512 byte system test record will be written whenever the weekly gas calibration is done. The analyzer system will require that this test be performed at least every 180 hours. The analyzer system will provide an indication when there is capacity for less than 50 records left on the disk.

IX. Vehicle test record definition.

A 512 byte vehicle record will be generated whenever a vehicle test is performed. There should be one record of the following format for each occurrence of each vehicle tested. The analyzer system will provide an indication when there is capacity for less than 50 records left on the disk.

X. Vehicle codes.

For item 9 in the Vehicle Test Record Format (Table A-2 of this appendix), the following table lists the valid four-character vehicle make codes to be entered in one of two ways. The vehicle make abbreviation is compatible to the National Crime Information Center vehicle make abbreviations.

A. With a cursor movement key, position the cursor to the appropriate vehicle make abbreviation displayed on the cathode ray tube. The vehicle make abbreviation selected will be entered into the analyzer system by pressing "ENTER."

B. The appropriate vehicle code, selected from a "lookup" table, is input immediately following the display prompt "Enter the Vehicle Make Abbreviation." Press "ENTER." Invalid entries will be rejected by a display of "Invalid Entry."

TABLE A-1.

CALIBRATION RECORD FORMAT.

	DESCRIPTION	BYTE COUNT	BYTES	METHOD[1]	CONTENT[2]
	General Information				
1.	Record Identification	6	0-5	A	"System"
2.	Gas Calibration Indicator	1	6-6	A	"#"
3.	Station Number	5	7-11	A	AN
4.	Analyzer Number (single letter designation followed by last three numbers of unique serial number)	4	12-15	A	AN
5.	Date	6	16-21	A	YY/MM/DD
6.	Time (24 hour clock)	4	22-25	A	N
7.	Test Sequence Number	5	26-30	A	0000..99999
	Manual Input				
8.	Propane Equivalency Factor	3	31-33	M	N
9.	CO Span Gas (%)	4	34-37	M	N
10.	HC Span Gas (Propane ppm)	4	38-41	M	N
11.	CO-2 Span Gas (%)	3	42-44	M	N
	Test Results				
12.	CO Zero	5	45-49	A	N[3]
13.	HC Zero	5	50-54	A	N[3]
14.	CO-2 Zero	4	55-58	A	N[3]
15.	CO Span Reading	4	59-62	A	N[3]
16.	HC Span Reading	4	63-66	A	N[3]
17.	CO-2 Span Readings	3	67-69	A	N[3]
18.	Leak Check - Pass/Fail	1	70-70	A	"P" or "F"
19.	Unused Bytes	441	71-511		Unused

NOTES:

1 - Method Input Codes

M = Manual Entry

A = Automatic Entry

2 - Content Input Codes

A = Alphabetic Character

N = Numeric Character

AN = Alphanumeric Character

3 - Value may be negative and may need a leading ASCII minus sign.

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TABLE A-2.

VEHICLE TEST RECORD FORMAT.

	DESCRIPTION	BYTE COUNT	BYTES	METHOD[1]	CONTENT[2]
	GENERAL INFORMATION				
1.	Record Identification	6	0-5	A	"VEHICL"
2.	Station Number	5	6-10	A	AN
3.	Analyzer Number (single letter designation followed by last three numbers of unique serial number)	4	11-14	A	AN
4.	Date	6	15-20	A	YY/MM/DD
5.	Time (24 hour clock)	4	21-24	A	N
6.	Test Sequence Number	5	25-29	A	00001..99999
	INSPECTION INFORMATION				
7.	Mechanic/Inspector Number	9	30-38	M	N
8.	VIN Number	20	39-58	M	AN
9.	Vehicle Make	4	59-62	M	A
10.	Vehicle Model Year	2	63-64	M	N
11.	Vehicle Type	1	65-65	M	N
12.	Number of Cylinders	2	66-67	M	AN
13.	Odometer Reading	6	68-73	M	N
14.	Test Type - Initial/After Repair/State	2	74-75	M	AN
15.	Air Pump Equipped	1	76-76	M	N
16.	Dual Exhaust	1	77-77	M	N
	EMISSIONS CONTROL SYSTEM INSPECTION RESULTS				
17.	PVC Valve	1	78-78	M	"P"/"F"
18.	Catalytic Converter	1	79-79	M	"P"/"F"
19.	Air Pump	1	80-80	M	"P"/"F"
20.	Evaporative System	1	81-81	M	"P"/"F"
21.	Fuel Filler Neck Restrictor	1	82-82	M	"P"/"F"
22.	Not Currently Used	1	83-83		
23.	Not Currently Used	1	84-84		
24.	Not Currently Used	1	85-85		
25.	Not Currently Used	1	86-86		
26.	Not Currently Used	1	87-87		
27.	Visible Smoke	1	88-88	M	"P"/"F"
	REPAIR INPUTS				
28.	Previous CO Level %	4	89-92	M	N
29.	Previous HC Level ppm	4	93-96	M	N
30.	Calculated Reduction CO %	4	97-100	A	N
31.	Calculated Reduction HC %	4	101-104	A	N
32.	Cost of Repair in $	4	105-108	M	N
33.	Repair Code	6	109-114	M	A
	EXHAUST EMISSION TEST RESULTS				
34.	CO Emission Test, Idle	4	115-118	A	N
35.	HC Emission Test, Idle	4	119-122	A	N
36.	CO + CO-2 Test, Idle	4	123-126	A	N

	DESCRIPTION	BYTE COUNT	BYTES	METHOD[1]	CONTENT[2]
37.	CO Emission Test, Idle	1	127-127	A	"P"/"F"
38.	HC Emission Test, Idle	1	128-128	A	"P"/"F"
39.	Not Currently Used	14	129-141		
	WAIVER INPUTS				
40.	City/Town Where Repaired	16	142-157	M	A
41.	Name of Repair Garage	12	158-169	M	A
42.	Invoice # of Repair Bill	9	170-178	M	AN
43.	Date of Repair	6	179-184	M	N
44.	Waiver Number	10	185-194	AM	AN
	FINAL INPUTS				
45.	Dilution	1	195-195	A	"V"/"I"
46.	RPM	1	196-196	A	"V"/"I"/"N"
47.	Overall Inspection Results	1	197-197	A	"P"/"F"/"I"/"W"
48.	Certificate Number	10	198-207	AM	AN
49.	Unused Bytes	303	208-511		Unused

NOTES:

1 - Method Input Codes

M = Manual Entry

A = Automatic Entry

2 - Content Input Codes

A = Alphabetic Character

N = Numeric Character

AN = Alphanumeric Character

TABLE A-3.

VEHICLE CODES.

ACUR	Acura
ALFA	Alfa Romeo
AMER	American Motors
AUDI	Audi
BMW	BMW
BUIC	Buick
CADI	Cadillac
CHEV	Chevrolet
CHRY	Chrysler
DATS	Datsun
DODG	Dodge
FERR	Ferrari
FIAT	Fiat
FORD	Ford
GMC	GMC
HOND	Honda
HYUN	Hyundai
INTL	International
ISU	Isuzu
JAGU	Jaguar
JEEP	Jeep
LINC	Lincoln
MAZD	Mazda
MERZ	Mercedes Benz
MERC	Mercury
MITS	Mitsubishi
NISS	Nissan
OLDS	Oldsmobile
OPEL	Opel
PEUG	Peugeot
PLYM	Plymouth
PONT	Pontiac
PORS	Porsche
RENA	Renault
ROV	Rover
SAA	Saab
STLG	Sterling
SUBA	Subaru
SUZI	Suzuki
TOYT	Toyota
TRIU	Triumph
VOLK	Volkswagen
VOLV	Volvo
YUG	Yugo
OTHER	Other

APPENDIX B.

PHYSICAL DISK DEFINITION.

MODEL	SONY (or equivalent)
GENERAL CHARACTERISTICS	
Usable Sides	Double Side
Recording density	Double density
Maximum recording density	8,717
Number of tracks	80 x 2
Track density (TPI)	135
Memory capacity (Bytes, Unformatted)	1M
Format	Unformatted
Data transfer rate (BPS)	500K (500 RPM)
Disk rotation (RPM)	300/600
Recording system	Modified Frequency Modulation
Dimensions (nominal)	
Outer diameter (mm)	86.0
Disk thickness (um)	80
Coating thickness (um)	1.9
External dimensions (mm)	90x94x3.3 (WHD)
Weight (g)	22
Track Quality	
Missing pulse	0
Extra pulse	0
Environmental Requirements	
Operating/storage conditions	39° F to 140° F at 8% to 90% RH
Magnetic Characteristics (nominal)	
Squareness	0.7
Residual magnetic flux density (GAUSS)	700
Coercive force (OERSTEDS)	625
Surface electric resistance (OHM/IN^2)	1×10^8

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APPENDIX C.
INNOVATIVE TECHNOLOGY REQUIREMENTS FOR CERTIFIED ANALYZER SYSTEMS.

I. In order to encourage and promote new technologies in the area of air pollution control, the board is providing specific provisions to allow for improved system design and operation. The board shall allow analyzer systems representing and demonstrating new or innovative technology to be submitted to the department for evaluation. The department will evaluate any such analyzer system to determine if systems meet Virginia Certified Analyzer System approval requirements. Only analyzer systems which demonstrate superior or equivalent performance and utility shall obtain approval. It shall be the responsibility of the analyzer manufacturer to provide such demonstrations as the department deems necessary.

II. The fundamental criteria of such demonstration and design shall be:

A. The ability to meet or exceed the current data performance requirements as per § 4.6 C and the data verification standards of § 4.6 B;

B. The ability to produce a file consistent with the data file definition and Tables A-1 and A-2 of Appendix A;

C. The ability to provide on-site verification and retrieval of data during state inspections;

D. The ability to implement this technology in a manner that will not require any additional undue burdens on the department in terms of capital or operational costs, staff time or normal on-site procedures;

E. The system shall not result in undue inconvenience for the station or vehicle owner; and

F. The system shall demonstrate overall superiority or equivalency as well as equivalency in areas of nonconformance.

III. The department shall require such demonstration and performance studies and reports as necessary to ensure the reliability and performance of any such analyzer system certified under the provisions of this appendix. The system shall provide high quality data storage and output and a high level of overall performance.

APPENDIX D.
DOCUMENTS INCORPORATED BY REFERENCE.

I. General.

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

1. United States Code.

2. Code of Virginia.

3. Code of Federal Regulations.

4. Federal Register.

5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in Section II of this appendix.

B. Any reference in this regulation to any provision of the Code of Federal Regulations shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (1988) in effect July 1, 1988. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part 35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

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

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Room 819, Ninth Street Office Building, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Code of Federal Regulations.

The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, 1988, are incorporated herein by reference: 40 CFR Part 85 - Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines, specifically Subpart W (Emission Control System Performance Warranty Short Tests).

B. California Bureau of Automotive Repair.

1. The following documents from the California Bureau of Automotive Repair are incorporated herein by reference:

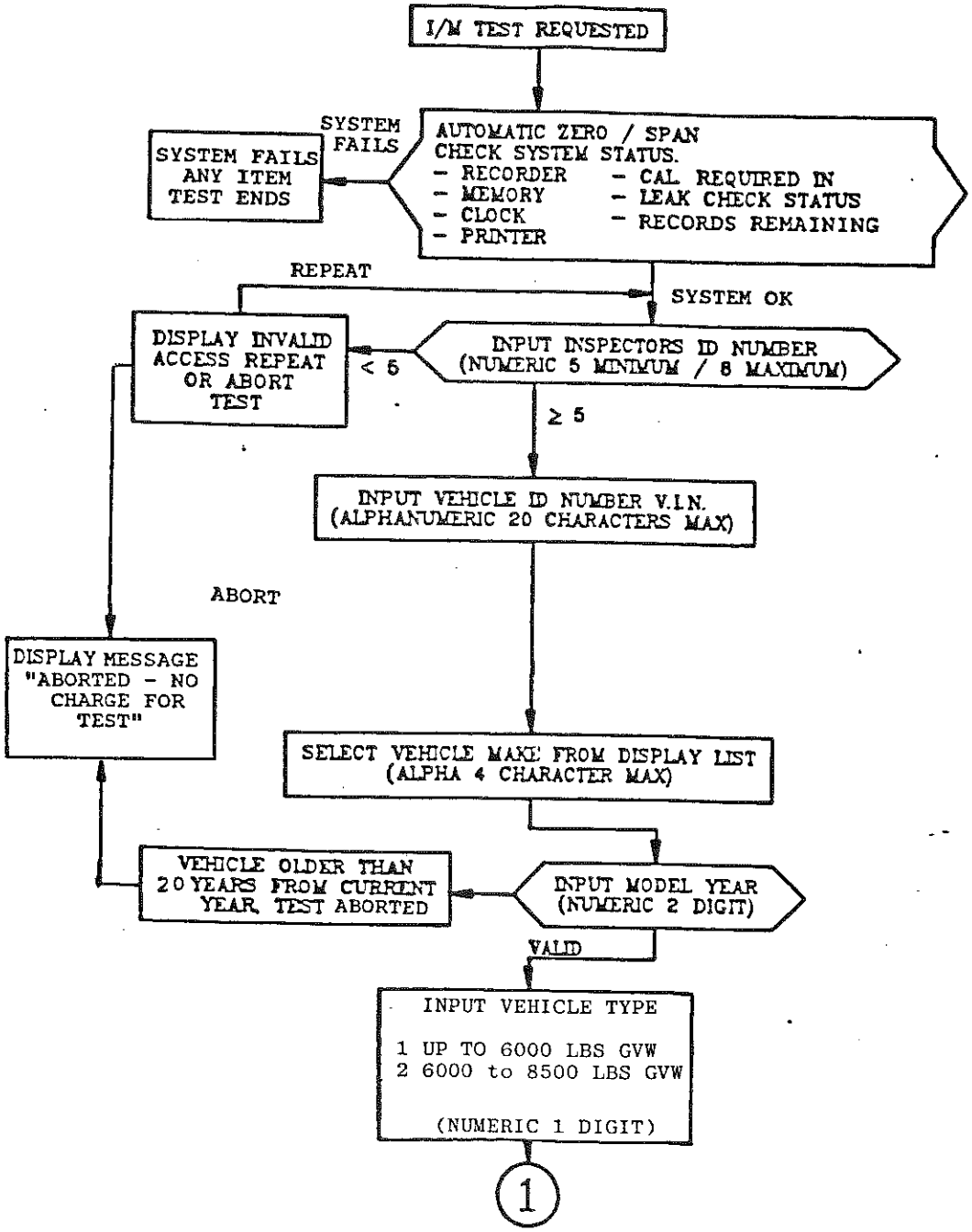
a. BAR 80, Exhaust Gas Analyzer Specifications, 1980.

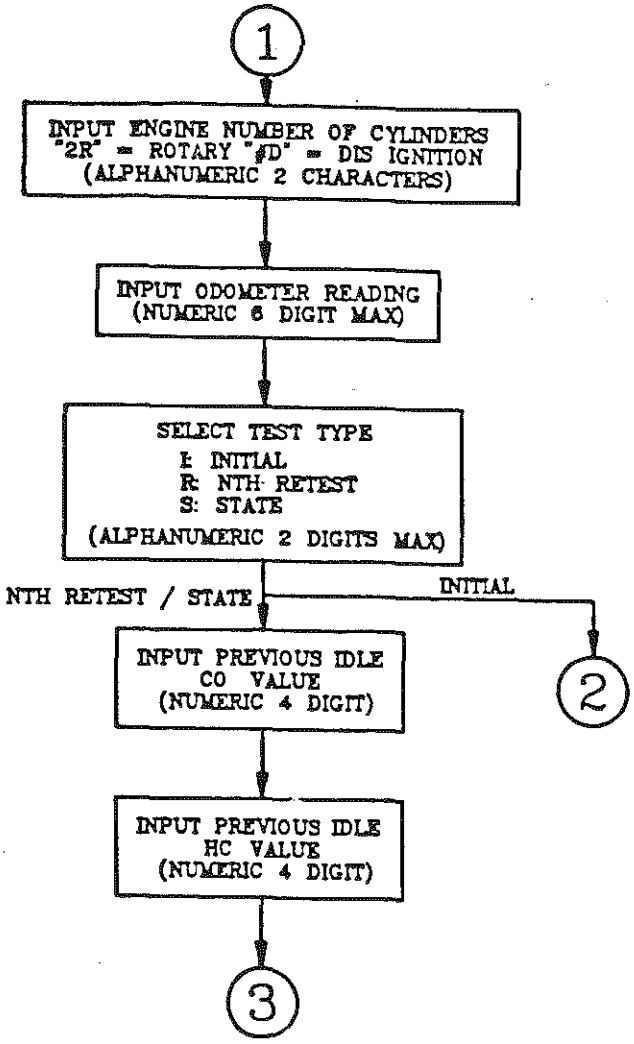
b. BAR 80 Amendment Memorandum, Low Range Gas for Test Analyzer System (TAS), October 16, 1984.

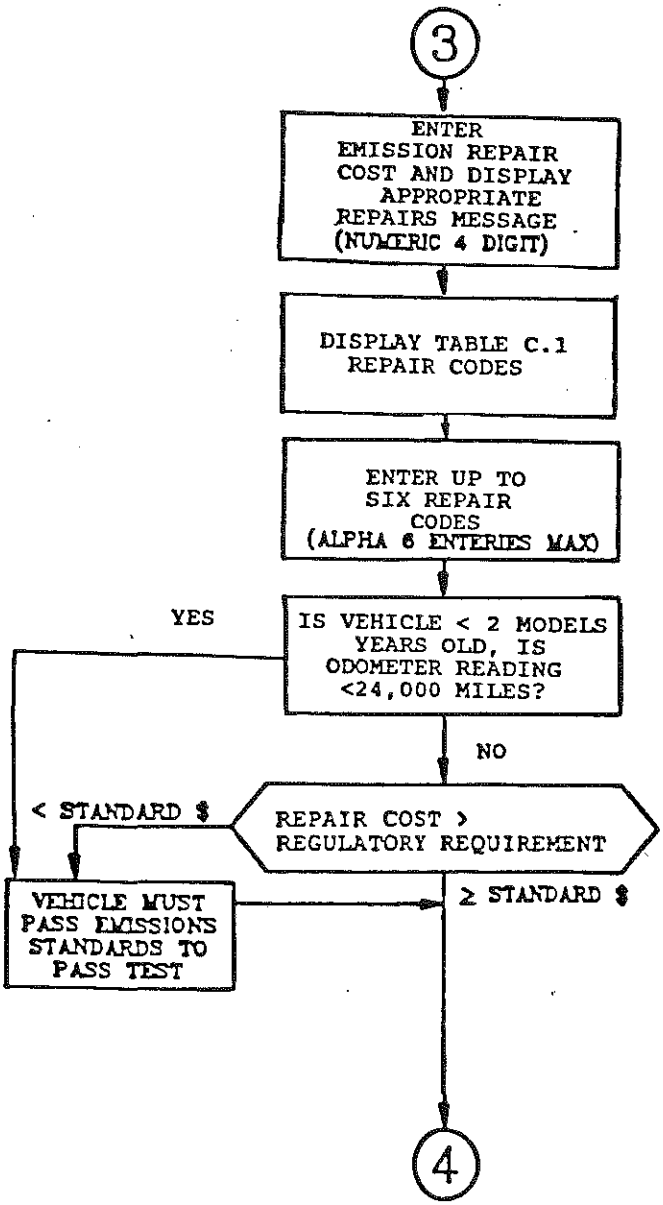
2. Copies may be obtained from: Department of Consumer Affiars, Bureau of Automotive Repair, California Vehicle Inspection Program, 3116 Bradshaw Road, Sacramento, California 95827.

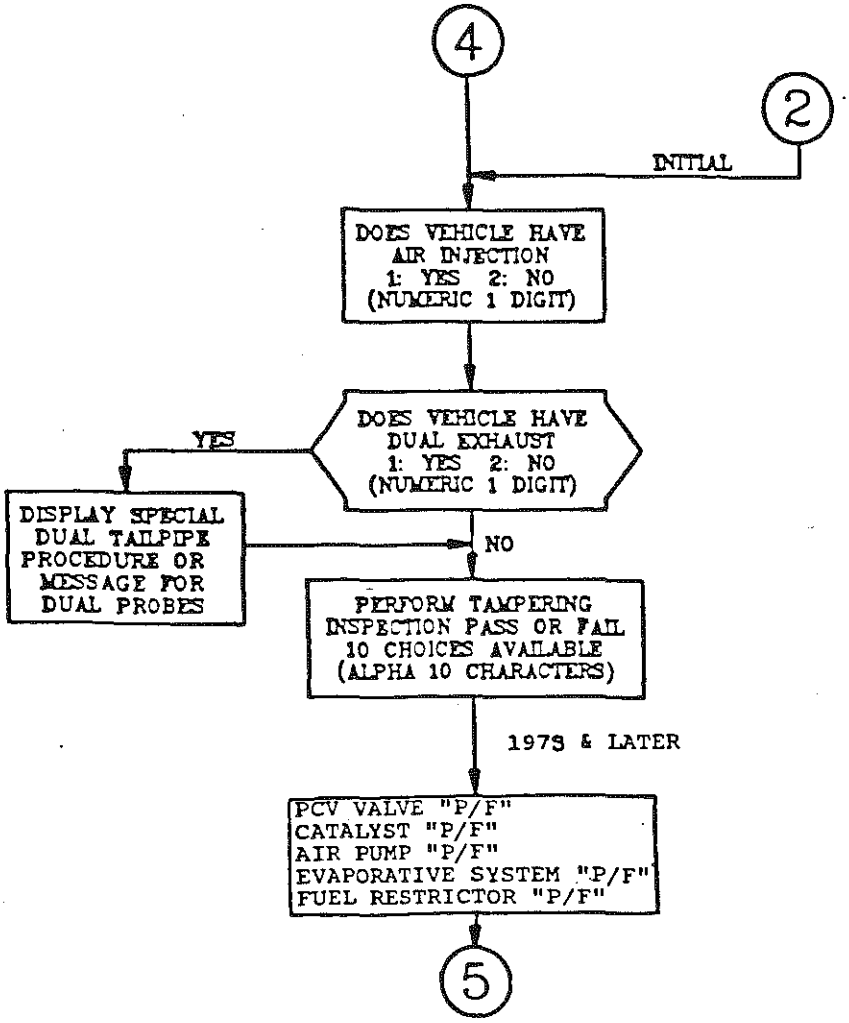
APPENDIX E.

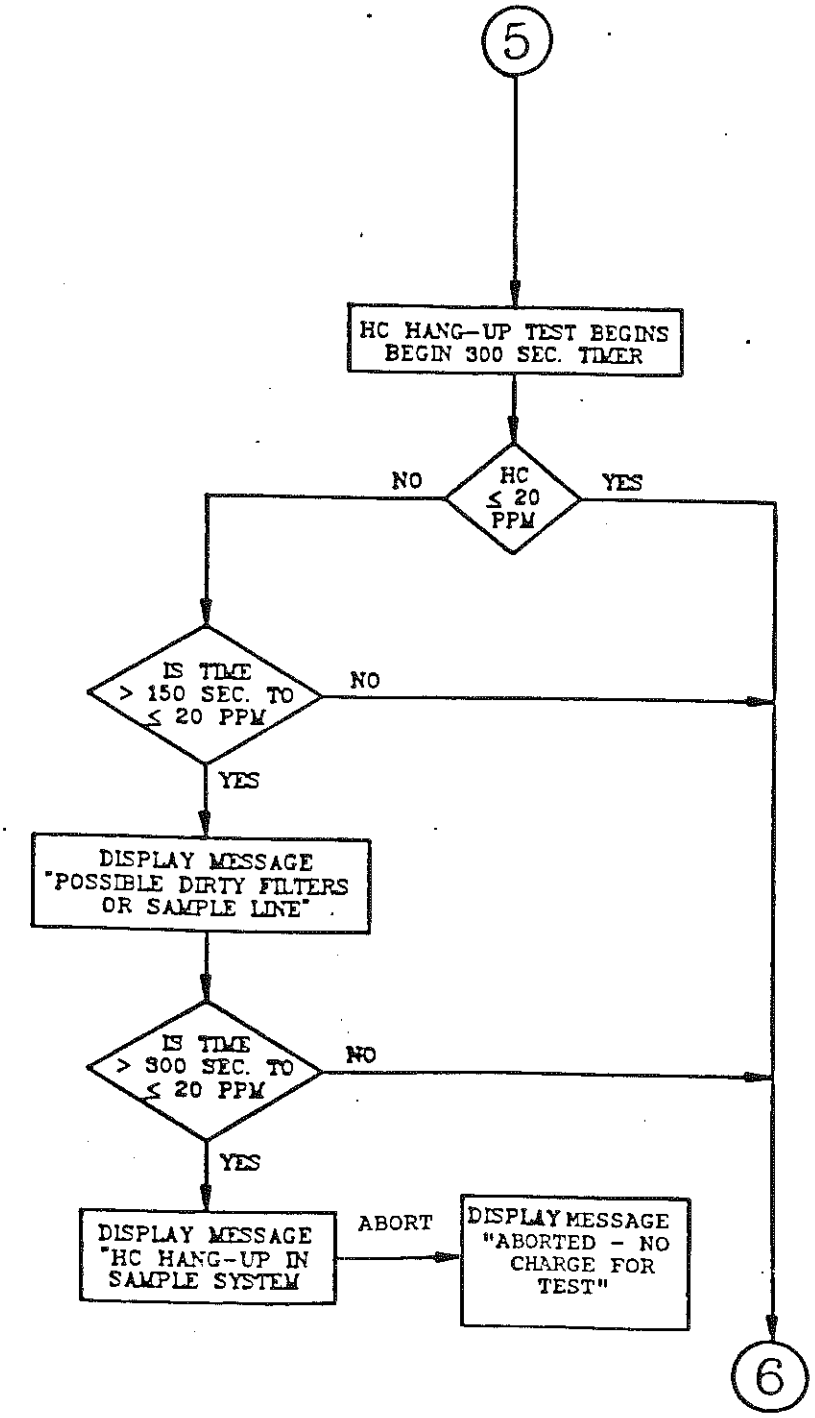
PROGRAM FLOW DIAGRAM.

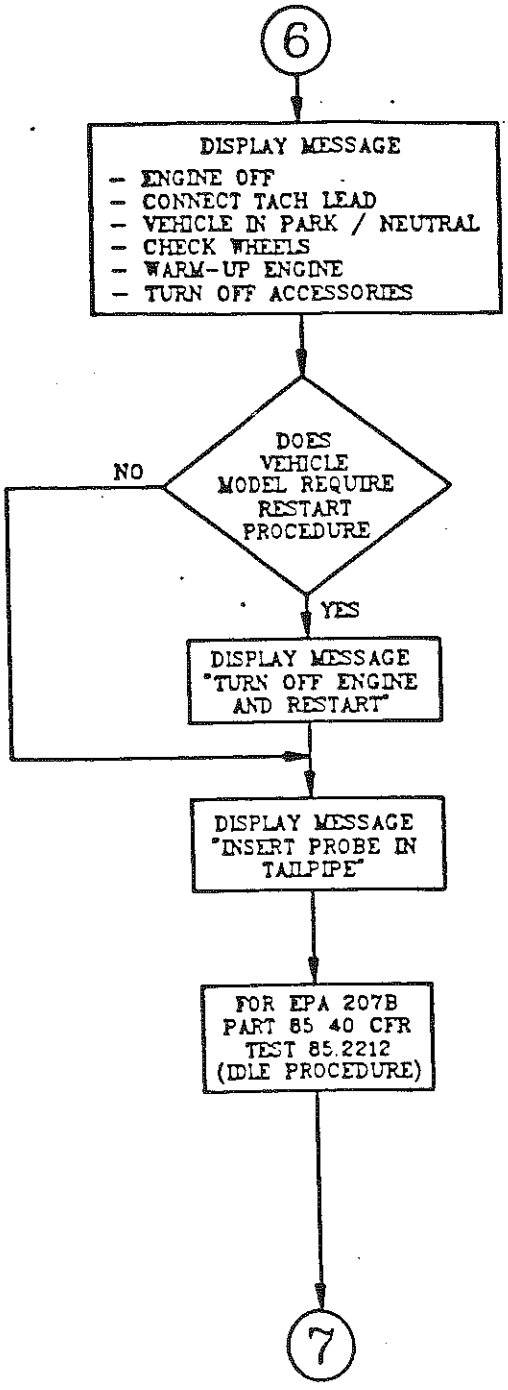


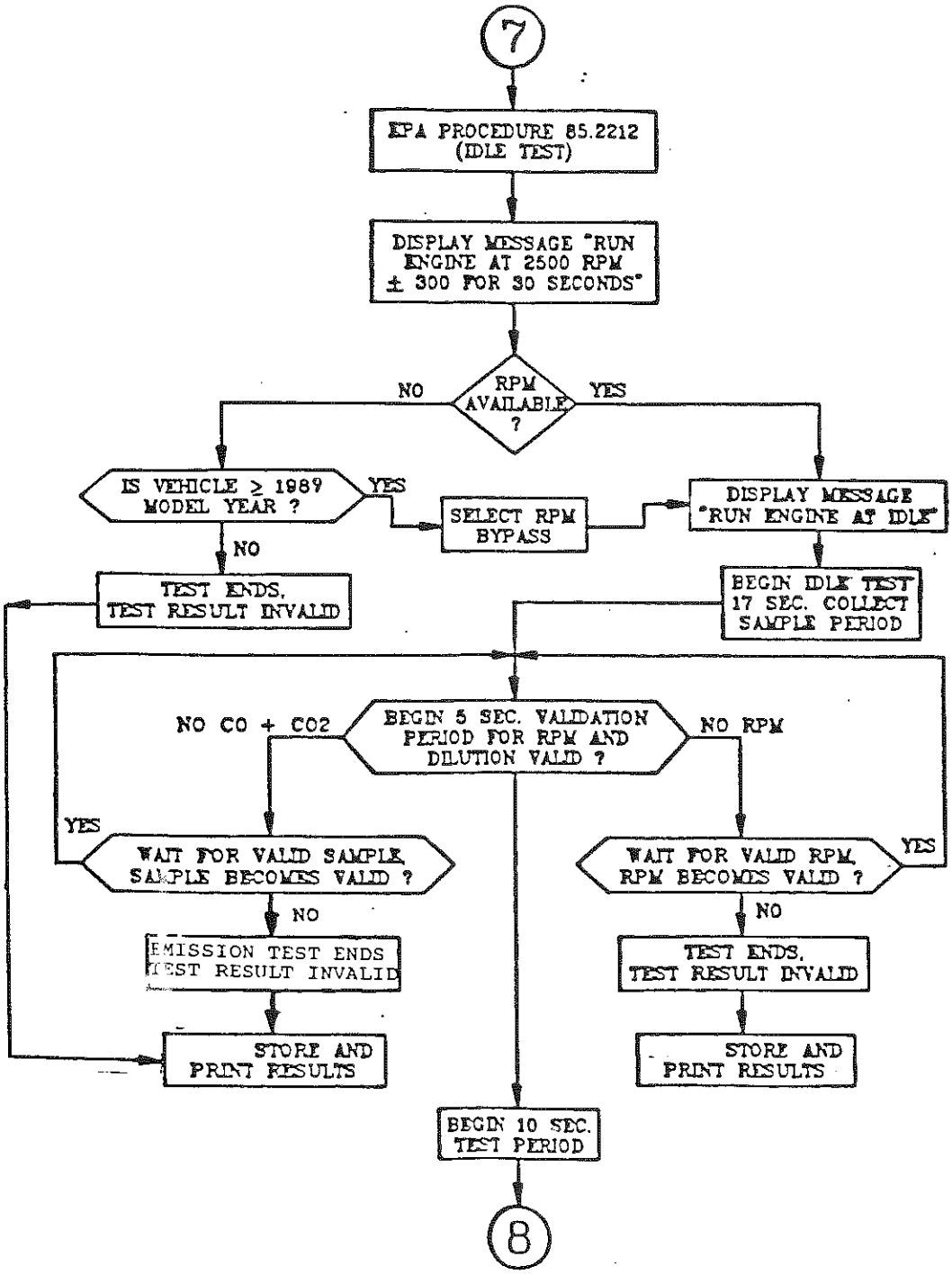

1
INPUT ENGINE NUMBER OF CYLINDERS
"2R" = ROTARY "#D" = DIS IGNITION
(ALPHANUMERIC 2 CHARACTERS)
INPUT ODOMETER READING
(NUMERIC 6 DIGIT MAX)
SELECT TEST TYPE
I: INITIAL
R: NTH RETEST
S: STATE
(ALPHANUMERIC 2 DIGITS MAX)
NTH RETEST / STATE
INITIAL
INPUT PREVIOUS IDLE
CO VALUE
(NUMERIC 4 DIGIT)
2
INPUT PREVIOUS IDLE
HC VALUE
(NUMERIC 4 DIGIT)
3

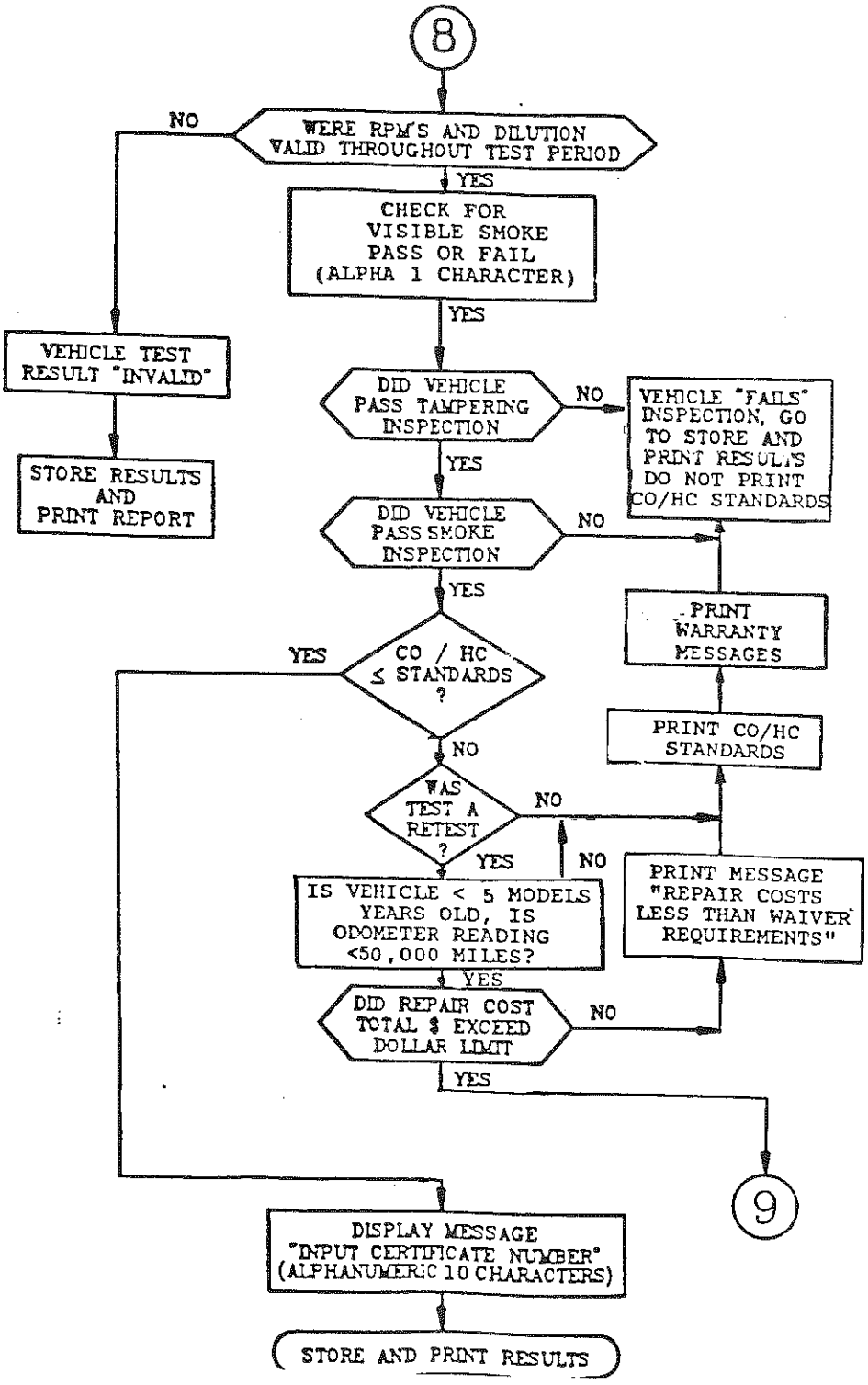

3
ENTER EMISSION REPAIR COST AND DISPLAY APPROPRIATE REPAIRS MESSAGE (NUMERIC 4 DIGIT)
DISPLAY TABLE C.1 REPAIR CODES
ENTER UP TO SIX REPAIR CODES (ALPHA 6 ENTERIES MAX)
IS VEHICLE < 2 MODELS YEARS OLD, IS ODOMETER READING <24,000 MILES?
YES
NO
REPAIR COST > REGULATORY REQUIREMENT
< STANDARD $
≥ STANDARD $
VEHICLE MUST PASS EMISSIONS STANDARDS TO PASS TEST
4

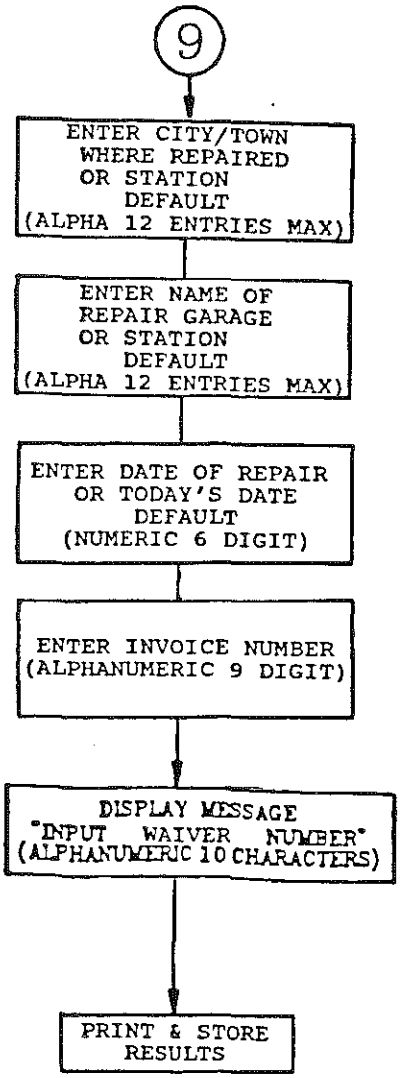

4
2
INITIAL
DOES VEHICLE HAVE AIR INJECTION 1: YES 2: NO (NUMERIC 1 DIGIT)
DOES VEHICLE HAVE DUAL EXHAUST 1: YES 2: NO (NUMERIC 1 DIGIT)
YES
DISPLAY SPECIAL DUAL TAILPIPE PROCEDURE OR MESSAGE FOR DUAL PROBES
NO
PERFORM TAMPERING INSPECTION PASS OR FAIL 10 CHOICES AVAILABLE (ALPHA 10 CHARACTERS)
1973 & LATER
PCV VALVE "P/F"
CATALYST "P/F"
AIR PUMP "P/F"
EVAPORATIVE SYSTEM "P/F"
FUEL RESTRICTOR "P/F"
5


5
HC HANG-UP TEST BEGINS
BEGIN 300 SEC. TIMER
HC
≤ 20
PPM
NO
YES
IS TIME
> 150 SEC. TO
≤ 20 PPM
NO
YES
DISPLAY MESSAGE
"POSSIBLE DIRTY FILTERS
OR SAMPLE LINE"
IS TIME
> 300 SEC. TO
≤ 20 PPM
NO
YES
DISPLAY MESSAGE
"HC HANG-UP IN
SAMPLE SYSTEM
ABORT
DISPLAY MESSAGE
"ABORTED - NO
CHARGE FOR
TEST"
6


6
DISPLAY MESSAGE
- ENGINE OFF
- CONNECT TACH LEAD
- VEHICLE IN PARK / NEUTRAL
- CHECK WHEELS
- WARM-UP ENGINE
- TURN OFF ACCESSORIES
DOES VEHICLE MODEL REQUIRE RESTART PROCEDURE
NO
YES
DISPLAY MESSAGE "TURN OFF ENGINE AND RESTART"
DISPLAY MESSAGE "INSERT PROBE IN TAILPIPE"
FOR EPA 207B PART 85 40 CFR TEST 85.2212 (IDLE PROCEDURE)
7


7
EPA PROCEDURE 85.2212 (IDLE TEST)
DISPLAY MESSAGE "RUN ENGINE AT 2500 RPM ± 300 FOR 30 SECONDS"
RPM AVAILABLE ?
NO
YES
IS VEHICLE ≥ 1989 MODEL YEAR ?
YES
NO
SELECT RPM BYPASS
DISPLAY MESSAGE "RUN ENGINE AT IDLE"
TEST ENDS, TEST RESULT INVALID
BEGIN IDLE TEST 17 SEC. COLLECT SAMPLE PERIOD
NO CO + CO2
BEGIN 5 SEC. VALIDATION PERIOD FOR RPM AND DILUTION VALID ?
NO RPM
YES
WAIT FOR VALID SAMPLE, SAMPLE BECOMES VALID ?
WAIT FOR VALID RPM, RPM BECOMES VALID ?
YES
NO
NO
EMISSION TEST ENDS TEST RESULT INVALID
TEST ENDS, TEST RESULT INVALID
STORE AND PRINT RESULTS
STORE AND PRINT RESULTS
BEGIN 10 SEC. TEST PERIOD
8


8
WERE RPM'S AND DILUTION VALID THROUGHOUT TEST PERIOD
NO
YES
CHECK FOR VISIBLE SMOKE PASS OR FAIL (ALPHA 1 CHARACTER)
YES
VEHICLE TEST RESULT "INVALID"
STORE RESULTS AND PRINT REPORT
DID VEHICLE PASS TAMPERING INSPECTION
NO
VEHICLE "FAILS" INSPECTION, GO TO STORE AND PRINT RESULTS DO NOT PRINT CO/HC STANDARDS
YES
DID VEHICLE PASS SMOKE INSPECTION
NO
YES
PRINT WARRANTY MESSAGES
YES
CO / HC ≤ STANDARDS ?
PRINT CO/HC STANDARDS
NO
WAS TEST A RETEST ?
NO
YES
NO
PRINT MESSAGE "REPAIR COSTS LESS THAN WAIVER REQUIREMENTS"
IS VEHICLE < 5 MODELS YEARS OLD, IS ODOMETER READING <50,000 MILES?
YES
DID REPAIR COST TOTAL $ EXCEED DOLLAR LIMIT
NO
YES
9
DISPLAY MESSAGE "INPUT CERTIFICATE NUMBER" (ALPHANUMERIC 10 CHARACTERS)
STORE AND PRINT RESULTS


9
ENTER CITY/TOWN WHERE REPAIRED OR STATION DEFAULT (ALPHA 12 ENTRIES MAX)
ENTER NAME OF REPAIR GARAGE OR STATION DEFAULT (ALPHA 12 ENTRIES MAX)
ENTER DATE OF REPAIR OR TODAY'S DATE DEFAULT (NUMERIC 6 DIGIT)
ENTER INVOICE NUMBER (ALPHANUMERIC 9 DIGIT)
DISPLAY MESSAGE "INPUT WAIVER NUMBER" (ALPHANUMERIC 10 CHARACTERS)
PRINT & STORE RESULTS

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: **VR 230-30-002. Community Diversion Program Standards.**

Statutory Authority: § 53.1-182 of the Code of Virginia.

Public Hearing Dates:
October 18, 1988 - 7 p.m.
October 20, 1988 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

The Community Diviersion Program Standards have been developed for the administration and operation of local community diversion programs, and addresses the following:

** The establishment of a community corrections resources board.*

** Uniform administrative structure for each program.*

** Fiscal management.*

** Minimum number of Department of Corrections' approved training for program staff.*

** The utilization of volunteers.*

** The requirement for a written policy and procedure manual.*

** The establishment of offender eligibility criteria.*

** The establishment of written policies and procedures for offender evaluation, diversion, monitoring, and termination.*

** The proper maintenance of case files and the confidentiality of offender information.*

** Intensive supervision of offenders.*

** The transfer of cases from one program to another.*

** Victim restitution.*

** Community service.*

** The establishment of services and service providers.*

** The purchase of services.*

** The utilization of residential treatment programs.*

VR 230-30-002. Community Diversion Program Standards.

PART I.

INTRODUCTION.

Article 1.
Definitions.

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

"Behavioral contract" means a written agreement between the offender and the program containing at a minimum:

1. A provision that the offender shall not change residence without prior notification to the case manager;

2. The number of community service hours to be completed;

3. A provision for restitution, if applicable;

4. Behavioral or treatment goals, or both;

5. A provision for intensive supervision;

6. A statement that the offender shall remain in the program until released by the court; and

7. A signed statement by the offender, witnessed by program staff, agreeing to abide by the contract.

"Case file" means the information that shall be maintained in a central location on each offender, and which shall contain, at a minimum:

1. Pre- or Post-Sentence report (PSI) for a felon offender, if available.

2. All diagnostic evaluation information purchased by or made available to the program.

3. Document of referral signed by the judge or clerk of court. This may not be applicable for misdemeanants.

4. Document of Diversion signed by the judge or clerk of court.

5. Behavioral contract.

6. Community Service Agreement.

7. Offender's current address, phone number (if available), date of birth, and social security number.

8. Offender contract summaries.

9. Documentation of services provided.

10. Documentation of termination.

"Case manager" means the person designated by the program director to perform intensive supervision of offenders, or to monitor offenders' compliance with the terms of behavioral contracts.

"Community Service Agreement" means a written agreement between the offender and the program staff, containing at a minimum:

1. Work site agency

2. Work site supervisor

3. Work site location

4. Job duties

5. Service hours required

6. Time frame for completion

"Eligibility criteria" means the minimum requirements which shall be met by an offender for the Community Corrections Resources Board to evaluate for diversion, to recommend diversion to the referring court, and for the offender to participate in a local community diversion program. The criteria shall contain, at a minimum:

1. Each offender shall have received a sentence to be incarcerated in a state or local adult correctional institution.

2. Each offender shall be nonviolent as determined by the Community Corrections Resources Board. The Community Corrections Resources Board shall define "nonviolent."

3. No offender shall have a demonstrated pattern of violence as determined by the Community Corrections Resources Board.

4. No offender shall be diverted from a sentence that cannot be suspended due to legal restrictions.

5. No offender shall have any outstanding criminal charges, detainers, or dispositions which would preclude eventual program participation.

6. Each offender shall be deemed suitable for program participation by the Community Corrections Resources Board's determination that an appropriate, rational behavioral contract can be developed.

"Intensive supervision for local offenders" means at least two face-to-face contacts each 30 days after the program staff is made aware of the diversion. These contacts shall be with the program director of his designee to monitor compliance with the terms of the behavioral contract. At least one of these contacts shall be made by appropriate program staff. Within 30 days after the program staff is made aware of the diversion, one of the contacts shall be made at the offender's home by appropriate program staff. Subsequent face-to-face home contacts shall be made within every 90-day period until termination. Home contacts are not required for an offender living out-of-state.

"Intensive supervision for state offenders" means at least one weekly, face-to-face contact with appropriate program staff to monitor compliance with the terms of the behavioral contract. The first weekly contact shall be made within seven days after the program staff is made aware of the diversion. During each calendar month, one of these contacts shall be made at the offender's home by appropriate program staff. The first home contact shall be made within 30 days after supervision commences.

"Local offender" means an individual who has been sentenced to a term which would result in incarceration in a local adult correctional institution.

"Program" means the plan or system of diversion services of a unit of government or of a public or private agency as outlined in §§ 53.1-180 through 53.1-185 of the Code of Virginia.

"Program contract" means the Community Corrections Contract between the Department of Corrections and the program that sets forth the terms and conditions for funding and program operation.

"Program staff" means any program administrator, program director, case manager, or clerical worker who is employed by, contracts with, or volunteers services to the program.

"State offender" means an individual who has been sentenced to a term which would result in incarceration in a state adult correctional insititution.

Article 2.
Legal Base.

§ 1.2. The Code of Virginia is the legal base for the development of Community Diversion Program Standards. Section 53.1-182 of the Code of Virginia directs the State Board of Corrections to prescribe standards for the development, operation, and evaluation of programs and services authorized by the Community Diversion Incentive Act (§ 53.1-180 et seq.).

Article 3.
Administration.

§ 1.3. The Community Diversion Program Standards, adopted by the Board of Corrections in February, 1984, are superseded on the effective date of these standards.

§ 1.4. The primary responsibility for application of these standards shall be with the program administrator.

PART II.

PROGRAM ADMINISTRATION AND MANAGEMENT.

Article 1.
Community Corrections Resources Board.

§ 2.1. Each program shall have a Community Corrections Resources Board whose composition and duties shall be in compliance with the Community Diversion Incentive Act.

§ 2.2. Each Community Corrections Resources Board shall adopt bylaws for the conduct of business in compliance with the Freedom of Information Act, § 2.1-344 A of the Code of Virginia.

Article 2.
Administrative Responsibility.

§ 2.3. Each program shall have a program administrator who is an administrative officer of a unit of government or of a public or private agency and who is responsible for applying for Community Diversion Incentive Act funds, receiving these funds, administering these funds, and ensuring full implementation of the program contract.

§ 2.4. Each program shall also have a program director who is responsible for the overall daily administration of the program.

§ 2.5. The program's lines of authority, including an organizational chart and written roles and responsibilities of the program staff and the Community Corrections Resources Board, shall be documented.

§ 2.6. The program director shall provide Community Corrections Resources Board members and program staff with orientation as to their respective duties and responsibilities within 30 days of appointment or employment.

§ 2.7. The Community Corrections Resources Board of each program utilizing volunteers or unpaid staff shall develop and implement written policies and procedures for the recruitment, selection, training, supervision and termination of those volunteers or unpaid staff.

§ 2.8. There shall be a written agreement between the program director and each volunteer or unpaid staff member that outlines the roles and responsibilities of the volunteer or unpaid staff member.

§ 2.9. The program director and all full-time program staff, excluding clerical staff, employed by the program shall complete a minimum of 40 hours of Department of Corrections approved training annually. Part-time program staff and clerical staff shall complete a minimum of 20 hours of Department of Corrections approved training annually.

§ 2.10. All program staff shall be bonded.

Article 3.
Policy and Procedure Manual.

§ 2.11. The Community Corrections Resources Board shall develop a written policy and procedure manual for program administration and operation.

§ 2.12. The policy and procedure manual shall be provided to each chief judge of the judicial circuits and districts the program services.

PART III.
FISCAL MANAGEMENT.

Article 1.
Responsibility.

§ 3.1. The Community Corrections Resources Board shall develop and implement written policies and procedures to approve and monitor program finances.

Article 2.
Maintenance of Financial Records.

§ 3.2. Audited financial records shall be maintained by the program director for at least three years. Unaudited financial records and completed audits shall be retained for the duration of the program and shall be made available to the Department of Corrections upon request.

PART IV.
OFFENDER PARTICIPATION IN PROGRAM.

Article 1.
Eligibility.

§ 4.1. The Community Corrections Resources Board shall establish written offender eligibility criteria which include, at a minimum, the Board of Corrections' Eligibility Criteria (see § 1.1). These offender eligibility criteria shall be approved by the Department of Corrections.

§ 4.2. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender referral.

§ 4.3. The Community Corrections Resources Board shall develop and implement written policies and procedures for providing the judge of the referring court the recommendations of the board on offenders.

Article 2.
Evaluation.

§ 4.4. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender evaluation.

Article 3.
Diversion.

§ 4.5. The Community Corrections Resources Board shall

develop and implement written policies and procedures for offender diversion.

§ 4.6. The Community Corrections Resources Board shall develop and implement written policies and procedures to develop an appropriate, rational behavioral contract for each offender participating in the program.

Article 4.
Termination.

§ 4.7. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender termination.

§ 4.8. The offender's termination shall be determined by the sentencing court.

PART V.
CASE FILES.

Article 1.
Case File Maintenance.

§ 5.1. The program director shall maintain individual offender case files.

§ 5.2. Offender case files shall be secured to protect against loss, theft, or unauthorized use.

Article 2.
Confidentiality of Offender Information.

§ 5.3. The Community Corrections Resources Board shall develop and implement written policies and procedures to govern the confidentiality, dissemination, and maintenance of offender information. These shall be in compliance with all applicable state and federal laws, including the Freedom of Information Act (§§ 2.1-340 through 2.1-346.1 of the Code of Virginia), the Privacy Protection Act (§§ 2.1-377 through 2.1-386 of the Code of Virginia), and § 19.2-389 of the Code of Virginia (Dissemination of Criminal History Record Information).

PART VI.
OFFENDER MANAGEMENT.

Article 1.
Intensive Supervision.

§ 6.1. Intensive supervision shall be required for each diverted offender and documented in the case file.

§ 6.2. In lieu of a transfer, intensive supervision may be temporarily provided by another program's appropriate program staff if it is mutually agreed upon and the supervision is documented in the diverting program's case file.

§ 6.3. Placement of an offender in a residential treatment facility shall satisfy the intensive supervision requirements while the offender is in residence at the facility. The residential treatment facility shall provide written monthly progress reports and a termination summary on the offender to the program.

§ 6.4. Intensive supervision requirements for an offender may be waived by the program director for a period not to exceed 15 days, under the following circumstances:

1. Required contacts are not made as a result of the offender's failure to cooperate and repeated efforts have been made to effect the supervision.

2. Inclement weather prevents supervision.

3. Court action has been requested for successful termination.

4. Excused absences for employment, training, vacation, military duty, medical emergencies, or family emergencies of the offender.

5. Offender incarcerated.

When intensive supervision is temporarily waived, such fact and circumstances shall be documented in the case file. Restoration of intensive supervision shall also be documented.

§ 6.5. Intensive supervision requirements for an offender may be waived by the Department of Corrections under extenuating circumstances for a period not to exceed 90 days. When the Department of Corrections waives the supervision requirements, such fact, circumstances, and documentation shall be included in the case file. Restoration of intensive supervision shall also be documented.

Article 2.
Offender Monitoring.

§ 6.6. The Community Corrections Resources Board shall develop and implement written policies and procedures for the monitoring of an offender's compliance with the terms of the behavioral contract.

§ 6.7. The Community Corrections Resources Board shall develop and implement written ploicies and procedures for major and minor behavioral contract violations as defined by the Community Corrections Resources Board.

Article 3.
Transfer of Cases.

§ 6.8. The Community Corrections Resources Board shall develop and implement written policies and procedures to allow for the transfer of offenders to and from other programs.

§ 6.9. The referring program director or Community Corrections Resources Board, or both, shall approve or

deny the proposed transfer of an offender to another program and shall, along with the sentencing court, retain jurisdiction over the offender.

§ 6.10. Prior to the transfer, the referring program director shall provide written notification to the chief probation and parole officer in the referring and receiving districts of the transfer of an offender under consecutive or concurrent probation supervision.

§ 6.11. The receiving program director or the Community Corrections Resources Board, or both, shall approve the proposed transfer of an offender from a referring program, provided the offender meets the receiving program's eligibility criteria.

§ 6.12. The referring program director shall be responsible for all treatment and supervision costs of an offender who is transferred to another program.

§ 6.13. The referring program director shall document that intensive supervision is being provided to an offender who may be transferred until the transfer process is completed.

§ 6.14. The receiving program director shall provide intensive supervision and monitor compliance with the terms of the referring program's behavioral contract of the transferred offender, and shall provide written monthly progress reports documenting such supervision and monitoring to the referring program director.

§ 6.15. The referring program director shall document that the receiving program director is providing intensive supervision and is monitoring the transferred offender's compliance with the terms of the behavioral contract.

§ 6.16. The referring program director shall maintain a case file on an offender transferred to another program.

§ 6.17. The receiving program director may return the transferred offender to the referring program director for noncompliance or a change in offender circumstances, provided the receiving program director documents such noncompliance or change in circumstances and communicates such information to the referring program director with at least 10 days notice prior to the return.

§ 6.18. The receiving program director shall notify the referring program director of the completion of the transferred offender's behavioral contract, with the request that the referring program director recommend termination by the diverting court.

§ 6.19. The referring program director shall notify the diverting court of the successful or unsuccessful completion of a transferred offender and, after termination by the diverting court, shall close the offender's case according to local procedures.

§ 6.20. The receiving program director shall continue to provide intensive supervision until the offender's case is terminated by the diverting court or the offender is returned to the referring program.

§ 6.21. The receiving program shall maintain a case file on each offender transferred to the program.

Article 4.
Restitution.

§ 6.22. The Community Corrections Resources Board shall develop and implement written policies and procedures for victim restitution.

Article 5.
Community Service.

§ 6.23. Community service shall be required of each offender participating in the program.

§ 6.24. The Community Corrections Resources Board shall develop and implement written policies and procedures for community service. Such service shall be unpaid and performed at public or private nonprofit agencies.

§ 6.25. The Community Corrections Resources Board shall develop and implement written policies and procedures to ensure equitable and consistent assignment of community service hours.

§ 6.26. The Community Corrections Resources Board shall establish a standard range of community service hours.

§ 6.27. Documented on-site supervision of each offender performing community service shall be provided by a work site supervisor. Work site supervision shall be at no cost to the program.

PART VII.
OFFENDER SERVICES.

Article 1.
Establishment of Services and Service Providers.

§ 7.1. The Community Corrections Resources Board shall develop and implement written policies and procedures to establish services for offenders based on an assessment of the offenders' needs and community resources.

§ 7.2. The Community Corrections Resources Board shall develop and implement written policies and procedures to recruit, screen, and select service providers.

Article 2.
Purchases of Services.

§ 7.3. The Community Corrections Resources Board shall develop and implement written policies and procedures to monitor the purchase of offender services.

§ 7.4. The program director may only purchase services on behalf of the offender; no direct financial allowances

are to be made to an offender.

§ 7.5. Routine offender services, including evaluations, shall be purchased through written formal contracts or agreements with service providers.

§ 7.6. Offender service funds may be used for the purchase of emergency services for food, clothing, housing, medical services and transportation. Food or housing services shall continue for no longer than 31 days. Emergency services shall not be a regular stipend or support for the offender.

Article 3.

Residential Services.

§ 7.7. The program director shall document that the facilities in which offenders are placed for residential treatment are in compliance with applicable state and local health and fire regulations.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulation: **VR 325-02-24. Game - Waterfowl and Waterfowl Blinds.**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Public Hearing Date: August 26, 1988 - 9:30 a.m.
(See Calendar of Events section for additional information)

Public Hearing Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amended board regulations applicable to City of Virginia Beach. A public hearing on the advisability of adopting or amending and adopting, the proposed regulations, or any part thereof, will be held at the board's offices, 4010 West Broad Street, Richmond, Virginia, beginning at 9:30 a.m. on Friday, August 26, 1988, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulations, or any part thereof, are advisable, in the form in which published or as amended as a result of the public hearing, the board may adopt such proposals at that time, acting upon the proposals separately or in block.

Summary:

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

VR 325-02. GAME.

VR 325-02-24. WATERFOWL AND WATERFOWL BLINDS.

§ 13. Hunting geese prior to duck season prohibited in Back Bay Area.

Rescind this section in its entirety.

§ 17. Steel shot required for waterfowl hunting in certain areas effective 1987-91.

A. Effective with the 1987-88 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese, swans and coots while possessing shotshells loaded with shot other than steel shot in the counties of Charles City, Gloucester, James City, New Kent and York; and in the cities of Chesapeake, Hampton, Newport News, Norfolk, Suffolk and Virginia Beach.

B. Effective with the 1988-89 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese, swans or coots while possessing shotshells loaded with shot other than steel shot in the counties and cities included in subsection A of this section and in Accomack County *; and in the cities of Poquoson, Portsmouth and Williamsburg.*

C. Effective with the 1989-90 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese, swans or coots while possessing shotshells loaded with shot other than steel shot in the counties and cities included in subsections A and B of this section and in the counties of King William, Mathews, Middlesex, Northumberland and Westmoreland.

D. Effective with the 1990-91 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese, swans or coots while possessing shotshells loaded with shot other than steel shot in the counties and cities included in subsections A, B and C of this section and in the counties of Chesterfield, Essex, Henrico, King George, Lancaster, Louisa, Montgomery, Northampton, Powhatan, Richmond and Surry.

E. This section shall expire and be superseded by VR 325-02-24, § 18, effective July 1, 1991.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: **VR 394-01-1. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.**

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Public Hearing Date: October 17, 1988 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The proposed amendment will change the regulations to allow the Board of Housing and Community Development to receive public input at public hearings prior to completion of a final draft of code changes.

VR 394-01-1. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Board" means Board of Housing and Community Development.

"Department" means Department of Housing and Community Development.

"Guidelines" means the regulations adopted by the Board of Housing and Community Development for public participation in the formulation, promulgation and adoption of regulations.

"Staff" means employees of the Department of Housing and Community Development or Board of Housing and Community Development.

§ 1.2. Application.

These guidelines apply to all regulations adopted by the board. They will be used whenever regulations are hereafter adopted, amended or deleted.

§ 1.3. Periodic review.

It is the intent of the board to conduct a periodic review of all regulations that have been adopted under state law. Such reviews will be undertaken at appropriate intervals as needed to keep the regulations up-to-date. These guidelines will be used in the review process.

PART II.
PUBLIC PARTICIPATION.

§ 2.1. Mailing lists.

The department will maintain lists of individuals, businesses, associations, agencies, and public interest groups which have expressed an interest, or which could reasonably be expected to have an interest, in the board's regulations. The lists will be updated and expanded as new interested parties are identified. Deletions will be made when lack of interest is determined.

§ 2.2. Notification.

The lists will be used to notify and solicit input to the regulatory revision process from interested parties. Selected mailings will be made independently of notices in the Virginia Register of Regulations and of notices in newspapers. Advertising in department newsletters, in trade and professional publications, and in public interest group publications will be used when appropriate.

§ 2.3. Solicitation of input.

The staff of the department will continually receive, retain and compile all suggestions for changes and improvements to the regulations. In addition, a notice of intent to adopt or amend regulations will be published in the Virginia Register of Regulations to solicit public input before drafting the proposals.

§ 2.4. Regulatory review workshops.

Before adoption or revision of the regulations, the board may conduct one or more meetings for the general public to explain the review process and to solicit proposals for needed changes. At least thirty days' notice of such meetings will be published in the Virginia Register of Regulations and in a newspaper of general circulation published in the region in which the meeting is to be held, and in a newspaper of general circulation published in Richmond, Virginia. Press releases and other media will be used as needed. Selected interested persons and groups will be notified by mail.

§ 2.5. Preparation of preliminary draft.

The board will prepare a preliminary draft of proposed amendments to the regulations based on public input received and on the results of its own study of the regulations.

§ 2.6. Ad hoc committee review.

The board may establish an ad hoc advisory committee consisting of invited representatives of all groups believed to be affected by the regulations and the proposed amendments. The board will give consideration to recommendations received from the committee, and will make appropriate revisions to the draft.

§ 2.7. Public hearings.

~~After~~ *Prior to* completion of a final draft, the board will convene at least one public hearing in accordance with the procedures required by the Administrative Process Act

and the Virginia Register Act.

PART III.
ACTION ON COMMENTS OF GOVERNOR AND LEGISLATURE.

§ 3.1. When Governor suspends process.

If the Governor suspends the regulatory process to require solicitation of additional public comment, the board will do so in the manner prescribed by the Governor. If no specific method is required, the board will employ one or more of the following procedures, as deemed necessary:

1. Consult with affected persons and groups.

2. Reconvene the ad hoc review committee for further consultation.

3. Advertise and conduct an additional public hearing under the procedures prescribed by the Administrative Process Act and the Virginia Register Act.

§ 3.2. Other legislative and executive comments.

If the Governor does not require solicitation of additional public comment, but does provide suggestions, or if further suggestions are received from the required legislative review during the thirty-day final adoption period, the board will determine whether solicitation of additional public comment should be undertaken. If needed, one or more of the procedures described above may be used.

* * * * * * * * *

Title of Regulation: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987.**

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Public Hearing Date: October 17, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The 1987 edition of the Virginia Statewide Fire Prevention Code is a mandatory, statewide, set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Technical requirements of the Statewide Fire Prevention Code are based on the BOCA National Fire Prevention Code, a companion document to the BOCA National Building Code which is the Uniform Statewide Building Code. The Fire Prevention Code supersedes all fire prevention regulations heretofore adopted by local government or other political subdivisions. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure. Local enforcement of this code is optional. The State Fire Marshal shall have authority to enforce the Fire Prevention Code in those jurisdictions in which the local governments do not enforce the code. An administrative appeals system is established for resolution of disagreements between the enforcing agency and aggrieved party.

Proposed changes to the regulations:

1. Several changes are proposed to Article 1 to incorporate language that will clairfy the application of the Virginia Public Safety Regulations to those public buildings constructed prior to September 1, 1973.

2. Proposed amendment to Article 26 that will regulate the equipment, procedures and operation involving the manufacture, possession, storage, sale, transportation, and use of explosives blasting agent.

VR 394-01-6. Virginia Statewide Fire Prevention Code/1987.

Article 1.
Administration and Enforcement.

SECTION F-100.0. GENERAL.

F-100.0. Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code. Except as otherwise indicated, Fire Prevention Code or code, shall mean the 1987 edition of the BOCA National Fire Prevention Code as herein amended.

F-100.2. Authority: The Virginia Statewide Fire Prevention Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Statewide Fire Prevention Code Act, Chapter 9 of Title 27 (§§ 27-94 through 27-101) of the Code of Virginia.

F-100.3. Adoption: The Virginia Statewide Fire Prevention Code was adopted by order of the Board of Housing and Community Development on December 14, 1987. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

F-100.4. Effective date: The Virginia Statewide Fire Prevention Code shall become effective on March 1, 1988.

F-100.5. Effect on other codes: The Virginia Statewide Fire Prevention Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia. The Virginia

Statewide Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local government or other political subdivisions. When any provision of this code is found to be in conflict with the Uniform Statewide Building Code, OSHA, Health or other applicable laws of the Commonwealth, that provision of the Fire Prevention Code shall become invalid. Wherever the words "building code" appear it shall mean the building code in effect at the time of construction.

F-100.6. Purpose: The purpose of the Virginia Statewide Fire Prevention Code is to provide statewide standards for the optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, wherever located.

SECTION F-101.0. REQUIREMENTS.

F-101.1. Adoption of model code: The following model code, as amended by sections F-101.2 and F-101.3, is hereby adopted and incorporated in the Virginia Statewide Fire Prevention Code.

- The BOCA Basic/National Fire Prevention Code/1987 Edition

Published by:

Building Officials and Code Administrators International, Inc.
4051 West Flossmoor Road
Country Club Hills, IL 60477

F-101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Virginia Statewide Fire Prevention Code.

F-101.3. Other amendments to the referenced model code: The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Fire Prevention Code/1987 Edition for use as part of this code.

F-101.4. Limitation of application of model code: No provision of the model code shall affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

~~F-101.5. Application of Uniform Statewide Building Code: The planning, design and construction of new buildings and structures to provide the necessary egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the Uniform Statewide Building Code; and any alterations, additions or changes in building required by the provisions of this code which are within the scope of the Uniform Statewide Building Code shall be made in accordance therewith. Upon completion of such structures or buildings, responsibility for fire safety protection shall pass to the local fire official or State Fire Marshal.~~

F-101.5. Application to post Uniform Statewide Building Code (USBC) Buildings: The maintenance of fire safety in buildings and structures shall be the responsibility of the local fire official or the State Fire Marshal. Egress facilities, fire protection, and built-in fire protection equipment shall be maintained in accordance with the requirements of the USBC in effect at the time the building or structure was constructed.

~~F-101.6. Existing buildings: The Virginia Statewide Fire Prevention Code shall not impose requirements that are more restrictive than the applicable building code under which said buildings or structures were constructed. Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of such buildings and structures shall be subject to the then current edition of the Uniform Statewide Building Code.~~

F-101.6. Application to Pre-Uniform Statewide Building Code (USBC) Buildings: Pre-USBC buildings are those buildings that were not subject to the USBC when constructed. Such buildings shall be maintained in accordance with state fire and public building regulations in effect prior to March 31, 1986, as set forth in Addendum 2 and other applicable requirements of this Code. Subsequent alterations, additions, repairs, or change of occupancy classification of such buildings shall be subject to the then current edition of the USBC.

F-101.7. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Fire Prevention Code.

SECTION F-102.0. ENFORCEMENT AUTHORITY.

F-102.1. Enforcement officer: Any local government may enforce the Statewide Fire Prevention Code. The local governing body may assign responsibility for enforcement of the Statewide Fire Prevention Code to a local agency or agencies of its choice. The State Fire Marshal shall have authority to enforce the Statewide Fire Prevention Code in jurisdictions in which the local governments do not enforce the code. Upon appointment of the fire official, the Office of the State Fire Marshal shall be notified. The terms "enforcing agency" and "fire official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. However, the terms "building official" or "building department" apply only to the local building official or building department.

F-102.1.2. Modifications to regulations in Addendum 2: In those localities choosing to enforce the Statewide Fire Prevention Code, the fire official shall have the same authority to grant modifications of the regulations in Addendum 2 as is delegated to the Chief Fire Marshal.

F-102.2. Qualification of local enforcing agency personnel: The local government shall establish qualifications for the fire official and his assistants, adequate to insure proper enforcement of the Statewide Fire Prevention Code.

Note: It is recommended that the fire official have at least five years of related experience. Consideration should be given for selection and maintenance of enforcing agency personnel by using certification programs offered by the Department of Housing and Community Development, Department of Fire Programs, and ETS/NFPA.

F-102.3. Inspections: The fire official may inspect all buildings, structures and premises except single family dwellings, dwelling units in two family and multi-family dwellings, and farm structures as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this code or any other ordinance affecting fire safety.

F-102.4. Right of entry: Whenever necessary for the purpose of enforcing the provisions of this code, or whenever the fire official has reasonable cause to believe that there exists in any structure or upon any premises, any condition which makes such structure or premises unsafe, the fire official may enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the fire official by this code; provided that if such structure or premises be occupied, the fire official shall first present proper credentials and request entry. If such entry is refused, the fire official shall have recourse to every remedy provided by law to secure entry.

F-102.5. Coordinated inspections: Whenever in the enforcement of the Statewide Fire Prevention Code or another code or ordinance, the responsibility of more than one enforcement official may be involved, it shall be their duty to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors nor multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code of the jurisdiction, not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary corrective measures.

Note: Attention should be directed to § 36-105 of the Code of Virginia which states in part, "The building official shall coordinate all reports with inspections for compliance of the building code, from fire and health officials DELEGATED such authority, prior to issuance of an occupancy permit." (Emphasis added)

F-102.6. Fire records: The fire official shall keep a record of all fires and all facts concerning the same, including investigation of findings and statistics and information as to the cause, origin and the extent of such fires and the damage caused thereby. The fire official shall also keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act; and, (i) after retention for 20 years in the case of arson fires, (ii) after retention for five years in nonarson fires, and (iii) after retention for three years in the case of all other reports, notices, and orders issued.

F-102.7. Administration liability: The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while asigned to the department as an employee. The fire official or his subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the Statewide Fire Prevention Code as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as an employee, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed in the discharge of the Statewide Fire Prevention Code may be defended by the enforcing agency's legal representative. The State Fire Marshal or his subordinates shall not be personally liable for damages or costs sustained by any person when the State Fire Marshal or his subordinates are enforcing this code as part of their official duties under Section F-102.1.

F-102.8. Rules and regulations: Local governments may adopt fire prevention regulations that are more restrictive or more extensive in scope than the Statewide Fire Prevention Code provided such regulations are not more restrictive than the Uniform Statewide Building Code and do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

F-102.9. Procedures or requirements: The local governing body may establish such procedures or requirements as may be necessary for the enforcement of the Statewide Fire Prevention Code.

F-102.10. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the Virginia Comprehensive Conflict of Interest Act.

SECTION F-103.0. DUTIES AND POWERS OF THE FIRE OFFICIAL.

F-103.1. General: The fire official shall enforce the provisions of the Statewide Fire Prevention Code as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

Note: Investigation of fires is governed by § 27-30 et. seq. of the Code of Virginia.

F-103.2. Notices and orders: The fire official may issue all necessary notices or orders to ensure compliance with the requirements of the Statewide Fire Prevention Code for the protection of life and property from the hazards of fire or explosion.

F-103.3. Delegation of duties and powers: The fire official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the code.

SECTION F-104.0. PERMITS.

F-104.1. General: It shall be unlawful to engage in any business activity involving the handling, storage or use of hazardous substances, materials or devices; or to maintain, store or handle materials; to conduct processes which produce conditions hazardous to life or property; or to establish a place of assembly without first notifying the local fire official. Permits may be required, by the local fire official, according to section F-104.2.

~~Note: The State Fire Marshal will not issue permits under the Statewide Fire Prevention Code.~~

F-104.1.1. State permits: The State Fire Marshal will not issue permits under the Statewide Fire Prevention Code except those required under Article 26, Explosives, Ammunition and Blasting Agents.

F-104.1.2. Local permits: In those jurisdictions that enforce the Statewide Fire Prevention Code, the Fire Official shall issue permits as required by Article 26, Explosives, Ammunition and Blasting Agents.

F-104.2. Permits required: Permits shall be obtained, when required, from the local fire official. Inspection or permit fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 27-98 of the Code of Virginia. Permits shall be available to the fire official upon request.

F-104.3. Application for permit: Application for a permit required by this code shall be made to the local fire official in such form and detail as the local fire official shall prescribe.

F-104.4. Action on application: Before a permit is issued, the local fire official or the fire official's designated representative shall make or cause to be made such inspections or tests as are necessary to assure that the use and activities for which application is made complies with the provisions of this code.

F-104.5. Conditions of permit: A permit shall constitute permission to maintain, store or handle materials, or to conduct processes which produce conditions hazardous to life or property in accordance with the provisions of this code. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of this code. Said permit shall remain in effect until revoked, or for such period of time specified on the permit. Permits are not transferable and any change in use, operation or tenancy shall require a new permit.

Note: For rules and regulations governing the disposal of hazardous materials contact the Virginia Department of Waste Management.

F-104.6. Approved plans: Plans approved by the building and fire officials are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

F-104.7. Revocation of permit: The local fire official may revoke a permit or approval issued under the provisions of this code if upon inspection any violation of the code exists, or if conditions of the permit have been violated, or if there has been any false statement or misrepresentation as to material fact in the application, data or plans on which the permit or approval was based.

F-104.8. Suspension of permit: Any permit issued shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

F-104.9. Payment of fees: A permit shall not be issued until the designated fees have been paid, when required.

SECTION F-105.0. APPEAL TO BOARDS OF APPEALS.

F-105.1. Local appeals: Every locality electing to enforce this code shall establish a local board of appeals as required by § 27-98 of the Code of Virginia. Appeals to the local board may be made by the person cited for violation when aggreived by any decision or interpretation of the local fire official made under the provisions of this code. The local board of appeals shall consist of at least five members who are qualified by experience and training to rule on matters pertaining to building construction and fire prevention. The local board of appeals shall be appointed by the local governing body and shall hold office in accordance with the terms of appointment. The local appeal board shall operate in accordance with the applicable provisions of the Administrative Processes Act, § 9-6.14 of the Code of Virginia. All local board hearings shall be open to the public. All resolutions or findings of the local board shall be in writing and made available for

public viewing. The local board shall meet within 20 days upon receipt of application.

Appeal from the application of the code by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board.

F-105.1.1. Grounds for appeal: The owner or occupant of a building may appeal a decision of the fire official to the local Board of Appeals when it is claimed that:

1. The fire official has refused to grant a modification of the provisions of the code;

2. The true intent of this code has been incorrectly interpreted;

3. The provisions of this code do not fully apply;

4. The use of a form of compliance that is equal to or better than that specified in this code has been denied.

F-105.2. Application: An application for appeal shall be submitted, in writing, to the board of appeals within seven working days upon receipt of notice or order of the fire official.

F-105.3. Decision and notification: Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant and the fire official.

F-105.4. Decision: The fire official shall take immediate action in accordance with the decision of the board.

F-105.5. Appeal to the State Building Code Technical Review Board: Any person aggrieved by a decision of the Local Board of Appeals who was a party to the appeal, or any officer or member of the governing body of the local jurisdiction, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

F-105.6. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the fire official shall take immediate action in accordance with the decision.

F-105.7. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

SECTION F-106.0. ORDERS TO ELIMINATE DANGEROUS OR HAZARDOUS CONDITIONS.

F-106.1. General: Whenever the fire official or the fire official's designated representative shall find in any building, structure or upon any premises dangerous or hazardous conditions or materials as follows, the fire official shall order such dangerous conditions or materials to be removed or remedied in accordance with the provisions of this code:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof.

2. Conditions which would interfere with the efficiency and use of any fire protection equipment.

3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire.

4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

10. All equipment, materials, processess or operations which are in violation of the provisions and intent of this code.

F-106.2. Maintenance: The owner shall be responsible for the safe and proper maintenance of the building, structure, premises or lot at all times. In all new and existing buildings and structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the Uniform Statewide Building Code and other jurisdictional ordinances, shall be maintained in a safe and proper operating condition.

Note: Also see section F-502.6 and F-502.6.1 of this code for further information.

F-106.3. Occupant responsibility: If an occupant of a building creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of said hazardous conditions.

F-106.4. Unsafe buildings: All buildings and structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe buildings or structures. A vacant building, or portion of a building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe buildings shall be reported to the building or maintenance code official who shall take appropriate action deemed necessary under the provisions of the Uniform Statewide Building Code Volume I/New Construction Code or Volume II/Building Maintenance Code to secure abatement by repair and rehabilitation or by demolition.

F-106.5. Evacuation: When, in the opinion of the fire official, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire official may order the immediate evacuation of said building, structure or premises. All of the occupants so notified shall immediately leave the building, structure or premises and persons shall not enter, or reenter, until authorized to do so by the fire official.

F-106.6. Unlawful continuance: It is deemed a violation of the Statewide Fire Prevention Code for any person to refuse to leave, interfere with the evacuation of the other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition.

F-106.7. Notice of violation: Whenever the fire official observes an apparent or actual violation of a provision of this code or ordinance under the fire official's jurisdiction, the fire official shall prepare a written notice of violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such persons by mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in the case such person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

F-106.8. Issuing summons for violation: In those localities where the fire official or his designated representative has been certified in accordance with § 27-34.2 of the Code of Virginia, a summons may be issued in lieu of the above mentioned notice of violation or the provisions of section F-106.9 may be invoked.

F-106.9. Failure to correct violations: If the notice of violation is not complied with in the time specified by the fire official, the fire official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or of any order or direction made pursuant thereto. The local law-enforcement agency of the jurisdiction shall be requested by the fire official to make arrests for any offense against this code or orders of the fire official affecting the immediate safety of the public when the fire official is not certified in accordance with § 27-34.2 of the Code of Virginia.

F-106.10. Penalty for violation: Violations are a Class 1 misdemeanor in accordance with § 27-100 of the Code of Virginia. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense.

F-106.11. Correction of violation required: The imposition of the penalties herein described shall not prevent the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation; or to stop an illegal act, conduct of business or use of a building or structure in or about any premises.

ADDENDA.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL FIRE PREVENTION CODE 1987 EDITION.

As provided in section F-101.3 of the Virginia Statewide Fire Prevention Code, the amendments noted in this Addendum shall be made to the BOCA National Fire Prevention Code 1987 edition for use as part of the Virginia Statewide Fire Prevention Code.

ARTICLE 1.
ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the Virginia Statewide Fire Prevention Code.

ARTICLE 2.

DEFINITIONS.

1. Change section F-200.3 to read:

F-200.3. Terms defined in the other codes: Where terms are not defined in this code and are defined in the Uniform Statewide Building Code, they shall have the meanings ascribed to them as in that code.

2. Change the following definitions in section F-201 General Definitions to read:

"Building code official": The officer or other designated authority charged with the administration and enforcement of the Uniform Statewide Building Code, Volume I - New Construction Code.

"Code official": The officer or other designated authority charged with the administration and enforcement of the Virginia Statewide Building Code, Volume II, Maintenance Code. (Note: When "code official" appears in the BOCA National Fire Prevention Code, it shall mean "fire official.")

"Occupancy classification": The various use groups as classified in the Uniform Statewide Building Code.

"Structure": An assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

3. Add these new definitions to section F-201.0 General Definitions:

"Building": A combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property; provided, however, that farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from provisions of this code. The word building shall be construed as though followed by the words "or part or parts thereof and fixed equipment" unless the context clearly requires a different meaning. The word building includes the word structure.

"Building code": The building code in effect at the time of construction.

"Certificate of use and occupancy": The certificate issued by the code official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit. (See section 119.0 of the USBC.)

"Combustible material": A material which cannot be classified as noncombustible in accordance with that definition.

"Farm building": A structure located on a farm utilized for the storage, handling or production of agricultural, horticultural and floricultural products normally intended for sale to domestic or foreign markets and buildings used for maintenance, storage or use of animals or equipment related thereto.

"Fire official": The officer or other designated authority charged with the administration and enforcement of the Virginia Statewide Fire Prevention Code.

"Local government": Any city, county or town in this Commonwealth, or the governing body thereof.

"Night club": Means a place of assembly that provides exhibition, performance or other forms of entertainment; serves food or alcoholic beverages; and may or may not provide music and space for dancing.

ARTICLE 3.
GENERAL PRECAUTIONS AGAINST FIRE.

1. Change section F-301.1 to read:

F-301.1. General: Open burning shall be allowed in accordance with the laws and regulations set forth by the State Air Pollution Control Board, the Department of Forestry, and as regulated by the locality.

ARTICLE 4.
HAZARD ABATEMENT IN EXISTING BUILDINGS.

1. Change section F-400.1 to read:

F-400.1. Continued maintenance: All service equipment, means of egress devices and safeguards which were required by a previous statute or another code in a building or structure when erected, altered or repaired shall be maintained in good working order.

2. Delete the balance of ARTICLE 4 HAZARD ABATEMENT IN EXISTING BUILDINGS as it is covered by Volume I and Volume II of the Uniform Statewide Building Code.

ARTICLE 5.
FIRE PROTECTION SYSTEMS.

1. Add section F-509.4. Smoke Detector for the Deaf and Hearing-Impaired to read:

F-509.4. Audible and Visual Alarms: Audible and visual alarms, meeting the requirements of UL Standard 1638, and installed in accordance with NFPA/ANSI 72G, shall be provided in occupancies housing the hard of hearing, as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100

candella. Portable alarms meeting these requirements shall be acceptable.

ARTICLE 16.
OIL AND GAS PRODUCTION.

1. Delete ARTICLE 16 OIL AND GAS PRODUCTION as it is covered by the VIRGINIA OIL AND GAS ACT, Title 45, Chapter 22 of the Code of Virginia.

ARTICLE 26.
EXPLOSIVES, AMMUNITION AND BLASTING AGENTS.

~~1. Change section F-2605.5 to read:~~

~~F-2605.5. Personnel condition: A person shall not be permitted to ride upon, drive, load or unload a vehicle containing blasting agents while smoking or under the influence of intoxicants or narcotics. They shall also be familiar with all state and municipal traffic regulations and shall not be in violation of § 46.1-124 (Motor Vehicle Code; transportation of explosives) and § 40.1-25 (Department of Labor and Industry; storage, handling and use of explosives) of the Code of Virginia.~~

1. Article 26, Explosives, Ammunition and Blasting Agents, is deleted in its entirety and replaced with Article 26 of the Virginia Statewide Fire Prevention Code, as follows:

SECTION F-2600.0. GENERAL.

F-2600.1. Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, transportation and use of explosives and blasting agents shall comply with the applicable requirements of this code and the provisions of this article and shall be maintained in accordance with NFiPA 495, NFiPA 498, and DOT 49CFR listed in Appendix A except as herein specifically exempted or where provisions of this article do not specifically cover conditions and operations; and with the Institute of Makers of Explosives (IME) guidelines, recommendations, handbooks on documentation; and with the Virginia Motor Carrier regulations.

F-2600.1.1. Responsibility: Every person or company conducting an operation or activity that requires the use of explosive materials shall be responsible for the results and consequences of any activities resulting from the use of these explosive materials.

F-2600.2. Exceptions: Nothing in this article shall be construed as applying to the following explosive uses:

1. The Armed Forces of the United States or of a state.

2. Explosives in forms prescribed by the official United States Pharmacopoeia.

3. The sale or use of fireworks which are regulated by Article 27.

4. Laboratories engaged in testing explosive materials.

5. The possession, storage and use of not more than 5 pounds (2.27 kg) of smokeless powder, black powder, and 1,000 small arms primers for hand loading of small arms ammunition for personal use.

6. The manufacture, possession, storage and use of not more than 5 pounds (2.27 kg) of explosives or blasting agents in educational, governmental or industrial laboratories for instructional or research purposes when under the direct supervision of experienced, competent persons.

7. The transportation and use of explosives or blasting agents by the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, Virginia Department of State Police; nor to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia (Department of Mines and Quarries).

F-2600.2.1. Permit required: A permit shall be obtained from the code official for any of the following conditions or operations:

1. To possess, store, or otherwise dispose of explosives or blasting agents.

2. To transport explosives or blasting agents.

3. To use explosives or blasting agents. The classes of blasting permits are:

CLASS/CATEGORY		DESCRIPTION
A	Unlimited	All types of blasting
B	General Above Ground	All phases of blasting operations in quarries, open pit mines, above ground construction.
C	General Underground	All phases of blasting operations in underground mines, shafts, tunnels, and drifts.
D	Demolition	All phases of blasting in demolition projects.
E	Seismic Prospecting	All phases of blasting in seismic prospecting.
F	Agriculture	All phases of blasting in agriculture but limited to not more than 50 lbs. per blast.
G	Special	Special blasting as described on the permit.

4. To operate a terminal for handling explosives or

blasting agents.

5. To deliver to or receive explosives or blasting agents from a carrier at a terminal between the hours of sunset and sunrise.

6. A permit to manufacture shall be issued by the State Fire Marshal's Office and the local fire official where one exists. A permit to manufacture shall be issued upon the applicant obtaining and maintaining the following conditions:

(a) Registration with the Department of Housing and Community Develop;

(b) Current license from the Bureau of Alcohol, Tobacco and Firearms;

(c) Possess a license to do business in the Commonwealth of Virginia; and

(d) All other state and local requirements.

7. A permit to sell shall be issued by the fire official upon demonstrating the following:

(a) Current license from the Bureau of Alcohol, Tobacco and Firearms;

(b) Registration with the Department of Housing and Community Development; and

(c) Possess a license to do business in the Commonwealth of Virginia.

F-2600.2.2. Prohibited permits: Permits as required above shall not be issued for:

1. Liquid nitroglycerin and nitrate esters.

2. Dynamite (except gelatin dynamite) containing over 60% of liquid explosive ingredient.

3. Dynamite having an unsatisfactory absorbent or one that permits leakage of a liquid explosive ingredient under any conditions liable to exist during storage.

4. Nitrocellulose in a dry and uncompressed condition to be shipped or transported.

5. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition except as a component of manufactured articles not hereinafter forbidden.

6. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167°F (75°C).

7. New explosives until approved by DOT 49CFR listed in Appendix A, except for permits issued to educational, governmental or industrial laboratories for instructional or research purposes.

8. Explosives condemned by DOT 49CFR listed in Appendix A.

9. Explosives not packed or marked in accordance with the requirements of DOT 49CFR listed in Appendix A.

10. Explosives containing an ammonium salt and a chlorate.

F-2600.2.3. Certification of Blasters: It shall be a violation of this code for any person to load or fire explosive materials unless he, or his on-site supervisor, is a certified blaster. The blaster's certification must conform to the class and use as provided in this code, and be carried on the blaster's person during the use of explosive materials. The certification document shall state the class of certification and pertinent information about the blaster including his photograph and fingerprint(s). The applicant for blaster's certification to supervise and perform the loading and firing of explosive materials must demonstrate that he has adequate training and experience in the class of certification being applied for. The applicant shall successfully pass a qualifying examination prepared or administered, or both, by the Office of State Fire Marshal. The examination may be written, oral or by such other means as necessary to determine that the applicant is competent to conduct blasting operations and perform the duties of a blaster. An applicant for a blaster's certification shall:

1. Be at least 21 years of age;

2. Provide, at his expense, medical proof that the applicant is in adequate physical and mental condition to perform the work required;

3. Be able to understand and give written and oral instructions in the English language;

4. Not have an alcohol or chemical dependency;

5. Have worked at least one year under the direct supervision of a blaster certified by the Commonwealth of Virginia or under the supervision of a blaster certified by another authority recognized by the State Fire Marshal as being equivalent; and

6. Have a working knowledge of federal, state and local laws and regulations pertaining to explosive materials.

F-2600.2.4. Revocation or suspension of certification: The Chief State Fire Marshal may revoke or suspend certification issued under the provisions of this code if upon investigation any violation of this code exists, or if

conditions of the certification have been violated, or if there has been any false statement or misrepresentation as to material fact in the application on which the certification was based. A blaster whose certification has been suspended or revoked may request, in writing, a hearing before a three member panel who are knowledgeable or competent, or both, in explosives, ammunition and blasting agents, appointed by the Director of the Department of Housing and Community Development for reinstatement of certification. Any individual whose certification has lapsed shall be required to pass a qualifying examination before reissuance.

F-2600.3. Bonding requirements for blasting: Before a permit to do blasting is issued as required under Section F-2600.2.1, the applicant for such permit shall file a bonding requirement in such form, amount and coverage as determined by the local governing body of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any damages arising from the permitted blasting. In those jurisdictions that are not enforcing the Statewide Fire Prevention Code the bond shall be determined by policy of the Board of Housing and Community Development.

F-2600.3.1. Liability insurance: The company or individual applying for a permit to blast, manufacture, or sell explosives shall provide proof of insurance in an amount determined by the fire official but in no case less than $500,000, except liability insurance shall not be required with an Agricultural Blasting permit when the blast is conducted on the applicant's personal property.

F-2600.4. Definitions: For the purposes of this article and as used in this code, the following words and terms shall have the meaning shown.

"Blaster (shot firer)" means that qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Blasting agent" means any material or mixture consisting of a fuel and oxidizer intended for blasting, not otherwise classified as an explosive, in which none of the ingredients are classified as explosives, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined. Materials or mixtures classified as nitro carbo nitrates by DOT regulations shall be included in this definition.

"Carrier" means any person who engages in the transportation of articles or materials by rail, highway, water or air.

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term "explosive" includes all materials classified as Class A, Class B or Class C explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, smokeless powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord and igniters.

"Explosive-actuated device" means any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices. Examples of explosive-actuated power devices are jet tappers and jet perforators. (See Special Industrial Explosive Device.)

"Highway" means any public street, alley or road.

"Magazine" means any building or structure approved for the storage of explosives. Magazines shall be of two classes as follows:

Class I magazines shall be used for the storage of explosives when quantities are in excess of 50 pounds (22.70 kg) of explosive material.

Class II magazines shall be used for the storage of explosives in quantities of 50 pounds (22.70 kg) or less or explosive materials except that a Class II magazine is permitted to be used for temporary storage of a larger quantity of explosives at the site of blasting operations where such amount constitutes not more than one day's supply for use in current operation.

"Peak particle velocity" means the maximum component of the three mutually perpendicular components of motion at a given point.

"Propellant-actuated power device" means any tool or special machanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge. (See Special Industrial Explosive Device.)

"Public conveyance" means any railway car, streetcar, cab, bus, airplane or other vehicle transporting passengers for hire.

"Railway" means any steam, electric or other railroad or railway which carries passengers for hire.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

"Small arms ammunition" means any shotgun, rifle, pistol or revolver cartridge.

"Special industrial explosive device" means any explosive power-pack containing an explosive charge in the form of a cartridge or construction device. The term includes, but is not limited to, explosive rivets, explosive bolts, explosive charges for driving pins or studs,

cartridges for explosive-actuated power tools and charges of explosives used in jet tapping of open hearth furnaces and jet perforation of oil well casings.

"Special industrial high explosive materials" means sheets, extrusions, pellets and packages of high explosives containing dynamite, trintrotoluol, pentaery-thritoltetranitrate, cyclotrimethylenetrinitramine, or other similar compounds used for high energy rate forming, expanding and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

"Terminal" means those facilities used by carriers for the receipt, transfer, temporary storage or delivery of articles or materials.

"Testing blasting cap No. 8" means one containing two grams of a mixture of 80% mercury fulminate and 20% potassium chlorate, or a cap of equivalent strength.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Transport or transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

"Vehicle" means a conveyance of any type operated upon the highways.

SECTION F-2601.0. GENERAL REQUIREMENTS.

F-2601.1. Manufacturing: The manufacture of explosives or blasting agents shall be prohibited unless such manufacture is approved. This shall not apply to hand loading of small arms ammunition for personal use when not for resale.

F-2601.2. Storage: The storage of explosives and blasting agents is prohibited within the limits established by law as the limits of the jurisdication having authority in which such storage is to be prohibited, except for temporary storage for use in connection with approved blasting operations, provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material.

F-2601.3. Quantity control: If necessary, the code official shall limit the quantity of explosives or blasting agents to be permitted at any location.

F-2601.4. Sale and display: Explosives shall not be sold, given, delivered, or transferred to any person or company not in possession of a valid license or permit. A holder of a permit to sell explosives shall make a record of all transactions involving explosives. Such record shall be made available to the fire official upon request, and shall be retained for five years. An accumulation of invoices, sales slips, delivery tickets, receipts, or similar papers representing individual transactions will satisfy the requirements for records provided they include the signature of any receiver of the explosives. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

SECTION F-2602.0. STORAGE OF EXPLOSIVES.

F-2602.1. General: Explosives, including special industrial high explosive materials, shall be stored in magazines which meet the requirements of this article. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

F-2602.2. Control in wholesale and retail stores: The storage of explosives shall not be within wholesale and retail stores. The storage of explosives for wholesale and retail sales shall be in approved outdoor magazines except that not more than 50 pounds of black or smokeless powder may be stored in a Type 4 indoor magazine.

F-2602.3. Magazine clearances: Magazines shall be located away from inhabited buildings, passenger railways, public highways and other magazines in conformance with Table F-2602, except as provided in Section F-2602.2.

F-2602.4. Magazine construction: Magazines shall be constructed and maintained in accordance with IME publication No. 1.

(NOTE: Refer to Section F-2600.4 for the use of magazines.

F-2602.4.1. Weather resistance: Magazines for the storage of explosives shall be weather resistant and properly ventilated and when used for storage of Class A explosives other than black powder, blasting caps and electric blasting caps, shall also be bullet resistant.

F-2602.4.2. Magazines heat and light: Magazines shall not be provided with artificial heat or light, except that if artificial light is necessary, an approved electric safety flashlight or safety lantern shall be used.

F-2602.5. Safety precautions: Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 50 feet (15240 mm) of magazines. Combustible materials shall not be stored within 50 feet (15240 mm) of magazines.

F-2602.5.1. Surrounding terrain: The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 25 feet (7620 mm).

F-2602.5.2. Locking security: Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

F-2602.5.3. Magazine housekeeping: Magazines shall be kept clean, dry and free of grit, paper, empty packages and rubbish.

F-2602.5.4. Separation of detonators and explosives: Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

F-2602.5.5. Explosive unpacking: Packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet (15240 mm) of a magazine.

F-2602.5.6. Magazine contents: Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

F-2602.6. Unstable explosives: When an explosive has deteriorated to an extent that it is an unstable or dangerous condition, or if liquid leaks from any explosive, then the person in possession of such explosive shall immediately report that fact to the code official and upon his approval shall proceed to destroy such explosives and clean floors stained with liquid in accordance with the instructions of the manufacturer. Only experienced persons shall do the work of destroying explosives.

F-2602.7. Class I magazine warnings: Property upon which Class I magazines are located shall be posted with signs reading "Explosives - Keep Off." Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone shoots at the sign.

F-2602.8. Class II magazine warnings: Class II magazines shall be painted red and shall bear lettering in white, on all sides and top at least 3 inches (76 mm) high, "Explosives - Keep Fire Away."

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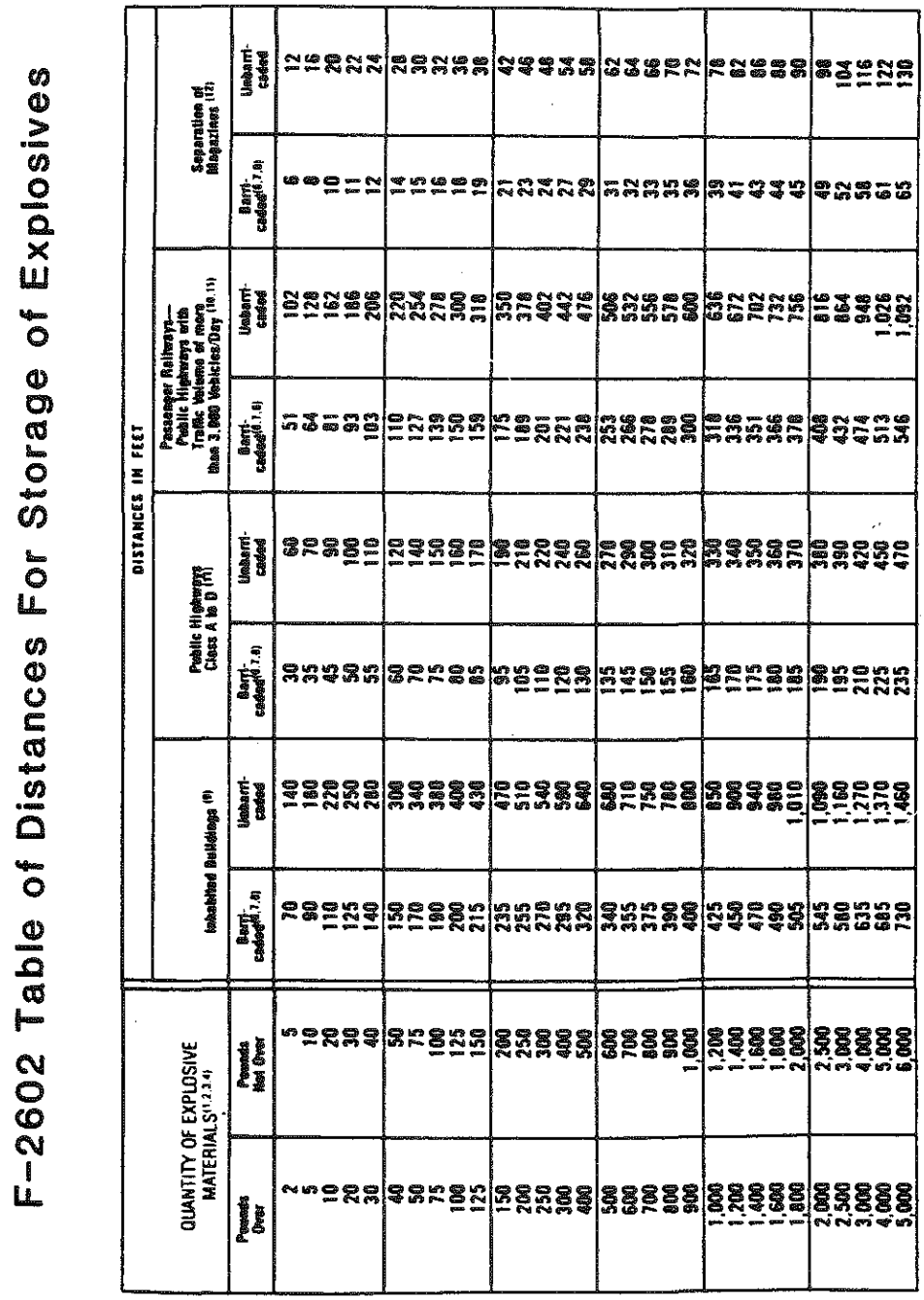


F-2602 Table of Distances For Storage of Explosives

QUANTITY OF EXPLOSIVE MATERIALS[1,2,3,4]		DISTANCES IN FEET							
		Inhabited Buildings [9]		Public Highways Class A to D [11]		Passenger Railways—Public Highways with Traffic Volume of more than 3,000 Vehicles/Day [10,11]		Separation of Magazines [12]	
Pounds Over	Pounds Not Over	Barricaded [7,8]	Unbarricaded	Barricaded [7,8]	Unbarricaded	Barricaded [7,8]	Unbarricaded	Barricaded [7,8]	Unbarricaded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	285	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130

QUANTITY OF EXPLOSIVE MATERIALS		DISTANCES IN FEET							
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

Numbers in ( ) refer to explanatory notes.

NOTE 1—"Explosive materials" means explosives, blasting agents and detonators.

NOTE 2—"Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. A list of explosives determined to be within the coverage of "18 U.S.C. Chapter 40, Importation, Manufacturer, Distribution and Storage of Explosive Materials" is issued at least annually by the Director of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury. For quantity and distance purposes, detonating cord of 50 grains per foot should be calculated as equivalent to 8 lbs. of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.

NOTE 3—"Blasting agents" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: Provided, That the finished product, as mixed for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

NOTE 4—"Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires. All types of detonators in strengths through No. 6 cap should be rated at 1½ lbs. of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

NOTE 5—"Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

NOTE 6—"Natural Barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding explosures which require protection cannot be seen from the magazine when the trees are bare of leaves.

NOTE 7—"Artificial Barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

NOTE 8—"Barricaded" means the effective screening of a building containing explosive materials from the magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

NOTE 9—"Inhabited Building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

NOTE 10—"Railway" means any steam, electric, or other railroad or railway which carriers passengers for hire.

NOTE 11—"Highway" means any public street, public alley, or public road. "Public Highways Class A to D" are highways with average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3–74, 1956 Edition, John Wiley and Sons).

NOTE 12—When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 13—Storage in excess of 300,000 lbs. of explosive materials, in one magazine is generally not required for commercial enterprises.

NOTE 14—This Table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

SECTION F-2603.0. TRANSPORTATION OF EXPLOSIVES.

F-2603.1. General: Explosives shall not be transported on public conveyances. When transported in vehicles, the following precautions shall be observed.

F-2603.2. Vehicle design: Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and shall be in good mechanical condition. Explosives being transported shall be contained in an enclosed locking container attached to the vehicle either of which protects the explosives against moisture and sparks. Such vehicle shall be weather resistant, have tight floors, and exposed spark-producing metal on the inside of the cargo area to prevent contact with packages of explosives.

F-2603.3. Trailer prohibitions: Class A, B and C explosives shall not be transported in trailers or multitrailer units with the exception of one semitrailer drawn by tractor truck.

Exception: Fire and police officials of local governments acting in their official capacity.

F-2603.3.1. Transporting explosives in passenger type vehicles: Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except pickup trucks in compliance with Section F-2603.2. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight.

F-2603.4. Vehicle restrictions: Vehicles containing explosives shall not be taken into a garage, or repair shop for repairs or storage.

F-2603.5. Vehicle contents: Only those dangerous articles authorized to be loaded with explosives by DOT 49CFR listed in Appendix A shall be carried in the body of a vehicle transporting explosives.

F-2603.6. Vehicle inspections: It shall be the duty of the person to whom a permit has been issued to transport explosives over the highway of the jurisdiction to inspect daily those vehicles under such authority and employed for this purpose to determine that:

1. Fire extinguishers are filled and in operating condition;

2. Electric wires are insulated and securely fastened;

3. The motor, chassis and body are reasonably clean and free of excessive grease and oil;

4. The fuel tank and fuel line are securely fastened and are not leaking;

5. Brakes, lights, horn, windshield wipers and steering mechanism are functioning properly;

6. Tires are properly inflated and free of defects; and

7. The vehicle is in proper condition for transporting explosives.

F-2603.7. Vehicle signs: Every vehicle transporting explosives shall be marked or placarded in accordance with state and federal Transportation Regulations as outlined in Section F-2600.1.

F-2603.8. Separation of detonators and explosives: Blasting caps, or electric blasting caps, shall not be transported over the highways of the jurisdiction on the same vehicle with other explosives, except when in compliance with IME/Safety Library Publication No. 22.

F-2603.9. Vehicle traveling clearances: Vehicles transporting explosives and traveling in the same direction shall not be driven within 300 feet (91440 mm) of each other.

F-2603.9.1. Vehicle routing: Vehicles transporting explosives shall be routed to avoid congested traffic and densely populated areas.

F-2603.10. Fire extinguisher: Every vehicle used for transporting explosives shall be equipped with not less than two approved fire extinguishers, suitable for use on flammable liquid fires, filled and ready for immediate use, and located near the driver's seat.

Trucks of less than 14,000 pounds GVW rating shall have two extinguishers with total fire extinguisher rating of at least 4-A: 20-B:C; and trucks over 14,000 pounds GVW rating and tractor semitrailer units shall have two or more extinguishers with total fire extinguisher rating of at least 4-A: 70-B:C.

F-2603.11. Operating precautions: A person shall not smoke, carry matches or any other flame-producing device, or carry any firearms or other loaded cartridges while in or near a vehicle transporting explosives, or drive, load or unload any such vehicle in a careless or reckless manner.

F-2603.11.1. Spark protection: Spark producing metal or spark producing metal tools shall not be carried in the explosives cargo area of a vehicle.

F-2603.12. Vehicles: Vehicles transporting explosives shall not be left unattended at any time within the jurisdiction. Unauthorized persons shall not ride on vehicles transporting explosives. Attended vehicles may be parked for meals or restroom stops, not exceeding one hour, at locations that are a minimum of 300 feet from any bridge, tunnel, dwelling, building or place where people

work, congregate or assemble.

(NOTE: For the purpose of this section, a motor vehicle is considered "attended" only when the driver or attendant is physically on or in the vehicle or has the vehicle within his field of vision and can reach it quickly and with no interference. "Attended" also means that the driver or attendant is awake, alert, and not engaged in other duties or activities which may divert his attention from the vehicle.

F-2603.13. Emergency conditions: The fire and police departments shall be promptly notified when a vehicle transporting explosives is involved in an accident, breaks down, or catches fire. Only in the event of such an emergency shall the transfer of explosives from one vehicle to another vehicle be allowed on highways within a local jurisdiction and only when qualified supervision is provided. Except in such an emergency, a vehicle transporting explosives shall not be parked before reaching its destination on highways within the jurisdiction or adjacent to or in proximity to any bridge, tunnel, dwelling, building or place where people work, congregate or assemble.

F-2603.14. Delivery: Delivery shall only be made to authorized persons and into approved magazines or approved temporary storage or handling areas.

F-2603.15. Explosives and blasting agents at terminals: The code official shall designate the location and specify the maximum quantity of explosives or blasting agents which are to be loaded, unloaded, reloaded or temporarily retained at each terminal where such operations are permitted. Terminals shall be operated pursuant to NFiPA 498.

F-2603.16. Department of Transportation regulations: Shipments of explosives or blasting agents delivered to carriers shall comply with DOT49CFR listed in Appendix A.

F-2603.17. Carrier responsibility: Carriers shall immediately notify the code official when explosives or blasting agents are received at terminals.

F-2603.18. Notice to consignee: Carriers shall immediately notify consignees of the arrival of explosives or blasting agents at terminals.

F-2603.19. Consignee responsibility: The consignee of a shipment of explosives or blasting agents shall remove them from the carrier's terminal within 48 hours, Sundays and holidays excluded, after being notified of their arrival.

SECTION F-2604.0. STORAGE OF BLASTING AGENTS AND SUPPLIES.

F-2604.1. General: Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in Section F-2602.0 for explosives. The quantity of blasting agents or oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

F-2604.2. Storage location: Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table F-2602.

F-2604.3. Storage housekeeping: The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire resistance rating of not less than one hour. The provisions of this section shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

F-2604.4. Trailer storage requirements: Semitrailers or full trailers used for temporarily storing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602. Trailers shall be provided with substantial means for locking and the trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

F-2604.5. Oxidizers and fuels: Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

F-2604.6. Oxidizer handling: Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

SECTION F-2605.0. TRANSPORTATION OF BLASTING AGENTS.

F-2605.1. General: When blasting agents are transported in the same vehicle with explosives, all of the requirements of Section F-2603.0 shall apply.

F-2605.2. Vehicle condition: Vehicles transporting blasting agents shall be in safe operating condition at all times.

F-2605.3. Vehicle signs: Every vehicle transporting blasting agents shall be marked or placarded in accordance with state and federal Transportation Regulations as outlined in Section F-2600.1.

F-2605.4. Vehicle contents: Oils, matches, firearms, acids or other corrosive liquids shall not be carried in the body of any vehicle transporting blasting agents.

Exception: The firearms restriction does not apply to law-enforcement personnel.

F-2605.5. Personnel condition: A person shall not be

permitted to ride upon, drive, load or unload a vehicle containing blasting agents while smoking or under the influence of intoxicants or narcotics. They shall also be familiar with all state and municipal traffic regulations and shall not be in violation of § 46.1-124 (Motor Vehicle Code; transportation of explosives).

SECTION F-2606.0. HANDLING OF EXPLOSIVES.

F-2606.1. Mixing blasting agents: Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602.

F-2606.2. Quantity of mixing agents: Not more than one day's production of blasting agents or the limit determined by Table F-2602, whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

F-2606.3. Compounding standards: Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with NFiPA 495 and DOT 49 CFR listed in Appendix A.

F-2606.4. Ignition protection: Smoking or open flames shall not be permitted within 50 feet (15240 mm) of any building or facility used for the mixing of blasting agents.

F-2606.4.1. Unpacking tools: Tools used for opening packages of explosives shall be constructed of nonsparking materials.

F-2606.5. Waste disposal: Empty oxidizer bags shall be disposed of daily by burning in a safe manner in the open at a safe distance from buildings or combustible materials.

F-2606.5.1. Packing material disposal: Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved isolated location out of doors, and any person shall not be nearer than 100 feet (30480 mm) after the burning has started.

SECTION F-2607.0. BLASTING.

F-2607.1. Time: Blasting operations shall be conducted during daylight hours except when otherwise approved.

F-2607.2. Personnel: The handling and firing of explosives shall be performed by the person certified as a blaster under section F-2600.2.3 of this code or by employees under that person's direct on-site supervision who are at least 21 years old.

1. A person shall not handle explosives while under the influence of intoxicants or narcotics.

2. A person shall not smoke or carry matches while handling explosives or while in the vicinity thereof.

3. An open flame light shall not be used in the vicinity of explosives.

F-2607.3. Clearance at site: At the site of blasting operations, a distance of at least 150 feet (45720 mm) shall be maintained between Class II magazines and the blast area when the quantity of explosives temporarily kept therein is in excess of 25 pounds (11.35 kg), and at least 50 feet (15240 mm) when the quantity of explosives is 25 pounds (11.35 kg) or less.

F-2607.4. Notice: Whenever blasting is being conducted in the vicinity of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. This time limit shall not be waived except in an emergency as determined by the code official.

F-2607.5. Responsibility: Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a loud warning signal has been sounded.

F-2607.6. Precautions: Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lighting, adjacent power lines, dust storms or other sources of extraneous electricity.

These precautions shall include:

1. The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electrical storm;

2. The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet (106.75 mm) of the blasting operations; and

3. Compliance with NFiPA 495 listed in Appendix A when blasting within 1-1/2 miles (2.41 km) of broadcast or highpower short wave radio transmitters.

4. Misfires shall be handled as directed by equipment manufacturers with no entering the blasting site, except the blaster, until the loaded charges have been made to function or have been removed.

F-2607.7. Congested areas: As required by the fire official, when blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation susceptible to damage, the blast shall be covered before firing, with a mat or earth so that it is capable of preventing rock from being thrown into the air out of the blast area.

F-2607.8. Blast records: A record of each blast shall be kept and retained for at least three years and shall be avialable for inspection by the fire official. These records shall contain the following minimum data:

1. Name of contractor.

2. Location and time of blast.

3. Name of certified blaster in charge.

4. Type of material blasted.

5. Number of holes bored and spacing.

6. Diameter and depth of holes.

7. Type and amount of explosives.

8. Amount of explosives per delay of 8 milliseconds or greater.

9. Method of firing and type of circuit.

10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building.

11. Weather conditions.

12. If mats or other precautions were used.

13. Type of detonators and delay periods.

14. Type and height of stemming.

15. Seismograph records where indicated.

SECTION F-2608.0. STANDARDS FOR CONTROL OR AIRBLAST AND GROUND VIBRATION.

F-2608.1. Airblast: This section shall apply to airblast effects as recorded at the location of any private dwelling, public building, school, church, and community or institutional building not owned or leased by the person conducting or contracting for the blasting operation. If requested by a property owner registering a complaint and deemed necessary by the fire official, measurements on three consecutive blasts, using approved instrumentation, shall be made near to the structure in question.

F-2608.1.1. Maximum airblast: The maximum airblast at any inhabited building, resulting from blasting operations, shall not exceed 130 decibels peak, or 140 decibels peak at any uninhabited building, when measured by an instrument having a flat frequency response (+3 decibels) over a range of at least 6 to 200 Hertz.

F-2608.2. Ground vibration: This section shall provide for limiting ground vibrations at structures that are neither owned nor leased by the person conducting or contracting for the blasting operation. Engineered structures may safely withstand higher vibration levels based on an approved engineering study upon which the fire official may then allow higher levels for such engineered structures. When blasting operations are to be conducted within 200 feet of a pipe line or high voltage transmission line, the contractor shall notify the owner of the line, or his agent, that such blasting operations are intended.

(NOTE: Each Table, F-2608A to F-2608C has an increasing degree of sophistication and each can be implemented either by the fire official as a result of complaints or by the contractor to determine site specific vibration limits. The criteria in Tables F-2608 A, B, C and Section F-2608.3 are intended to protect low rise structures including dwellings.)

F-2608.2.1. Blasting without instrumentation: Where no seismograph is used to record vibration effects, the explosive charge weight per delay (8 milliseconds or greater) shall not exceed the limits shown in Table F-2608A. When charge weights per delay on any single delay period exceed 520 pounds, then ground vibration limits for structures shall comply with Tables F-2608B, F-2608C or Section F-2608.3.

F-2608.2.2. Monitoring with instrumentation: Where a blaster determines that the charge weights per delay given in Table F-2608A are too conservative, he may choose to monitor at the closet conventional structure each blast with an approved seismograph and conform to the limits set by Tables F-2608 B, C or Section F-2608.3.

(NOTE: From this point onwards, the explosive charge weight per delay may be increased but the vibration levels detailed in Tables F-2608 B, C or Section F-2608.3 shall not be exceeded.)

F-2608.3. Response spectra: A relative velocity of 1.5 inches per second or less, within the 4 to 12 Hertz range of natural frequencies for low rise structures, shall be recorded as determined from an approved response spectra.

F-2608.4. Instrumentation: A direct velocity recording seismograph capable of recording the continuous wave form of the three mutually perpendicular components of motion, in terms of particle velocity, shall be used and shall have the following characteristics:

1. Each seismograph shall have a frequency response from 2 to 150 Hertz or greater; a velocity range from 0.0 to 2.0 inches per second or greater; adheres to design criteria for portable seismographs outlined in U.S. Bureau of Mines RI 5708, RI 6487 and RI 8506.

2. All field seismographs shall be capable of internal dynamic calibration and shall be calibrated according to the manufacturers' specifications at least once per year.

3. All seismographs shall be operated by competent people trained in their correct use and seismographs records analyzed and interpreted as may be required by the fire official.

F-2608.5. Seismographic records: A record of each blast shall be kept. All records, including seismograph reports, shall be retained for at least three years and shall be available for inspection. Records shall include the following information:

1. Name of company or contractor.

2. Location, date and time of blast.

3. Name, signature and social security number of blaster in charge.

4. Type of material blasted.

5. Number of holes, burden and spacing.

6. Diameter and depth of holes.

7. Type of explosives used.

8. Total amount of explosives used.

9. Maximum amount of explosives per delay period of 8 milliseconds or greater.

10. Method of firing and type of circuit.

11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting.

12. Weather conditions including such factors as wind direction, etc.

13. Height or length of stemming.

14. Type of protection, such as mats, that were used so to prevent flyrock.

15. Type of detonators used and delayed period used.

16. The exact location of the seismograph, if used, and shall also show the distance of the seismograph from the blast.

17. Seismograph readings where required shall contain:

a) Name and signature of person operating the seismograph.

b) Name of person analyzing the seismograph records.

c) Seismograph reading.

18. The maximum number of holes per delay period of 8 milliseconds or greater.

Table 2608 A
Charge Weight per Delay
Dependent on Distance

Distance to a Building feet over		feet not over	Weight of Explosive per Delay pounds	Distance to a Building feet over		feet not over	Weight of Explosive per Delay pounds
0	to	5	1/4	250	to	260	45
5	to	10	1/2	260	to	280	49
10	to	15	3/4	280	to	300	55
15	to	60	**	300	to	325	61
60	to	70	6	325	to	350	69
70	to	80	7 1/4	350	to	375	79
80	to	90	9	375	to	400	85
90	to	100	10 1/2	400	to	450	98
100	to	110	12	450	to	500	115
110	to	120	13 3/4	500	to	550	135
120	to	130	15 1/2	550	to	600	155
130	to	140	17 1/2	600	to	650	175
140	to	150	19 1/2	650	to	700	195
150	to	160	21 1/2	700	to	750	220
160	to	170	23 1/4	750	to	800	240
170	to	180	25	800	to	850	263
180	to	190	28	850	to	900	288
190	to	200	30 1/2	900	to	950	313
200	to	220	34	950	to	1000	340
220	to	240	39	1000	to	1100	375
240	to	250	42	1100	to	1200	435
				1200	to	1300	493

Note to Table

* This table over 60 feet is based upon the formula $W = \frac{D^{1.5}}{90}$

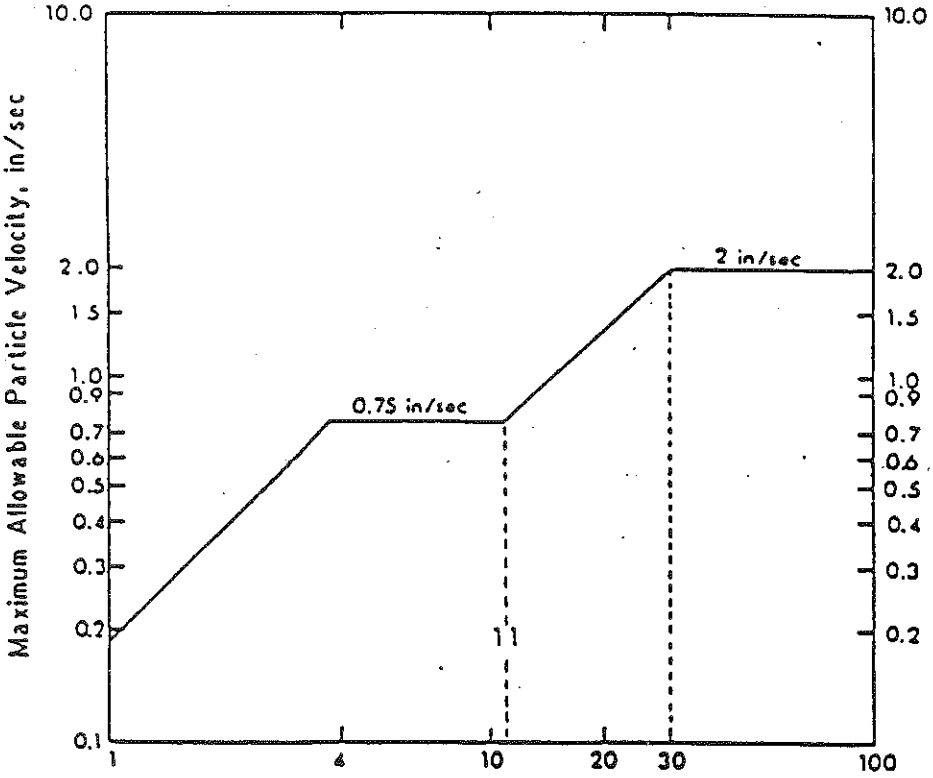
** One tenth of a pound of explosive per foot of distance to a building.

Table 2608 B
Peak Particle Velocity
Dependent on Distance

Distance feet over		feet not over	Peak Particle Velocity of Any One Component* inches per second
0	to	100	2.00
100	to	500	1.50
500	to	1000	1.00
over		1000	0.75

Note to Table
* The instrument's transducer shall be firmly coupled to the ground.

Table 2608 C
Particle Velocity Criteria
Dependent on Frequency Content



NOTE: This criteria is derived from the U. S. Bureau of Mines - RI 8507 (Appendix B) and provides a continuously variable particle velocity criteria dependent on the frequency content of the ground motion. The method of analysis shall be approved by the Fire Official and shall provide an analysis showing all the frequencies present over the 1-50 Hertz range.

SECTION F-2609.0. THEFT OR DISAPPEARANCE OF EXPLOSIVES.

F-2609.1. Reports of stolen explosives: Pursuant to § 27-91.1 of the Code of Virginia, any person holding a permit for the manufacture, storage, handling, use or sale of explosives issued in accordance with this code shall report to the State Police and the local law-enforcement agency any theft or other disappearance of any explosives or blasting devices from their inventory. In addition, notification shall be made to the fire official having issued the permit.

F-2609.2. Reports of injuries or property damage: The fire official shall be immediately notified of injuries to any person or damage to any property as a result of the functioning of the explosive.

F-2609.3. Relationship of local fire official and State Fire Marshal: The local fire official shall relay information obtained from reports required by sections F-2609.1 and F-2609.2 to the Office of the State Fire Marshal.

ARTICLE 27.
FIREWORKS.

1. Change section 2700.1 to read:

F-2700.1. Scope: The manufacture, transportation, display, sale or discharge of fireworks shall comply with the requirements of Chapter 11, Title 59, of the Code of Virginia.

2. Change section F-2700.4 to read:

F-2700.4. Definition: Fireworks shall mean and include any item known as firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air. The term "fireworks" does not include auto flares, caps for pistols, pinwheels, sparklers, fountains or Pharoah's serpents provided, however, these permissible items may only be used, ignited or exploded on private property with the consent of the owner of such property.

3. Delete section F-2701.1 General.

4. Delete section F-2701.3 Exceptions.

ARTICLE 30.
LIQUEFIED PETROLEUM GASES.

1. Change section F-3000.1 to read:

F-3000.1. Scope: The equipment, processes and operation for storage, handling, transporting by tank truck or tank trailer, and utilizing LP gases for fuel purposes, and for odorization of LP gases shall comply with the Virginia Liquefied Petroleum Gas Regulations in effect at the time of construction as provided for in Chapter 7, Title 27 of the Code of Virginia.

2. Delete section F-3000.3 Record of installation:.

3. Delete section F-3000.4 Definitions:.

4. Delete section F-3001.0 Tank container system.

5. Delete section F-3002.0 Container storage.

6. Delete section F-3003.0 Use inside buildings.

7. Delete section F-3004.0 Fire safety requirements.

8. Delete section F-3005.0 Abandonment of equipment.

* * * * * * * *

Title of Regulation: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1987.**

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Public Hearing Date: October 17, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

NOTICE: Due to its length the 1987 Edition of the Virginia Uniform Statewide Building Code, Volume I - New Construction Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

Volume I - New Construction Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide uniform regulation which must be complied with in all buildings or additions hereafter constructed, altered, enlarged, repaired, or converted to another use group. Its purpose is to protect the health, safety and welfare of building users, and to provide for energy conservation, water conservation and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA model Building Code. The New Construction Code specifies the enforcement procedures to be used by local governments. Enforcement by local governments is mandatory. Provision is made for modifications by the building official when alternate means will provide equivalent health and safety. An administrative appeals system is

established for resolution of disagreements between the buildingowner and the building official.

The proposed amendments to the regulation are as follows:

1. Add construction standards for ammunition storage magazines.

2. Add building security requirements for Use Groups R-1, R-2 and R-3 occupancies which will require dead bolt locks, solid core wood or metal doors, and other security measures.

3. Amend requirements to require 50% more toliet facilities for women in Use Groups A-1, A-3, A-4, and A-5, which include places of public assembly such as public meeting halls, museums, coliseums, theaters, etc.

4. Amend regulations to require that no more than two dwelling units be allowed per floor, per building unless separated by a 2 hour rated noncombustible fire wall.

MARINE RESOURCES COMMISSION

Habitat Management Division

Title of Regulation: **VR 450-01-0051. Wetlands Mitigation - Compensation Policy.**

Statutory Authority: Chapter 2.1 (§ 62.1-13.1 et seq.) of Title 62.1 of the Code of Virginia.

Public Hearing Date: September 6, 1988 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

These guidelines will be used by the Marine Resources Commission and local wetlands boards to evaluate projects which may require wetlands mitigation or compensation pursuant to Virginia's Wetlands Act (Chapter 2.1 of Title 62.1 of the Code of Virginia).

VR 450-01-0051. Wetlands Mitigation - Compensation Policy.

§ 1. Definitions.

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

"Compensation" means actions taken which have the effect of substituting some form of wetland resource for those lost or significantly disturbed due to a permitted development activity; generally habitat creation or restoration. Compensation is a form of mitigation.

"Mitigation" means all actions, both taken and not taken, which eliminate or materially reduce the adverse effects of a proposed activity on the living and nonliving components of a wetland system or their ability to interact.

§ 2. Policy.

In spite of the passage of the Virginia Wetlands Act and the Federal Water Pollution Control Act in 1972, the pressures to develop lands, including wetlands along Virginia's shoreline, have continued to accelerate as evidenced by the increasing number of permit applications being submitted. At the same time scientific research has demonstrated that certain wetlands can be established or reestablished in areas where wetlands are not found at present. This has led to an increasing number of proposals calling for the destruction of wetlands in one area in order to accommodate development, and the creation of wetlands in another area in order to offset the loss of the natural wetland resource.

Although compensating for the loss of a wetland by establishing another of equal or greater area sounds very attractive in theory and has been regarded as successful in a few specific cases, in general, this form of mitigation has proven difficult to successfully implement. Many questions regarding the ecological soundness and feasibility of substituting one habitat for another remain to be answered. In addition, a number of studies have demonstrated that for various reasons the created habitats either never attain the level of productivity or diversity of the natural systems they replace or simply are not capable of performing the ecological functions of the undisturbed habitat.

Although California and Oregon now require compensation for lost wetlands on all projects, states such as North Carolina and New Jersey have taken a much more limited approach to the mitigation-compensation question. In general, these latter two states rely on wetland compensation only as a last resort to replace wetlands whose loss is highly justified and unavoidable. Virginia to this point has also taken a very conservative tack with regard to the use of wetland compensation as a management tool.

The Commission, and these guidelines, do not require that all wetlands losses be compensated. They do recommend, however, that compensation be required on a limited basis to replace unavoidable wetlands losses. There are three main reasons for this recommendation.

First, a literature survey and experience with implementing compensation on a day-to-day basis reveal a number of significant problems with the comcept itself that remain to be resolved.

Secondly, there are general philosophical and technical questions regarding compensation which have not been answered by the scientific community to this point in

time.

Thirdly, and most importantly, a reading of the Wetlands Act clearly indicates that the General Assembly intended for the Commonwealth's wetland resources to be preserved in their "natural state," and emphasized through its declaration of policy, the importance of an overall ecological approach to wetlands management.

> *"The Commonwealth of Virginia hereby recognizes the unique character of the wetlands, an irreplaceable natural resource which, in its natural state, is essential to the ecological systems of the tidal rivers, bays and estuaries of the Commonwealth." (Emphasis added)*

The General Assembly also stated that where economic development in the wetlands is clearly necessary and justified it will be accommodated while preserving the wetlands resource.

> *"....it is declared to be the public policy of this Commonwealth to preserve the wetlands and to prevent their despoliation and destruction and to accommodate necessary economic development in a manner consistent with wetlands preservation." (Emphasis added)*

In § 62.1-13.3 of the Code of Virginia the General Assembly mandated the preservation of the ecological systems within wetlands of primary ecological significance and then stated:

> *"Development in Tidewater, Virginia, to the maximum extent possible, shall be concentrated in wetlands of lesser ecological significance, in wetlands which have been irreversibly disturbed before July 1, 1972, and in areas of Tidewater, Virginia, apart from the wetlands."*

The General Assembly has spelled out clearly that "necessary economic development" is to be accommodated in Tidewater, Virginia, but that the emphasis is on wetlands preservation in their natural state.

§ 3. General criteria.

It shall remain the policy of the Commonwealth to mitigate or minimize the loss of wetlands and the adverse ecological effects of all permitted activities through the implementation of the principles set forth in these Wetlands Guidelines which were promulgated in 1974 and revised in 1982. To determine whether compensation is warranted and permissible on a case-by-case basis, however, a two-tiered mechanism will be implemented. This dual approach will consist first of an evaluation of necessity for the proposed wetlands loss (see § 4). If the proposal passes this evaluation, compensation will be required and implemented as set forth in the second phase, the Supplemental Guidelines.

The primary thrust of combining the existing Wetland Guidelines with the two-tiered compensation guidelines is to preserve the wetlands as much as possible in their natural state and to require compensation only when the loss of the natural resource is unavoidable and has the highest public and private benefit.

§ 4. Specific criteria.

In order for a proposal to be authorized to destroy wetlands and compensate for same in some prescribed manner, the three criteria listed below must be met. If the proposal cannot meet one or more of these criteria, the activity shall be denied, or must occur in areas apart from the wetlands. Should it satisfy all three criteria, however, compensation for the wetlands lost is required.

> *1. All reasonable mitigative actions, including alternate siting, which would eliminate or minimize wetlands loss or disturbance shall be incorporated in the proposal.*
>
> *2. The proposal shall clearly be water-dependent in nature.*
>
> *3. The proposal shall demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.*

§ 5. Supplemental guidelines.

If compensation is required, then the following guidelines should be given due consideration and, if appropriate, may be included as conditions of the permit:

> *1. A detailed plan, including a scaled plan view drawing, shall be submitted describing the objectives of the wetland compensation, the type of wetland to be created, the mean tide range at the site, the proposed elevations relative to a tidal datum, the exact location, the areal extent, the method of marsh establishment and the exact time frame from initial work to completion.*
>
> *2. Once the grading is completed at the planting site, it should be inspected by a competent authority to insure that the elevations are appropriate for the vegetation to be planted and that the surface drainage is effective.*
>
> *3. The compensation plan and its implementation must be accomplished by experienced professionals knowledgeable of the general and site-specific requirements for wetland establishment and long-term survival.*
>
> *4. A performance bond or letter of credit is required and shall remain in force until the new wetland is successfully established; a minimum of two growing seasons.*

5. The compensation marsh should be designed to replace as nearly as possible, the functional values of the lost resource on an equal or greater basis. In general this means creating a marsh of similar plant structure to that being lost. This may not be the case where a lesser value marsh is involved (i.e. Group 4 or 5 wetlands). A minimum 1:1 areal exchange is required in any case.

6. The compensation should be accomplished prior to, or concurrently with, the construction of the proposed project. Before any activity under the permit may begin, the permittee must own all interests in the mitigation site which are needed to carry out the mitigation.

7. All reasonable steps must be taken to avoid or minimize any adverse environmental effects associated with the compensation activities themselves.

8. On-site compensation is the preferred location alternative with off-site in the same watershed as a consideration when on-site is not possible. Locating a compensation site outside the river basin of the project is not acceptable unless it is done as part of a state-coordinated program of ecological enhancement.

9. In selecting a compensation site, one aquatic community should not be sacrificed to "create" another. In cases where dredged material must be placed overboard, the area may be used to create marsh, oyster rock or improve the resource value of the bottom.

10. The type of plant community proposed as compensation must have a demonstrated history of successful establishment in order to be acceptable.

11. The proposed activity should stand on its own merits in the permit review. Compensation should not be used to justify permit issuance.

12. Manipulating the plant species composition of an existing marsh community, as a form of compensation, is unacceptable.

13. Nonvegetated wetlands should be treated on an equal basis with vegetated wetlands with regard to compensation and mitigation, unless site-specific information indicates one is more valuable than the other.

14. Both short- and long-term monitoring of compensation sites should be considered on a case-by-case basis. For unproven types of compensation the applicant will be responsible for funding such monitoring as is deemed necessary.

15. Where on-site replacement for noncommercial projects is not feasible, compensation for small wetland losses (less than 1,000 square feet) should be avoided in favor of eliminating loss of the natural marsh to the maximum extent possible.

16. Conservation or other easements to be held in perpetuity should be required for the compensation marsh. Easements accepted by the Commission will be processed in accordance with the provisions of § 62.1-13.17 of the Code of Virginia.

17. All commercial projects which involve unavoidable wetland losses should be compensated.

18. The purchase and donation for public use of existing wetlands is not an acceptable form of compensation for wetlands lost to development.

* * * * * * * *

Habitat Management Division

Title of Regulation: **VR 450-01-0052. Criteria for the Placement of Sandy Dredged Material Along Beaches in the Commonwealth.**

Statutory Authority: § 62.1-3 of the Code of Virginia.

Public Hearing Date: September 6, 1988 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

This document sets forth criteria which will be used by the Commission staff to evaluate dredging projects to assure that all suitable dredged material is utilized of eroding beach shorelines to the maximum extent practicable.

VR 450-01-0052. Criteria for the Placement of Sandy Dredged Material Along Beaches in the Commonwealth.

§ 1. Objectives and goals.

A. The objective is to assure that all suitable dredged material is utilized on eroding beach shorelines to the maximum extent practicable.

B. In considering dredging permit applications, the Commission will endeavor to:

1. Support § 10.1-704 of the Code of Virginia which provides that the beaches of the Commonwealth be given priority consideration as sites for the disposal of that portion of dredged material determined to be suitable for beach nourishment.

2. Coordinate and cooperate with the appropriate state and federal agencies to the extent that VMRC regulatory actions can support those agencies in administering House Joint Resolution No. 223, 1987

session, regarding the use of dredged material for beach nourishment.

3. Resolve or minimize legal, environmental and engineering problems which can result from inadequate planning of dredged material placement.

§ 2. Purpose.

The purpose of this document is to develop manageable criteria and threshold levels for use by Commission staff in determining which projects justify a requirement for the expenditure of funds by an applicant for sediment tests as well as investigation of legal, environmental and engineering implications inherent in every dredged material placement proposal.

§ 3. Policy.

The Commission will strive to achieve maximum beneficial uses of suitable dredged material for those projects which qualify under criteria established herein while protecting the interests of the Commonwealth in the land and the resources lying channelward of the mean low water shoreline which land and resources are owned by the Commonwealth and are to be held as a common for use by all its citizens.

§ 4. General criteria.

Increasing interest in the beneficial uses of dredged material dictates a more structured approach to the processing of dredging permit applications. The criteria contained in the Subaqueous Guidelines is generally environmental in nature. Yet parameters to be considered in attempting to utilize suitable material for beach nourishment are frequently economic, legal, political, or technical, as well as environmental, and most often a combination of all these factors.

Because of the complexity of interests involved, certain threshold levels are needed to more readily define projects which justify the time and expense of determining whether beach nourishment is a reasonable alternative.

The following general criteria should be used to determine candidate projects suitable for detailed evaluation:

1. More than 7,500 cubic yards of material is to be removed and, based on previous experience, there is a reasonable expectation that usable quantities of suitable beach nourishment material free from toxic compounds is present in the material to be dredged.

2. Beaches with a demonstrated need for and capability of accepting all or a part of the available material are within proximity of the dredging site.

3. The political subdivision within which the potential placement site is located has expressed an interest in obtaining beach nourishment material.

4. The applicant understands that he will be required to undertake the research necessary to locate private property owners willing to accept the material if no publicly owned shoreline is in reasonable proximity.

5. When beach nourishment is incorporated into a dredging project, a more comprehensive subsurface investigation plan is required than if dredging is the only consideration.

§ 5. Specific criteria.

1. Sufficient borings must be made and analyzed to develop a clear picture of the vertical and horizontal limit of sand deposits in the dredging area. Such borings are the responsibility of the dredging applicant.

2. Shoreline investigations at the nourishment site shall determine the characteristics of the native material, the location of utilities, structures, outfall pipes, property lines along shore transport, and other basic engineering considerations.

3. Engineering information must be analyzed to determine acceptable grain size range of fill material, design berm height, width and length, probable fate of the material, expected loss rates and the resulting maintenance requirements.

4. Legal easements and public rights-of-way must be obtained from property owners which preserve public use and state ownership of all state-owned submerged land existing channelward of mean low water shoreline prior to the placement of any material. These legal documents are the responsibility of the dredging applicant or property owners, or both.

5. The project should be engineered in a manner which results in the least environmental impact while providing an efficient and cost effective construction plan. Consideration will be given, but not limited to, the project's potential impacts on existing natural resources and habitats. These include, inter alia, existing finfish, shellfish, turtle and avian species and their critical time periods for spawning, nesting and nursery functions in areas of submerged aquatic vegetation, wetlands and submerged or intertidal and beach habitat.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance. VR 460-03-4.194. Nursing Home Payment System (Part III, Appeals).**

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

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

Summary:

These proposed regulations revise the existing provider appeals regulations in the Nursing Home Payment System. These regulations parallel the hospital appeals regulations and incorporate provisions of the Administrative Process Act. These proposed regulations permit relief for nursing homes requesting reimbursement rates above their peer group ceilings.

VR 460-03-4.194. Nursing Home Payment System (Part III, Appeals).

PART III.
APPEALS.

~~§ 3.1. Appeals overview.~~

~~While the principles of reimbursement are not appealable, the interpretation and application of those principles are subject to reconsideration and appeal.~~

~~§ 3.2. Qualification Standards.~~

~~A. An appeal will not be granted until the following standards are met:~~

~~1. Where appeals are based upon the result of desk or field audit adjustments, the provider must have received notification in writing of such adjustments.~~

~~2. Any and all monies due to DMAS must be paid in full, unless a payment plan has been agreed to by the Director of the Division of Provider Reimbursement of the Department of Medical Assistance Services.~~

~~3. All first level appeal requests must be stated in writing to the DMAS within ninety (90) days, following the receipt of a letter from DMAS that adjustments have been made to a specific cost report.~~

~~§ 3.3. Appeal Procedure.~~

~~A. Appealable items shall be referred first to the Director of the Division of Provider Reimbursement for resolution. After such a hearing has been held, the appeals officer shall notify the provider in writing the decisions reached within thirty (30) days following such hearing.~~

~~B. If the provider disagrees with the first-level appeal decision(s), the provider may, at his discretion, notify the Director of the Department of Medical Assistance Services in writing within thirty (30) days following receipt of such decision(s) and request a formal appeal hearing.~~

~~C. Within thirty (30) days of the receipt of such hearing request, the Director shall appoint a hearing officer to conduct the proceedings and to review and advise the Department on the issues and the evidence presented.~~

~~D. The Director shall notify the provider of the decisions reached within forty-five (45) days of the receipt of the court reporter's records.~~

~~E. The formal hearing concludes the provider's administrative appeal rights.~~

~~F. The hearing officer shall have gross knowledge of the Medicare Medicaid reimbursement system and the applicable rules, regulations, and cost limitations.~~

~~G. All appeal procedures must be concluded within one hundred eighty (180) days of the initial request for an informal appeal.~~

~~§ 3.4. Formal Hearing Procedures.~~

~~A. Names and titles of all members present made available to the court reporter;~~

~~B. Hearing officer's opening remarks;~~

~~C. Identification of counsel;~~

~~D. Swearing in of witnesses;~~

~~E. Submission of written testimony;~~

~~F. Examination and gross-examination of witnesses by appelant counsel and DMAS.~~

~~G. Questioning of witnesses by the hearing officer; and~~

~~H. Closing remarks-appellant counsel, DMAS and hearing officer.~~

§ 3.1. Right to appeal.

A. Right to appeal.

Any provider seeking to appeal its prospective payment rate or a desk review or field audit adjustment shall, pursuant to § 3.2 B, submit a written request to the Director of the Division of Provider Reimbursement within 30 days of receipt of the certified letter transmitting the adverse determination. This time limit may be extended by the director upon receipt of a written request showing good cause and, at a minimum, containing a notice of intent to appeal and a brief statement of the proposed basis for appeal.

B. Required information.

Any request to appeal a prospective rate or adjustment shall specify the nature of the adjustment sought and the amount of adjustment sought.

C. Nonappealable issues.

1. The following basic principles will not be subject to appeal: (i) the organization of participating providers into peer groups according to location and the level of care provided; (ii) the use of Medicaid and applicable Medicare Principles of Reimbursement to determine allowable cost; (iii) the calculation of the initial regional medians and ceilings; (iv) the calculation of initial allowable operating cost as of July 1, 1982; and (v) the use of a reimbursement escalator as the prospective escalator.

2. While the basic principles of reimbursement are not appealable, the interpretation and application of those principles are subject to reconsideration and appeal.

3. While the established regional ceilings are nonappealable, a provider may seek individual relief under the provisions of § 3.3.

D. The rate or adjustment which may be appealed shall include costs which are for a single cost reporting period only.

E. The time limits prescribed herein shall be complied with unless a delay is required due to circumstances beyond the control of the party requesting an extension of time.

§ 3.2. Administrative appeal of adverse departmental determination.

A. General.

The administrative appeal of an adverse departmental determination shall be made in accordance with the Virginia Administrative Process Act, §§ 9-6.14:11 through 9-6.14:14 of the Code of Virginia, as set forth below.

B. The informal proceeding.

1. The provider shall submit a written request to the Director of the Division of Provider Reimbursement to appeal an adverse departmental determination in accordance with § 9-6.14:11 of the Code of Virginia within 30 days of receipt of the certified letter transmitting the adverse determination.

2. The request for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia shall include the following information:

a. The adverse departmental action appealed; and

b. A description of the factual data, argument or information the provider will rely on to challenge the adverse decision.

3. The department shall afford the provider an opportunity for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia within 45 days of the request.

4. An appeals coordinator designated by the department shall conduct the informal conference. The appeals coordinator may request such additional documentation or information from the provider or department as may be necessary.

5. After the informal conference, the appeals coordinator, having considered the applicable criteria for relief set forth herein, shall recommend to the Director of the Division of Provider Reimbursement any of the following actions:

a. Notify the provider that its request for relief is denied, setting forth the reasons for such denial, or

b. Notify the provider that its appeal has merit and advise it of the action which will be taken, or

c. Notify the provider that its request for relief will be granted in part, and denied in part, setting forth the reasons for the denial in part and the action which will be taken to grant relief in part.

6. The decision of the Director of the Division of Provider Reimbursement shall be rendered within 30 days of the conclusion of the informal conference.

C. The formal administrative hearing: procedures.

1. The provider shall submit its written request for a formal administrative hearing under § 9-6.14:12 of the Code of Virginia to the Director of the Department of Medical Assistance Services within 15 days of receipt of the certified letter transmitting the adverse informal decision.

2. At least 21 days prior to the date scheduled for the formal hearing, the provider shall provide the department with:

a. Identification of the adverse action appealed, and

b. A summary of the factual data, argument and proof the provider will rely on in connection with its case.

3. The department shall schedule the formal administrative hearing within 30 days of the receipt of the request.

4. A hearing officer, appointed in accordance with § 9-6.14:14.1 of the Code of Virginia, shall preside over the hearing. The hearing officer shall recommend findings and a decision to the Director of the Department. If the recommendation is adverse to the provider, the provider shall have an opportunity to file exceptions to the proposed findings and conclusions.

5. The Director of the Department of Medical Assistance Services shall make the final administrative decision in each case.

6. The decision of the department shall be rendered within 60 days of the conclusion of the administrative hearing.

§ 3.3. Relief for rates above ceiling.

In no event shall the Department of Medical Assistance Services award additional reimbursement above the peer group ceiling to a provider for operating costs relating to the provision of patient care, unless the provider demonstrates to the satisfaction of the department that the Medicaid rate it receives under the Medicaid prospective payment system is insufficient to ensure Medicaid recipients reasonable access to sufficient patient services of adequate quality. In making such demonstration, the provider shall show that:

1. The current Medicaid prospective payment rate jeopardizes the long-term financial viability of the provider. Financial jeopardy is presumed to exist if, by providing care to Medicaid recipients at the current Medicaid rate, the provider can demonstrate that it is, in the aggregate, incurring a marginal loss.

2. For purposes of this section, marginal loss is the amount by which total variable costs for each patient day exceed the Medicaid payment rate. In calculating marginal loss, the provider shall compute the variable and fixed cost components of total patient operating costs appropriate to the institution and shall demonstrate to the department's satisfaction that the provider's ratio is correct.

3. Financial jeopardy may also exist if the provider is incurring a marginal gain but can demonstrate that it has unique and compelling Medicaid costs which, if unreimbursed by Medicaid, would clearly jeopardize the provider's long-term financial viability.

§ 3.4. Demonstration of proof.

A. The provider shall bear the burden of proof in seeking relief from the prospective payment rate or an adjustment. The standard of proof shall be the preponderance of the evidence.

B. In determining whether to award additional reimbursement to a provider for operating costs relating to the provision of patient care that is above the peer group ceiling, the department shall consider the following:

1. Whether the provider has demonstrated that its operating costs are generated by factors generally not shared by other providers in its peer group. Such factors are limited to the items listed below:

a. Atypical services in which the provider can show that:

(1) The actual cost of items or services furnished by a provider exceeds the applicable ceiling because such items or services are atypical in nature and scope, compared to the items or services generally furnished by providers similarly classified, and

(2) The atypical items or services are furnished because of the special needs of the patients treated and are necessary in the efficient delivery of needed health care.

b. Extraordinary circumstances. The provider can show that it incurred higher costs due to extraordinary circumstances beyond its control. These circumstances include, but are not limited to strikes, fire, earthquake, flood, or similar unusual occurrences with substantial cost effects.

c. Providers in areas with fluctuating populations.

(1) The provider is located in an area (e.g., a resort area) that has a population that varies significantly during the year; and

(2) The appropriate state health planning agency or Health Commissioner has determined that the area does not have a surplus of beds and similar services and has certified that the beds and services made available by the provider are necessary.

2. Whether the provider has taken every reasonable action to contain costs on a facility-wide basis.

a. In making such a determination, the department may require that the provider submit quantitative data compared to similar data from other providers within that provider's peer group or from other providers deemed by the department to be comparable. In making such comparisons, the department may develop operating or financial ratios which are indicators of performance quality in particular areas of operation. A finding that the data or ratios, or both, of the provider fall within a range exhibited by the majority of comparable providers may be construed by the department to be evidence that the provider has taken every reasonable action to contain costs in that particular area. The department may use any data or standards acceptable to it. The provider shall be afforded an opportunity to rebut ratios, standards or comparisons utilized by the department in accordance with this section.

b. Factors to be considered in determining effective cost containment may include by are not limited to the following:

(1) Average daily occupancy;

(2) Average hourly wage;

(3) FTEs per adjusted occupied bed;

(4) Nursing salaries per adjusted patient day;

(5) Average cost (food/nonfood) per meal served;

(6) Average cost per pound of laundry;

(7) Housekeeping cost per square foot;

(8) Maintenance cost per square foot;

(9) Medical records cost per admission;

(10) Current ratio (current assets to current liabilities);

(11) Age of receivables;

(12) Bad debt percentage;

(13) Inventory turnover; and

(14) Measures of case mix.

c. In addition, the department may consider the presence or absence of the following systems and procedures in determining effective cost containment in the provider's operation:

(1) Flexible budgeting system;

(2) Case mix management systems;

(3) Cost accounting systems;

(4) Materials management system;

(5) Participation in group purchasing arrangements;

(6) Productivity management systems;

(7) Cash management programs and procedures;

(8) Strategic planning and marketing; and

(9) Medical records systems.

d. Nothing in this provision shall be construed to require a provider to demonstrate every factor set forth above or to preclude a provider from demonstrating effective cost containment by using other factors.

3. Whether the provider has demonstrated that the Medicaid prospective payment rate it receives to cover operating costs related to inpatient care is insufficient to provide care and service that conform to applicable state and federal laws, regulations, and quality and safety standards.

C. The department may require that an on-site operational review of the provider be conducted by the department or its designee.

D. In determining whether to award additional reimbursement to a provider for reimbursable costs which are other than operating costs related to the provision of patient care, the department shall consider Medicaid and applicable Medicare rules of reimbursement.

§ 3.5. Available relief.

A. Any relief granted under §§ 3.1 through 3.4 shall be for one cost reporting period only.

B. Relief for providers seeking additional reimbursement for operating costs incurred in the provision of patient care shall not exceed the difference between:

1. The cost per allowable Medicaid day arising specifically as a result of circumstances identified in accordance with §§ 3.3 and 3.4 (excluding plant costs and if applicable, return on equity capital), and

2. The prospective operating cost per diem, identified in the Medicaid Cost Report and calculated by the department.

C. Relief for providers seeking additional reimbursement for costs considered as "pass-throughs" under the prospective payment system shall not exceed the difference between the payment made and the actual allowable cost incurred.

D. Any relief awarded under §§ 3.1 through 3.4 shall be effective from the first day of the cost period for which the challenged rate was set.

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 HEALTH

Title of Regulation: **VR 355-19-02. Notice of Reestablishment and Description of Shellfish Area Condemnations.**

The Virginia Department of Health, Division of Shellfish Sanitation has **withdrawn** this regulation which was published in 4:22 VA.R. 2356-2358 August 1, 1988.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 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: July 19, 1988

Summary:

The regulations establish a program to permit the extension of home equity loans by the authority to elderly low and moderate income persons and families. The regulations set forth the events which will cause the loans to be due and payable; provide for the factors on which the maximum amounts of the accounts will be based; require the accounts to be secured by mortgages on the principal residences of the borrowers; authorize the executive director to issue commitments for the accounts; specify the provisions to be included in the commitments; and authorize the promulgation of procedures, instructions and guidelines setting forth the requirements and criteria for eligibility of applicants and their homes and the terms and conditions governing the accounts.

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.

§ 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.

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.

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. 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.

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 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 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 repsect 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 reglations 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 numbers 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.

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.

PART VIII.
MULTI-FAMILY HOUSING ACQUISITION PROGRAM.

§ 8.1. Acquisition of developments and the making of construction loans.

A. This Part VIII shall govern (i) the acquisition, ownership and operation by the authority of multi-family housing developments and (ii) the making of construction loans by the authority to housing sponsors to finance the development and construction of such developments prior to acquisition thereof by the authority. The term "construction" as used in this part shall be deemed to include rehabilitation.

B. Authority acquisitions as described in subsection A of this section shall be made at such purchase price and on such terms and conditions as shall be set forth in the board's resolution authorizing such acquisition or in the commitment issued on behalf of the authority pursuant to such resolution. The authority may acquire either (i) existing developments or (ii) proposed developments upon completion of construction in accordance with plans and specifications approved by the authority.

C. Authority construction 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 estimated housing development costs as determined by the authority, and to nonprofit housing sponsors in amounts not to exceed 100% of the estimated 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. The term of any such construction loan, the estimated housing development costs, the principal amount of the construction loan, the terms and conditions applicable to any equity contribution by the housing sponsor, any assurances of successful completion of the housing development, and other terms and conditions of such construction loan shall be set forth in the board's resolution authorizing such construction loan and acquisition of the development or in the commitment issued on behalf of the authority pursuant to such resolution.

§ 8.2. Applications and processing.

A. The processing of applications for authority acquisitions and construction loans pursuant to this Part VIII 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 the authority's acquisition of the development and, if applicable, an authority construction loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority commitment to the housing sponsor to enter into a contract to acquire the development and, if applicable, to provide construction financing for the development.

C. Any such resolution made pursuant to subsection B hereof, 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 the development and construction, if applicable, and the acquisition of the proposed housing development, the disbursement and repayment of the authority construction loan, if applicable, and other matters related to the development and construction, if applicable, and, prior to the acquisition thereof by the authority, the ownership, operation, marketing and occupancy of the proposed housing development. Such resolution or authority 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.

D. Neither an acquisition by the authority of a development nor an authority mortgage loan for such development pursuant to this Part VIII shall be authorized unless the board by resolution shall make the applicable findings required by § 36-55.33:2 and § 36-55.39, as applicable, of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority acquisition or mortgage loan in advance of the issuance of the commitment therefor in accordance herewith without making the finding, if applicable, required by subsection A of § 36-55.33:2 and 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 authority's acquisition of the development and, if applicable, the financing of the authority mortgage loan for such development. As used in this section, mortgage loan shall include a construction loan as described in § 8.1 hereof or a mortgage loan as described in § 8.4 hereof.

E. Subsequent to adoption of the resolution of the board authorizing the acquisition by the authority of a development and, if applicable, an authority mortgage loan for such development, the executive director may, without further action by the board, increase the purchase price of such development and, if applicable and if deemed appropriate by the executive director, the principal amount of the authority mortgage loan for such development by an amount not to exceed 2.0% of such purchase price or mortgage loan, as applicable, 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.

§ 8.3. Tenant selection plan.

As a part of each application for the authority's acquisition of a development and, if applicable, an authority construction loan under this Part VIII, 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 as described in § 2.5 of these rules and regulations. Upon the acquisition of a development by the authority or by an entity described in § 8.4 of these rules and regulations, the authority or such entity, as applicable, shall also prepare a tenant selection plan as described in § 2.5 of these rules and regulations (it being understood that for the purpose of complying with that section the authority or aforementioned entity shall be deemed to be the housing sponsor with regard to the development). In addition, in the case of a tenant selection plan prepared by an entity described in § 8.4 of these rules and regulations, such plan shall be submitted to the authority for its review and approval.

§ 8.4. Acquisition by an entity formed by the authority.

With respect to any development which the authority contracts to acquire, the authority may assign all of its right, title and interest under such contract to acquire such development to an entity formed by the authority, on its own behalf or in conjunction with other parties, to serve as the housing sponsor for such development pursuant to § 36-55.33:2 of the Act. The resolution authorizing the acquisition of the development may authorize an authority mortgage loan to such entity to finance the acquisition and ownership of the development. Such mortgage loan shall be made in such principal amount and on such terms and conditions as shall be set forth in the resolution or in the commitment, if any, issued on behalf of the authority pursuant thereto or as shall be determined by the executive director in accordance with the resolution authorizing such mortgage loan, the Act, these rules and regulations, and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. Such entity shall be subject to regulation as provided in § 2.3 of these rules and regulations and, if such entity is a for-profit housing sponsor, the board may in its resolution prescribe in accordance with subsection B of § 2.4 of these rules and regulations, the maximum annual rate at which distributions may be made by such entity. For the

purpose of determining any maximum annual dividend distributions and the maximum principal amount of the mortgage loan, the total development cost shall be the cost of acquisition as determined by the authority and such other costs relating to such acquisition, the financing of the mortgage loan and the ownership and operation of the development as the authority shall determine to be reasonable and necessary. Except as otherwise expressly provided herein, the provisions of this Part VIII shall, with respect to any mortgage loan to such an entity and the ownership, operation and occupancy of the development financed thereby, supersede Part I and any provisions of these rules and regulations contrary hereto or inconsistent herewith.

§ 8.5. Operation and income limits.

A. The developments shall be owned and operated by the authority (or an entity as described in § 8.4 of these rules and regualtions) in accordance with the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

B. To be considered eligible for occupancy of a multi-family dwelling unit in a development acquired by an authority (or an entity as described in § 8.4 of these rules and regulations), 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 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. The authority (or an entity as described in § 8.4 of these rules and regulations) shall examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units in a development acquired pursuant to this Part VIII and shall 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. In the case of determinations and redeterminations made by an entity described in § 8.4 of these rules and regulations, such entity shall report such determinations and redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of such a dwelling unit, and of each occupant thereof, 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 authority (or an entity as described in § 8.4 of these rules and regulations) 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 surcharges 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 authority (or an entity as described in § 8.4 of these rules and regulations) may 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.

PART IX.
HOME EQUITY ACCOUNTS.

§ 9.1. General purpose.

This Part IX shall govern the extension of home equity accounts and the making of loan payments pursuant thereto by the authority to elderly persons and families of low and moderate income who are owners of single family dwelling units for the purpose of enabling them to utilize the equity in such dwelling units.

§ 9.2. Eligibility and terms.

A. A home equity account may be extended pursuant to this Part IX only to a person or family of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The requirements and criteria for eligibility of applicants and single family dwelling units and the terms and conditions governing the home equity account shall be set forth in the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. A home equity account loan shall not be made for a fixed term but shall be due and payable only upon the death of the borrower, sale or transfer of the dwelling unit or any interest therein, failure to continue to occupy the dwelling unit as the principal residence of the borrower, or default under the loan documents, all as more particularly set forth in the procedures, instructions

and guidelines. All principal and interest payments shall be deferred until the home equity account loan becomes due and payable. The total amount which may be disbursed pursuant to any home equity account shall be based upon the interest rate or rates charged thereon, the age of the applicant and the value of the dwelling unit in accordance with a schedule established pursuant to the procedures, instructions and guidelines but in no event shall such total amount exceed [~~*the lesser of $100,000 or 100% of the market value of the dwelling unit as determined from time to time by the authority*~~ *$50,000*].

C. Home equity accounts shall be secured by mortgages, in such form or forms as may be approved by the executive director, on the single family dwelling units owned and occupied by the borrowers as their principal residences.

§ 9.3. Application and processing.

A. The processing of applications for home equity accounts under this Part IX shall 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 application for a home equity account meet the requirements of the Act, the rules and regulations set forth in this Part IX, 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 equity account subject to the approval or ratification thereof by the authority's board. The maximum amount of the home equity account and the interest rate or rates to be charged thereon (or the manner for determining such maximum amount and interest rate or rates), the terms and conditions relating to prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment. Such maximum amount and interest rate may be subject to adjustment in such manner as the procedures, instructions and guidelines may provide. Such commitment shall be issued only upon the determination of the authority that such a home equity account loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the authority commitment.

The effective date of the foregoing amendments to the rules and regulations shall be July 19, 1988.

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Title of Regulation: **VR 400-02-0012. Virginia Housing Fund Procedures, Instructions and Guidelines.**

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

Effective Date: July 19, 1988

Summary:

Under the current procedures, instructions and guidelines, the interest rate on a loan from the fund is generally not lower than the rate on a U.S. government or agency security for an equivalent term. The amendment will allow the interest rates on such loans to be based upon a schedule and criteria established by the authority's board of commissioners and thus will permit greater flexibility in interest rates.

VR 400-02-0012. Virginia Housing Fund Procedures, Instructions and Guidelines.

PART I.
PURPOSE AND APPLICABILITY.

§ 1.1. Definitions.

"Act" means the Virginia Housing Development Authority Act as set forth in Chapter 1.2 (§ 36-55.24 et seq.) of the Code of Virginia.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making an application or proposal under these procedures, instructions and guidelines.

"Application" or "proposal" means a written request to the authority by a prospective borrower for a loan or a written request to the authority by an applicant requesting the establishment of a loan program or other assistance under the procedures, instructions and guidelines.

"Authority" means the Virginia Housing Development Authority.

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

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

"Fund" means the housing fund created by the authority from moneys in its general fund for the purposes set forth herein.

"Loan" means any extension of credit which is made or financed or is to be made or financed pursuant to these procedures, instructions and guidelines.

"Loan program" means any program requested to be

developed or implemented by the authority for the purpose of providing loans pursuant to these procedures, instructions and guidelines.

"U.S. government or agency security" means direct general obligations of the United States of America; obligations the payments of the principal of and interest on which, in the opinion of the Attorney General of the United States in office at the time such obligations were issued, are unconditionally guaranteed by the United States of America; or bonds, debentures, participation certificates or notes issued by any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof the bonds, debentures, participation certificates or notes of which are unconditionally guaranteed by the United States of America.

§ 1.2. Applicability and purpose.

The procedures, instructions and guidelines that follow will be applicable to loans or programs for loans which are made or financed or are proposed to be made or financed by the authority to borrowers who have presented proposals or applications for loans or loan programs from the fund.

The purpose of the fund is to create new housing opportunities for lower income Virginians through its operation as a special purpose revolving loan fund. The highest priority is placed upon serving the elderly, disabled, and homeless as well as families in need of affordable housing not otherwise being serviced by other housing programs. The fund will also seek to provide support for comprehensive programs of neighborhood revitalization.

There will be special emphasis placed upon using the fund to attract and leverage other housing aid of all kinds including, but not limited to, financial, in kind, tax incentives and subsidies. The fund shall be used to encourage partnerships with both public and private interests including state agencies, localities and nonprofit organizations. The goal is to maximize the participation in, and resources devoted to, solving housing problems of lower income Virginians.

There will be an emphasis on creative uses of the fund which will result in the most effective use of its resources and advancement of the state of the art in providing decent housing at an affordable cost to lower income Virginians.

Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein, where deemed appropriate by him, for good cause, to the extent not inconsistent with the Act and the authority's rules and regulations.

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 repsonsibilities of the authority, the borrower, any contractors or any other parties under any agreements or documents relating to the loan.

These procedures, instructions and guidelines are intended to provide a general description of the authority's processing requirements for loans or loan programs under the fund and are not intended to include all actions involved or required in the processing and administration of such loans or loan programs. Because the fund is an experimental venture, in order to refine and improve its implementation, it is the intention of the authority to be flexible in its interpretation of the principles set forth herein for loans or loan programs of special merit. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by additional policies, procedures, instructions and guidelines adopted by the authority from time to time. The authority reserves the right to change the size of the fund or its uses as circumstances may reasonably dictate.

PART II.
PRINCIPLES GOVERNING THE FUND.

§ 2.1. General principles.

A. The fund is a revolving loan fund. It is the authority's intent that repaid principal plus interest, less any loss of interest or principal in the event of default sustained by the fund, will be recycled and loaned to additional projects up to the full amount of the fund as approved by the board of commissioners.

B. Project and program proposals will be given preference in the selection process to the extent they address the following:

1. Needs of the user group, which shall be primary;

2. Partnerships which maximize leveraging of fund loans;

3. Extent to which the project is either innovative or demonstrates a possible "breakthrough" idea for serving lower income households or both;

4. Potential for the project to the replicable (i.e., demonstration);

5. Financial soundness and experience of the sponsor.

C. Proposals should seek to maximize the number of persons or projects which are served. Projects which highly leverage fund moneys by attracting external subsidies and capital are encouraged.

D. The authority will seek an equitable geographic distribution of loans made from the fund.

E. All loans to be made from the fund shall comply with all applicable laws and regulations to which the authority is subject and with any procedures, instructions and guidelines applicable or to be applicable thereto and such other underwriting criteria as the executive director deems necessary to protect the interests of the authority as lender.

PART III.
TERMS OF LOANS AND INTEREST RATES.

§ 3.1. Terms of loans.

Ten years shall be the maximum loan term, although longer amortization schedules may be utilized.

§ 3.2. Interest rates.

The interest rate on loans shall ~~generally not be lower than the rate on a U.S. government or agency security for an equivalent term. Such policy should provide interest rates~~ *be determined pursuant to a schedule and criteria established from time to time by a resolution of the board of commissioners. Such interest rates are expected to be* significantly lower ~~to borrowers from the fund~~ than those which would be available from other sources and, at the same time, will provide continuing support for the authority's currently outstanding and future bond issues. The authority realizes that loans will have significantly higher risks than alternative investments and will have little or no liquidity. If deemed necessary, all or a portion of the interest payments on loans may be deferred by the authority.

PART IV.
PROPOSALS AND LOAN APPLICATIONS.

§ 4.1. Solicitation of applications and proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals or applications for the fund. 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 and selection of applications and proposals 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 moneys in the fund are to be allocated and such other matters as he shall deem appropriate relating to the selection of applications and proposals or the establishment of programs. The authority may also consider and approve applications and proposals submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 4.2. Authority programs under the fund.

Programs may be designed and operated by the authority if they are innovative, cannot currently be conventionally funded, or may serve as models for future state or bond funding.

§ 4.3. Application and selection for processing.

Application for a loan or loan program shall be commenced by filing with the authority an application or proposal 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.

Based on the applications, proposals, documents and any additional information submitted by applicants or obtained from other sources by the authority, a subcommittee of the board of commissioners shall select for processing those applications and proposals which it determines may best satisfy the purposes and principles of the fund set forth in §§ 1.2 and 2.1 hereof.

Nothing contained herein shall require the authority to select any application or proposal which, in the judgment of the subcommittee of the board of commissioners, does not adequately satisfy the purposes and principles of the fund set forth in §§ 1.2 and 2.1 hereof.

The selection by the subcommittee of the board of commissioners shall be based only on the documents and information received or obtained by it at that time and shall be subject to modification or reversal upon receipt and further analysis of additional documents or information at a later time.

After selection of an application or proposal for a loan has been made by the subcommittee of the board of commissioners, such application will then be processed by the authority in accordance with the authority's applicable procedures, instructions and guidelines or, if no such procedures, instructions and guidelines are applicable, in accordance with such written agreement or agreements with the applicant as the executive director may require to effect the purposes and principles hereof and to protect the authority's interest as lender.

After selection of an application or proposal for a loan program has been made by the subcommittee of the board of commissioners, the authority may implement such program by (i) applying any then existing procedures, instructions and guidelines of the authority, (ii) promulgating new procedures, instructions and guidelines therefor, or (iii) entering into such written agreement or agreements with the applicant or proposed borrowers or both as the executive director may require consistent with the purposes and principles hereof and the authority's

interest as lender.

These procedures, instructions and guidelines shall be effective as of July 19, 1988.

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Title of Regulation: **VR 400-02-0015. Procedures, Instructions and Guidelines for the Virginia Senior Home Equity Account.**

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

Effective Date: July 19, 1988

Summary:

The procedures, instructions and guidelines include provisions relating to the processing of applications; eligibility of applicants and dwelling units; and terms and conditions applicable to the accounts and loans made thereunder. Important matters addressed by the procedures, instructions and guidelines are the minimum age and maximum incomes of eligible applicants, requirements as to the status of title and ownership of the home, the maximum amount available under the account, the occurrence of events which cause the loans to be due and payable, limits on the amount and frequency of equity payments for which equity payments may be required, and procedures and requirements for applying for an account and for requesting equity payments thereunder, and closing requirements and fees.

VR 400-02-0015. Procedures, Instructions and Guidelines for the Virginia Senior Home Equity Account.

PART I.
PURPOSE AND APPLICABILITY.

§ 1.1. Definitions.

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

"Applicant" means a person or family, as defined in the authority's rules and regulations, who submits an application for a home equity account. An applicant may be an individual applicant or a joint applicant, as defined herein.

"Application" means a request to the authority by an applicant for a home equity account.

"Application date" means the date on which a completed application is received by the authority.

"Appraised value" means the value of a home as determined by an independent fee appraiser retained by the authority.

"Area agency on aging" or "AAA" means one of the local area agencies on aging which have been established on a local and regional basis throughout the Commonwealth pursuant to § 2.1-373 of the Code of Virginia.

"Area median income" means the area median income, adjusted for family size, for areas within the Commonwealth as established and published from time to time by the United States Department of Housing and Urban Development.

"Assessed value" means the value of the home as determined by the real estate assessment office of the local government body for tax purposes. The applicable assessed value shall be that value which is in effect as of the application date.

"Authority" means the Virginia Housing Development Authority, a political subdivision of the Commonwealth of Virginia, constituting a public instrumentality.

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

"Borrower" means a person or family, as defined in the authority's rules and regulations, to whom a home equity account loan is made by the authority. If a home equity account loan is made to more than one individual, such individuals are sometimes referred to herein as joint borrowers.

"Eligible applicant" means an applicant who satisfies the criteria set forth in Part II of these procedures, instructions and guidelines.

"Equity payment" means a loan disbursement made by the authority to a borrower pursuant to an equity payment request.

"Equity payment request" means a request completed and signed by a borrower for the purpose of requesting an equity payment by the authority pursuant to the borrower's home equity account. Such payment request shall be on such form as prescribed by the authority and shall be mailed or delivered to the authority.

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

"Home" means single family residential housing, as defined in the Act, which meets the requirements set forth in Part III of these procedures, instructions and guidelines.

"Home equity account" means a line of credit made available by the authority to an eligible applicant which is secured by a first mortgage lien upon the applicant's home and, pursuant to which the authority agrees to make equity payments to the applicant in accordance with the applicant's equity payment requests, in amounts not to exceed the maximum established therefor and in accordance with the terms and conditions set forth in Part IV of these procedures, instructions and guidelines.

"Home equity account loan" means the disbursements of equity payments to be repaid, together with interest thereon, as provided in these procedures, instructions and guidelines.

"Income" means gross family income as defined in the authority's rules and regulations, including all salary, wages, bonuses, commissions, income from self employment, interest, dividends, alimony, rental income, pensions, business income, annuities, social security payments, cash public assistance, support payments, retirement income and any other sources of cash income which are being received by the applicant as of the application date. All such earnings, provided they are not temporary, shall be computed on an annual basis to determine income for the purpose of program eligibility.

"Individual applicant" means a single person who submits an application pursuant to these procedures, instructions and guidelines.

"Joint applicant" means any two or more persons who submit an application pursuant to these procedures, instructions and guidelines.

"Program" means the Virginia senior home equity account program as described in these procedures, instructions and guidelines.

"Value of home" or "home value" means the fair market value of the home as determined by the authority in accordance with these procedures, instructions and guidelines.

§ 1.2. Purpose and applicability.

This program is being implemented pursuant to Part IX of the authority's rules and regulations. The purpose of the program is to permit elderly homeowners who satisfy certain age, residency and income criteria to borrow against the equity in their homes to assist in meeting housing, medical and other living expenses as specified in § 5.3 herein. Eligible applicants shall receive a commitment from the authority for a home equity account in a maximum amount based upon the interest rate or rates to be charged thereon, the applicant's age and the value of the home. Upon satisfaction of the terms and conditions of such commitment, the authority shall make equity payments to the borrowers upon their request up to the maximum amount. All such equity payments will be made in accordance with the terms and conditions set forth in these procedures, instructions and guidelines. The maximum amount of such home equity account shall be subject to change in the manner set forth in § 4.2. The term during which the borrower may request and receive equity payments shall be established and may be extended as provided in § 4.8 hereof. Repayment of the home equity account loan is deferred as described herein, and, as a result, the borrowers may utilize the equity in their homes without being required to sell their homes at the end of a fixed term in order to repay the home equity account loans.

The program will be administered by the authority with the participation of the Virginia Department for the Aging and local area agencies on aging. Home equity accounts will be financed entirely with authority funds.

Notwithstanding anything to the contrary herein, the executive director of the authority is authorized with respect to any home equity account to waive or modify any provision herein where deemed appropriate by him for good cause to the extent not inconsistent with the Virginia Housing Development Authority Act (the "Act"), the authority's rules and regulations and federal statutes and regulations.

The procedures, instructions and guidelines set forth herein are intended to provide a general description of the authority's requirements and procedures and are not intended to include all of the actions involved or required in the processing and administration of the program. These procedures, instructions and guidelines are subject to amendment at any time by the authority and may be supplemented by additional policies, procedures, instructions and guidelines adopted by the authority from time to time with respect to the program. Notwithstanding anything to the contrary herein, all home equity accounts must comply with any applicable state and federal laws, rules and regulations.

PART II.
ELIGIBILITY OF APPLICANTS.

§ 2.1. Eligible applicants.

An applicant that, as of the application date, satisfies all of the following criteria shall be eligible for a home equity account under the program:

1. Age. An individual applicant or each joint applicant shall be 62 years of age or older.

2. Residency. An individual applicant or each joint applicant shall be a resident of the Commonwealth.

3. Income. The income of an individual applicant or the aggregate of the incomes of all joint applicants shall not, as of the application date, exceed 80% of the area median income.

4. Ownership. An individual applicant or the joint

applicants shall be the sole owner or owners of the home, and no person who is not an owner may be an applicant.

5. Principal residence. An individual applicant or each joint applicant must occupy the home as his principal residence during the term of the home equity account.

6. Relationship of joint applicants. Joint applicants must be related by blood, marriage or adoption.

PART III.
ELIGIBILITY OF THE HOME.

§ 3.1. Title.

At the time of recordation of the deed of trust securing the home equity account, fee simple title to the home shall be vested in the applicant free and clear of all liens, encumbrances, assessments or other defects which might affect the priority of the authority's lien or are otherwise unacceptable to the authority. Notwithstanding the foregoing, the home may be subject to liens securing outstanding balances in an aggregate amount not greater than one third of the maximum amount available under the account; provided, however, that the initial equity payment from the home equity account shall be used at the closing thereof to pay off such outstanding balances in full. If the spouse of an individual applicant has an inchoate dower or curtesy interest in the home, such spouse shall execute the deed of trust securing the home equity account for the purpose of conveying such dower or curtesy interest as security for the home equity account loan.

§ 3.2. Condition of home.

The home and all fixtures attached thereto shall be in a state of repair and condition satisfactory to the authority; provided, however, that the authority may require the applicant to use at settlement all or a portion of the initial equity payment on the home equity account to make necessary repairs and improvements to the home in a manner acceptable to the authority.

§ 3.3. Taxes.

All real estate taxes and assessments due and payable against the home as of the the date of recordation of the deed of trust securing the home equity account shall have been paid by the applicant; provided, however, that the authority may require the applicant to use their initial equity payment to pay such taxes and assessments.

§ 3.4. Insurance.

At the time of recordation of the deed of trust securing the home equity account, the home shall be insured against such loss and by such insurers as the authority shall approve or require and in an amount at least equal to the value of the home or such other amount as the authority may approve.

PART IV.
TERMS AND CONDITIONS.

§ 4.1. Maximum amount.

The authority shall provide to an eligible applicant a maximum amount available under the home equity account based upon the interest rate or rates to be charged thereon, the age of an individual applicant or of the youngest joint applicant as of the application date, and the value of the home.

The value of the home shall be determined by the authority based on the home's assessed value, unless the authority, at its option and at its cost, elects to have the home appraised and to use the appraised value rather than the assessed value in so determining the value of the home. Also, if requested by the applicant, the authority may, at its option and at the cost of such applicant, obtain an appraisal of the home for use by the authority, in lieu of the assessed value, in determining the value of the home.

Prior to September 1, 1988, and on or about January 1 of each subsequent year, the executive director shall establish a schedule which sets the maximum percentages of the home value by age group based upon the interest rate to be in effect for such year. The maximum amount of the home equity account during such year shall be equal to such maximum percentage applicable to the age group of the applicant (or, in the case of joint applicants, the youngest applicant) as of the application date times the value of the home.

The maximum amount available under any home equity account shall in no event exceed [~~$100,000~~ $50,000].

The applicant may, at its option, request a lower maximum amount than may be approved by the authority, in which case the maximum amount shall be the amount so requested.

§ 4.2. Adjustments in the maximum amount.

The maximum amount available under a home equity account shall be adjusted annually in accordance with the schedule then established pursuant to § 4.1 hereof. For the purpose of determining such adjusted maximum amount, the age of the borrower shall be his age (or, in the case of joint borrowers, the youngest borrower's age) as of January 1 of such year. Notwithstanding the foregoing, such maximum amount shall not be increased if (i) the authority has determined not to make funds available for such increase, or (ii) the applicant requests that the maximum amount not be increased.

If on or after five years from the date of extension of the home equity account the borrower has utilized the maximum amount available thereunder, he may request

the authority to approve an increase in the value of the home. Such increase may be granted only if such increase is due to appreciation or improvements. Any such increase shall be determined by the authority based upon the then current assessed value, except that the authority may, at its option and at the request and cost of the borrower, obtain an appraisal for use by the authority, in lieu of the assessed value, in so determining the value of the home. The maximum amount available under the home equity account, as so increased, shall be calculated in accordance with the schedule established pursuant to § 4.1 hereof using the age of the borrower (or, in the case of joint borrowers, the age of the youngest borrower) as of January 1 of the year in which the request was made. Increases in such maximum amount are subject to the determination by the authority to make funds available therefor and shall be at the sole discretion of the authority.

In the event that the borrower had originally requested and received a home equity account in a maximum amount less than the maximum amount for which he was eligible under the schedule established pursuant to § 4.1 hereof, the authority may, at its option and upon the written request of the borrower, increase the maximum amount available under the home equity account up to the maximum amount for which the borrower would then be eligible. Such an increase may be granted at any time upon the request of the borrower and without a determination of a new assessed or appraised value, subject to the authority's determination to make funds available therefor and shall be at the sole discretion of the authority.

§ 4.3. Loan term.

The term of a home equity account loan shall not be a fixed period of time. Such loan shall be due and payable upon the occurrence of any of the following events:

1. A sale or transfer (whether voluntary or involuntary) of the home or any interest therein (other than a transfer to a joint borrower) without the authority's prior written consent.

2. Failure by the borrower and, in the case of joint borrowers, all borrowers to occupy the home as his or their principal residence. Absence from the home for a period of more than 180 consecutive days, without the prior written consent of the authority, shall be deemed to be such a failure.

3. The use of the home, in whole or in part, for purposes other than as a principal residence without the prior written consent of the authority.

4. Failure to pay the home equity balance in full within nine months after the death of the borrower or, in the case of joint borrowers, within nine months after the death of the last surviving borrower.

The home equity account loan may also be declared immediately due and payable in full, at the option of the authority, upon the occurrence of any of the acts of default set forth in § 4.7 of these procedures, instructions and guidelines.

§ 4.4. Interest rate and compounding.

The interest rate to be charged on equity payments disbursed under the program during any calendar year shall be established by the authority prior to January 1 of such year. Any such interest rate shall not apply to equity payments disbursed during prior calendar years. Interest shall be compounded on the first day of each month at the applicable interest rate.

§ 4.5. Equity payments.

A borrower may from time to time request and receive equity payments under a home equity account, subject to the requirements and limitations set forth in these procedures, instructions and guidelines.

No scheduled equity payments shall be made to a borrower. The borrower is required to request and receive an initial equity payment at the time of closing of the home equity account in an amount of not less than $1,000 for any of the purposes set forth in § 5.3 hereof. Subsequent to the initial equity payment, the borrower may request and receive no more than one equity payment during a single calendar month, and each such equity payment must be in an amount of not less than $250.

All equity payments, other than the initial equity payment, shall be made to the borrower by the authority in the form of a check which will be mailed to the borrower's home.

The authority shall bill the borrower for payment of real property taxes and hazard insurance premiums as they become due. The borrower shall be obligated to submit payment to the authority within 30 days after the date of mailing. If payment is not so made, the authority, at its option, may pay property taxes and insurance premiums from the home equity account, to the extent not fully utilized, or may deem such nonpayment by the borrower to be an act of default under § 4.7 hereof.

§ 4.6. Repayments.

The borrower is not required to make any repayments of principal or interest on the home equity account loan until such time as the loan is due and payable as described in §§ 4.3 and 4.7 hereof. The borrower may, at his option, elect to prepay at any time the home equity account loan, in whole or in part, and any such prepayments shall be applied first to accrued interest and then to the outstanding principal amount of the home equity account loan.

§ 4.7. Acts of default.

The occurrence of any of the following events will constitute an act of default for which the home equity account loan shall, at the option of the authority, become immediately due and payable:

1. The imposition on the home or any part thereof of any lien or encumbrance (including mechanics' or tax liens) without the authority's prior written consent, if such lien or encumbrance may have priority over the lien of the home equity account loan or any prior or future equity payments thereunder and is not removed within 90 days.

2. Physical deterioration of the home beyond normal wear and tear and failure to repair, replace and maintain the various components of the home when required or necessary, including the failure to repair damage caused by fire or other casualty within a reasonable time after the occurrence as determined by the authority in its sole discretion.

3. Failure to make payment to the authority for taxes and insurance premiums as described in § 4.5 hereof.

4. A borrower's admission of his inability to pay his debts, making any assignment for the benefit of creditors or filing for relief under federal bankruptcy statutes. The filing of a petition in bankruptcy against the borrower without the borrower's consent will not be an act of default if the petition is dismissed within 60 days of filing.

5. Any omission or misrepresentation by the applicant in the application or in any equity payment request.

6. Any other occurrence which constitutes a default under the terms of the deed of trust securing the home equity account loan.

Upon default, the authority shall be entitled to exercise any one or more of the remedies set forth in the home equity account loan documents or available at law or in equity; provided, however, that, except in the case of a default as described in subdivisions 2 and 5 of this section, the authority shall not seek any personal judgment against the borrower but shall look solely to the home for payment of the home equity account loan.

§ 4.8. Term and extensions of home equity account.

The term during which the borrower shall have the right to request and receive equity payments under a home equity account shall be (i) five years, if the application shall be received prior to September 1, 1989; or (ii) such period of time as the executive director may establish prior to the closing thereof, if the application shall be received on or after September 1, 1989. The executive director may extend such term and any extensions thereof for such period of time and upon such terms and conditions as he may deem appropriate to accomplish the purposes of the program and to best utilize the resources of the authority. The expiration of such term or any extensions thereof shall not in any way affect the then existing principal balance of the home equity account loan or any accrued interest thereon.

[§ 4.9. Repairs.

The authority shall have the right to inspect the home from time to time, to require the borrower to make such repairs as are determined by the authority to be necessary to maintain the home in good condition, and, if such repairs are not promptly made, to cause such repairs to be made and to disburse equity payments under the borrower's home equity account to the parties performing such repairs in amounts necessary to pay the costs thereof.]

PART V.
REQUEST FOR AND USE OF HOME EQUITY ACCOUNT LOAN PAYMENTS.

§ 5.1. Requests for equity payments.

In order to receive an equity payment from the authority under a home equity account, the borrower must submit a request to the authority on a form prescribed by the authority. Such form must be completed and signed by the borrower and delivered to the authority by hand delivery or through the U.S. mail.

§ 5.2. Optional notification of third parties.

At closing, the applicant may, at his option, choose to participate in a voluntary third party notification system. Under this system, the applicant requests that the authority send notification by mail to a third party of his or her choice at least three days prior to the authority's making any equity payment to the applicant of $2,500 or greater. The notification letter shall state that the authority intends to make the equity payment and that such notification is being given to the third party at the request of the applicant. The authority shall make such payment to the applicant if the request is otherwise in compliance with these procedures, instructions and guidelines. Third party notification shall not apply to the applicant's initial equity payment at closing, but only to subsequent equity payments. It is the applicant's responsibility to give the authority an accurate address for the third party; to notify the authority in writing in order to terminate his participation in this notification program; to change his designated third party; or to notify the authority of a change in address for the third party. Nothing contained in this section shall be deemed (i) to impose any liability on the authority for failure to send any notification or (ii) to affect the validity of the equity payment, the obligation of the borrower to repay such equity payment, together with interest thereon, or the rights and remedies of the authority upon any act of default as set forth in § 4.7 hereof.

§ 5.3. Allowable use of funds.

All equity payments requested by borrowers shall be for purposes which are expressly permitted under these procedures, instructions and guidelines or which directly benefit the applicant and demonstrably contribute to enhancing their quality of life, especially their ability to continue to live independently. Such uses shall include, but shall not be limited to, home repairs and maintenance, real estate taxes and insurance, medical expenses (including in-home health care and medical insurance premiums), travel and normal living expenses which the applicant is unable to meet from other sources. Equity payments may not be used for any type of investment or commercial purposes, for the acquisition or construction of another residence, or for any purpose which primarily benefits someone other than the borrower. The authority shall have the right to deny any equity payment request which does not, in its sole discretion, comply with the provisions of this section.

PART VI.
APPLICATION AND PROCESSING.

§ 6.1. Application.

An interested applicant may obtain information about the program through any participating AAA. Informational material about the program may also be made available through senior centers and other agencies and organizations which provide services to the elderly.

If a prospective applicant wishes to submit an application, he shall do so through the local AAA or other organizations designated by the authority. The staff from the AAA will provide the applicant with an application form and will assist him or her in completing the application form. This form will contain any information which the authority deems necessary in order to determine the eligibility of the applicant and the home. This application must be signed and dated by the applicant.

The staff of the AAA will also provide program information to applicants as part of their normal agency responsibilities. Such information will include a description and explanation of the program. Applicants will be encouraged by the AAA to seek advice from others as well, including family members, attorneys and financial advisors. The authority assumes no responsibility for the performance of such services by the AAA.

§ 6.2. AAA review.

Following completion of the application, the AAA staff shall undertake a preliminary review. The purpose of this review shall be to determine if the applicant and the home are eligible under these procedures, instructions and guidelines, subject to final review and approval by the authority. If on the basis of such review the AAA determines that the applicant or the home is not eligible, the applicant shall be so informed and his application shall be terminated. A copy of this application shall be retained by the AAA and provided to the authority upon its request.

Applications which meet all of the eligibility criteria in these procedures, instructions and guidelines shall be forwarded to the authority for review and final approval.

§ 6.3. Authority review and commitment.

Upon receipt of the application, the authority shall review it to determine the eligibility of the applicant and the home. If the applicant and the home are eligible, then the authority shall prepare a commitment to the applicant specifying the terms and requirements for closing the home equity account. This commitment shall be mailed to the applicant with instructions that it must be executed and returned to the authority within such period of time as shall be specified therein. Failure to return the executed commitment agreement within such period of time shall result in the expiration of the commitment, unless the applicant has received a written extension from the authority.

The authority may, at its option, not approve an otherwise eligible application for any of the following reasons:

1. The application contains any untrue statement of a material fact or omits any material fact necessary to make the statement therein not misleading; or

2. The authority has determined that sufficient funds are not available for the program.

§ 6.4. Closing and fees.

If the commitment is signed by the applicant and returned to the authority within the requisite time period, the applicant and the authority shall establish a mutually acceptable place and date for the purpose of executing and delivering all necessary home equity account documents and such other documents as may be required under federal and state law.

At the time of closing, the authority shall collect from the applicant an application and commitment fee in the amount of $100. All other fees and charges associated with the closing, including title search, title insurance, legal fees, and recording costs, must be paid by the applicant. Such fees may, at the option of the applicant, be funded from the initial equity payment from the home equity account.

Subsequent to the closing, the home equity account and equity payments pursuant thereto shall be governed by the terms and conditions set forth herein and in the home equity account loan documents.

§ 6.5. Right to terminate program.

Notwithstanding anything to the contrary herein, the authority shall have the right, at any time, to discontinue accepting new applications for home equity accounts. Such discontinuance shall not, however, affect the terms and conditions of any then existing home equity account.

The foregoing procedures, instructions and guidelines shall take effect July 19, 1988.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Occupational Safety and Health Codes Board

REGISTRAR'S NOTICE: The following Department of Labor and Industry regulations are 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 from Article 2 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. The Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of these regulations.

Title of Regulation: **VR 425-02-02. Ethylene Oxide Standard (1910.1047) - Virginia Occupational Safety and Health Standard for General Industry.**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

The amendment establishes an "excursion limit for ethylene oxide (EtO) of 5 parts of EtOp per million parts of air (5ppm) averaged over a sampling period of 15 minutes....

Where the excursion limit is exceeded, employers are obligated to reduce exposure through implementation of feasible engineering controls and work practices, supplemented by the use of respirators where necessary. In addition, employers are required to establish and implement a written compliance program to achieve the excursion limit, establish exposure monitoring and training programs for employees subjected to EtO exposure above the excursion limit, identify as regulated areas any locations where airborne concentrations of EtO normally exceed the excursion limit, and affix warning labels on products capable of releasing EtO to the extent that an employee's exposure would foreseeably exceed the excursion limit." (53 Fed. Reg 11414).

On April 6, 1988, Federal OSHA published in the Federal Register an amendment to its Ethylene Oxide Standard, 29 CFR 1910.1047 (53 Fed. Reg. 11414); in accordance with a court order issued by the Court of Appeals for the District of Columbia Circuit, in the case of Public Citizen Health Research Group v. Tyson, 796 F. 2d 1979 (D.C. Cir. 1986). The amendment establishes an excursion limit of 5 ppm of EtO which when exceeded requires the employer to take certain actions including implementing engineering controls, monitoring exposure, establishing a written program and labeling materials.

The history of this amendment goes back to June 22, 1984, when Federal OSHA adopted the Ethylene Oxide Standard, 29 CFR 1910.1047, which lowered the Permissable Exposure Level in the workplace from 50 parts per million (ppm) to 1 ppm (49 Fed. Reg. 25734). At that time Federal OSHA reserved its decision on the need for a short-term exposure limit (referred to as "excursion limit" in the amendment). After further rulemaking in which Federal OSHA determined that a short-term exposure limit was not justified and court review of that decision, Federal OSHA was ordered to adopt an excursion limit by the D.C. Circuit Court in the case referenced above. This amendment is the result of that court order.

A. Industry Profile.

The major industry sectors affected by the amendment are:

Industry	*Exposed Employees*
Ethylene Oxide Producers	*1,046*
Ethoxylators (facilities using) Ethylene Oxide as a chemical feedstock)	*1,436*
Medical Products Sterilizers	*1,814*
Sterilizer Using Hospitals	*63,000*
Spice Manufacturers	*432*
Total	*67,728*

"In developing the final rule, OSHA has evaluated EtO exposure patterns to determine which employees are currently being exposed above the 5 ppm excursion limit. Of particular concern are those employees whose 8-hour TWA exposures are below the current 1 ppm permissable exposure limit but incorporate one or more short-term bursts which would exceed 5 ppm averaged over 15 minutes. It is these employees who would benefit the most from an excursion limit, because a reduction in short-term bursts would serve to reduce their total EtO dose, and thus would reduce their cancer risks. The Court in Tyson directed OSHA to issue an excursion limit if it would further reduce

the significant risk attributable to total EtO dose; OSHA has determined that there are employees whose total EtO dose would, in fact, be reduced by the imposition of an excursion limit, in accordance with the Tyson decision." (53 Fed Reg. 11416).

Based on a study conducted by Meridian Associates (involving site visits and review of reports provided to the record by the National Institute for Occupational Safety and Health), OSHA has determined that approximately 6.09% of all Ethylene Oxide-using facilities "have at least one employee who is currently exposed below the 8-hour TWA of 1 ppm but above the proposed 5 ppm excursion limit." (53 Fed. Reg. 11416).

B. Health Benefits of the Amendment.

"To the extent an excursion limit reduces average long-term exposures, then the cancer deaths prevented by adoption of an excursion limit represent the primary benefit derived from this action. As discussed previously it is not possible to quantify the number of deaths prevented by compliance with the excursion limit since data does not reveal the precise incremental EtO dose reduction that will result from limiting 15-minute short-term exposures to 5 ppm. However, OSHA has estimated the risk from a lifetime exposure, assuming exposure only once a day to a 5 ppm short-term limit, with no other exposure or background levels of EtO, to be approximately 2 to 4 excess deaths per 10,000 workers. The calculated risks, 2 per 10,000 to 4 per 10,000 probably understate the overall risk because it has been established that short-term exposures often occur more than once per day and that background EtO concentration during the day is above zero, additionally contributing to worker exposure. Thus, OSHA believes that the risk from 5 ppm short term exposures will not be insignificant, even if such exposure consituted the employees' only EtO exposure during the workday....

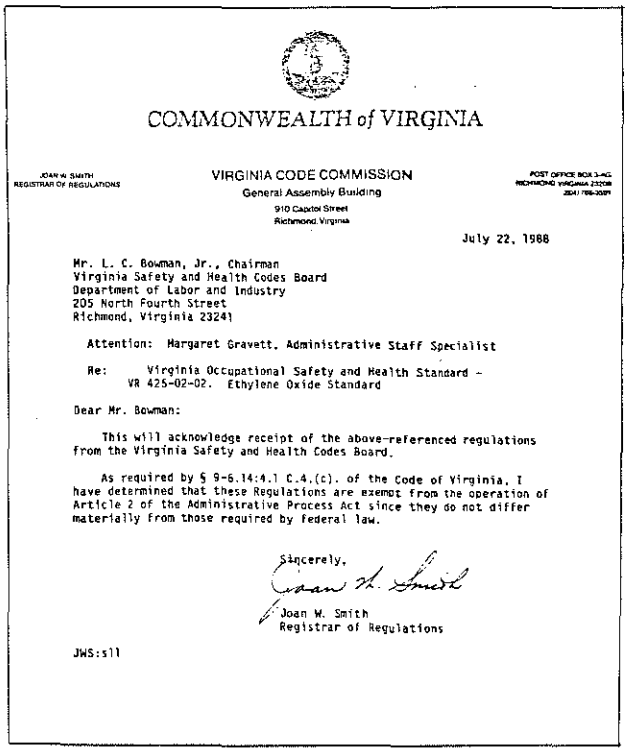
OSHA believes that implementation of this amendment will act to reduce the number of EtO-related cancer cases, although the number of additional lives saved cannot be quantified." (53 Fed. Reg. 11426 and 11427).

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Ethylene Oxide Standard (1910.1047) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the standard will not be printed in the Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-02. Ethylene Oxide Standard (1910.1047) - Virginia Occupational Safety and Health Standards.

The Virginia Occupational Safety and Health Codes Board adopted amendments to the Federal OSHA Standard as codified in 29 CFR 1910.1047 and published in the Federal Register, Vol. 53, No. 66, pp. 11436-11438, Wednesday, April 6, 1988. The amendments as adopted are not set out.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

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(804) 786-3591

July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard - VR 425-02-02. Ethylene Oxide Standard

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **VR 425-02-01. Hazard Communication Standard for General Industry (1910.1200).**
VR 425-02-03. Hazard Communication Standard for Marine Terminals (1917.28).
VR 425-02-31. Hazard Communication Standard for the Construction Industry (1926.59).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

The amendment makes technical changes to the standard by adding the Office of Management and Budget (OMB) control number for the approved information collection requirements in the standard. The amendment also notes that the following information collection requirements did not receive approval from OMB:

1. The requirement that material safety data sheet (MSDS) be provided on multi-employer worksites;

2. Coverage of any consumer product excluded from the definition of "hazardous chemical" under section

311(e)(3) of the Superfund Amendments and Reauthorization Act of 1986; and

3. Coverage of any drugs regulated by the U.S. Food and Drug Administration (FDA) in the nonmanufacturing sector.

On April 27, 1988, Federal OSHA published in the Federal Register an amendment to the Hazard Communication Standard, 29 CFR 1910.1200, 1926.59 and 1917.28 (53 Fed. Reg. 15033), which changes the standard by adding the OMB control number for the approved information collection requirements and notes that three other information collection requirements (MSDS, consumer products and coverage of drugs regulated by the FDA) were not approved.

This amendment is the result of OMB's review of the information collection requirements contained in the expanded Hazard Communication Standard in accordance with the Paperwork Reduction Act of 1980. Federal OSHA originally expanded the standard on August 24, 1987, and the Safety and Health Codes Board adopted an identical version on November 18, 1987. At the time the standard was expanded by Federal OSHA, OMB had not completed their review of the standard.

On April 13, 1988, OMB notified Federal OSHA that all but three of the information collection requirements contained in the standard had been approved through April, 1991. "Thus, OMB has approved among others, the requirements for hazard determinations, written hazard communication programs, information and training programs, development and transmittal of material safety data sheets, labels and other appropriate forms of warning, and trade secrets." (53 Fed. Reg. 15033). The three provisions of the standard that were not approved by OMB will not be enforceable under the amendment. OSHA intends to initiate further rulemaking to consider the disapproved items and address OMB's concerns.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Hazard Communication Standard for General Industry (1910.1200), the Hazard Communication Standard for Marine Terminals (1917.28) and the Hazard Communication Standard for the Construction Industry (1926.59) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the standard will not be printed in the Virginia Register of Regulations. Listed below are the standards contained in Parts 1910, 1917 and 1926 which are being amended. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-01. Hazard Communication Standard for General Industry (1910.1200).
VR 425-02-03. Hazard Communication Standard for Marine Terminals (1917.28).
VR 425-02-31. Hazard Communication Standard for the Construction Industry (1926.59).

§§ 1910.1200, 1915.99, 1917.28, 1918.90 and 1926.59 [Amended].

1. Following the headings of §§ 1910.1200, 1915.99, 1917.28 and 1926.59 of Title 29 of the Code of Federal Regulations add this note:

Note: The Office of Management and Budget has disapproved under the Paperwork Reduction Act three applications of the Hazard Communication Standard.

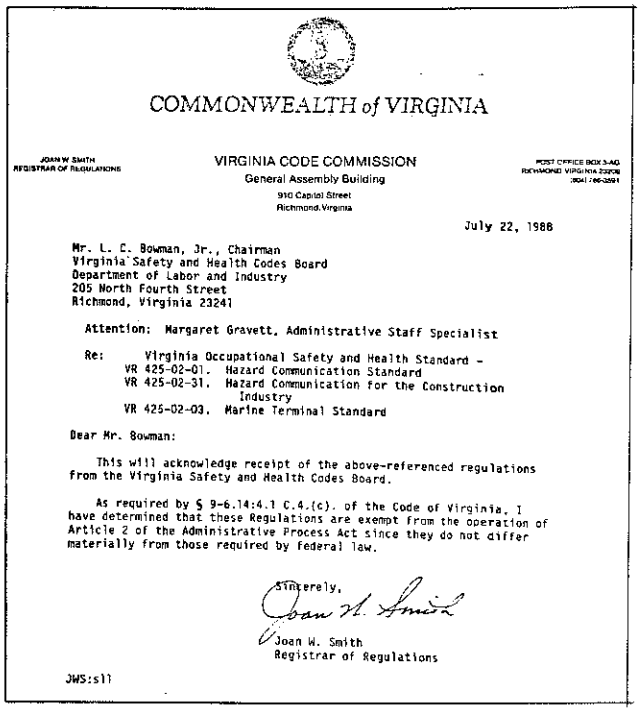
(1) The requirement that material safety data sheets be provided on multi-employer worksites;

(2) Coverage of any consumer product excluded from the definition of "hazardous chemical" under section 311(e)(3) of the Superfund Amendments and Reuathorization Act of 1986; and

(3) Coverage of any drugs regulated by the U.S. Food and Drug Administration in the non-manufacturing sector.

2. Following the text of §§ 1910.1200, 1915.99, 1917.28, 1918.90 and 1926.59 of Title 29 of the Code of Federal Regulations revise the OMB control number statement to read:

[Approved by the Office of Management and Budget under Control No. 1218-0072, except for: (1) The requirement that material safety data sheets be provided on multi-employer worksites; (2) coverage of any consumer product excluded from the definition of "hazardous chemical" under § 311(e)(3) of the Superfund Amendment and Reauthorization Act of 1986; and (3) coverage of any drugs regulated by the Food and Drug Administration in the non-manufacturing sector.]



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July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard -
VR 425-02-01. Hazard Communication Standard
VR 425-02-31. Hazard Communication for the Construction Industry
VR 425-02-03. Marine Terminal Standard

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **VR 425-02-35. Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standard.**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

The amendment gives a delayed start-up date for updating the written materials in the training program for the Formaldehyde Standard; and notes that the Office of Management and Budget (OMB) has approved all the information collection requirements of the standard except for those contained in paragraphs 1910.1048(m)(1)(i) through (m)(4)(ii). These sections concern requirements for labeling and material safety data sheets (MSDS). In place of these requirements VOSH would continue to enforce the labeling and MSDS requirements contained in the Hazard Communication Standard, 1910.1200, for formaldehyde.

On March 2, 1988, Federal OSHA published in the Federal Register an amendment to the Formaldehyde Standard, 1910.1048 (53 Fed. Reg. 6628). The amendment gives a delayed start-up date for updating the written materials in the training program and notes that the information collection requirements contained in the standard have been approved by OMB with the exception of paragraphs (m)(1)(i) through (m)(4)(ii).

Federal OSHA published a final standard on occupational exposure to formaldehyde on December 4, 1987 (52 Fed. Reg. 46168) which was adopted by the Safety and Health Codes Board at a meeting on March 7, 1988. At the time Federal OSHA adopted the final standard the information collection requirements contained in the standard had not been approved by OMB as required by the Paperwork Reduction Act of 1980.

On February 2, 1988, OMB approved all the information collection requirements in the standard except for those dealing with labeling and MSDS sheets contained in paragraphs (m)(1)(i) through (m)(4)(ii). Federal OSHA determined at that time to publish this amendment and to enforce the existing requirements for labeling and MSDS sheets contained in the Hazard Communication Standard, 1910.1200, until further steps could be taken to respond to OMB's denial.

In addition, Federal OSHA inadvertently failed to give a delayed start-up date for updating the written materials in the training program when they originally published the standard on December 4, 1987.

The amendment consists of technical changes which will not have a significant impact on employers or employees in Virginia.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Formaldehyde Standard (1910.1048) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the standard itself will not be printed in the Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-35. Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standard.

PART 1910 (Amended)

1. The authority citation for Subpart 2 of Part 1910 continues to read as follows:

Authority: Secs. 6.8 Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Order 12-71 [36 FR 8754], 8-76 [41 FR 25059], or 9-83 [48 FR 35736] as applicable; and 29 CFR Part 1911. Section 1910.1000 Tables Z-1, Z-2, Z-3 also issued under 5 U.S.C. 533 * * * Section 1910.048 also issued under 29 U.S.C. 653.

* * * * *

2. By adding a new paragraph (p)(2)(vi) to § 1910.1048 to read as follows:

§ 1910.1048 Formeldehyde.

* * * * *

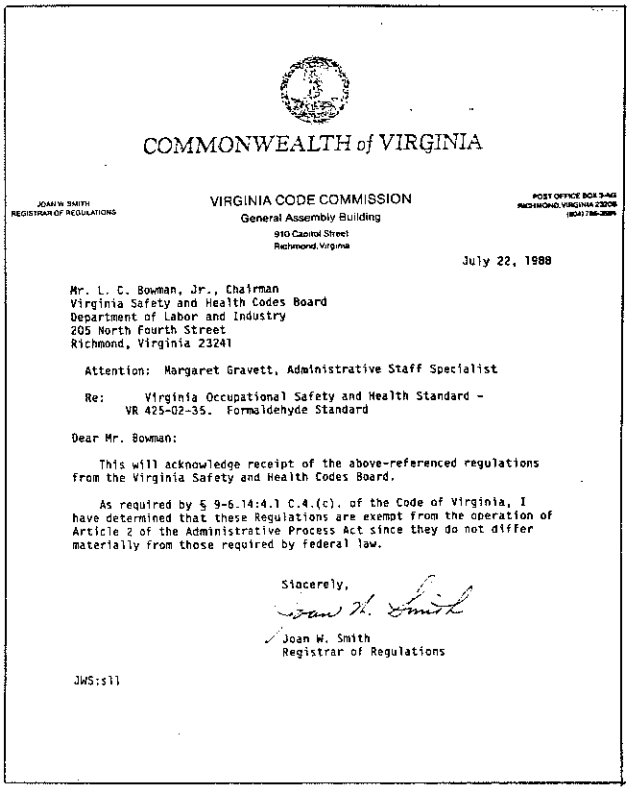
(p) * * *

(2) * * *

(vi) Employee training. Written materials for employee training shall be updated as soon as possible, but not later than two months after the effective date of the standard.

3. By adding the following language at the end of § 1910.1048 to read as follows:

[Approved, except for paragraphs (m)(1)(i) through (m)(4)(ii), by the Office of Management and Budget under Control Number 1218-0145]



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July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard - VR 425-02-35. Formaldehyde Standard

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **VR 425-02-37. Grain Handling Facilities Standard (1910.272) - Virginia Occupational Safety and Health Standard for General Industry.**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

On May 18, 1988, Federal OSHA published an amendment to its Grain Handling Facilities Standard, 29 CFR 1910.272 (53 Fed. Reg. 17695). The amendment makes technical corrections to the appendices of the standard and adds the OMB control number to indicate that the information collection requirements of the standard have been approved by OMB in accordance with the Paperwork Reduction Act of 1980.

The amendment consists of technical changes which will not have a significant impact on employers or employees in Virginia. No additional cost to employers or the Department of Labor and Industry is anticipated in adoptiong the amendment.

Federal regulations 29 CFR 1953.23(a)(2) and (b) require Virginia to adopt within six months changes to federal standards in verbatim or to promulgate equivalent changes which are at least as effective as the federal change. The Virginia Code reiterates this requirement in § 40.1-22(5).

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Grain Handling Facilities Standard (1910.272) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, this document is not being published in the Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-37. Grain Handling Facilities Standard (1910.272) - Virginia Occupational Safety and Health Standard for General Industry.

§ 1910.272 [Amended]

2. In § 1910.272, on page 49627, column 1, the OMB control number statement is amended to add the number "1218-0144", and the statement is moved to the end of the section [following Appendix C].

Appendix A - [Amended]

3. Appendix A to § 1910.272 is amended as follows:

a. On page 49628, column 1, Item 8, a sentence is added at the end of the first paragraph to read "Contractors are responsible for informing their own employees."

b. On page 49630, column 2, the first paragraph, lines 21 and 22 are revised to read "or by some other equally effective means. When V-type belts are used to".

c. On page 49630, column 3, lines 2, 3 and 4 are revised to read "from the motor drive shaft, it will be necessary to provide electrical continuity from the head pulley assembly to ground, e.g., motor grounds."

Appendix C - [Amended]

4. Appendix C to § 1910.272 is amended as follows:

a. On page 49630, column 2, Item 12, lines 3 and 4 are corrected to read "Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

b. On page 49630, column 2, Item 13, lines 2 and 3 are corrected to read "Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

c. On page 49630, column 2, Item 14, lines 4 and 5 are corrected to read "Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

d. On page 49630, column 2, Item 16, lines 3 and 4 are corrected to read "Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

e. On page 49630, column 3, Item 19, lines 3 and 4 are corrected to read *"Plants;* Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

f. On page 49630, column 3, Item 21, lines 4 and 5 are corrected to read "Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

g. On page 49639, column 3, Item 22, lines 3 and 4 are corrected to read "Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

h. On page 49630, column 3, Item 23, lines 3 and 4 are corrected to read "Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

i. On page 49360, column 3, Item 24, lines 3 and 4 are corrected to read "Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

j. On page 49631, column 2, Item 30, lines 3 and 4 are corrected to read "Department, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

k. On page 49631, column 3, Item 31, lines 2 and 3 are corrected to read "Mill Mutual Loss Control Department, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269."

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building
910 Capitol Street
Richmond, Virginia

POST OFFICE BOX 3-AG
RICHMOND, VIRGINIA 23208
(804) 786-3591

July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard - VR 425-02-37. Grain Handling Facilities Standard

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **VR 425-02-38. Machinery and Machine Guarding Standard (1910.211).**
VR 425-02-61. Mechanical Power Presses Standard (1910.217) - Virginia Occupational Safety and Health Standard for General Industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

The amendment permits the use of "present sensing device initiation (PSDI) on certain types of power presses. The amended standard addresses the use of presence sensing devices as well as the entire mechanical power press safety system involved in operating in the PSDI mode. OSHA is also amending the related standard on definitions, 29 CFR 1910.211, as appropriate, to support the revision to the mechanical power press standard.

Until this rulemaking, OSHA did not permit PSDI, but rather required that a mechanical power press operator physically initiate the stroke of the press by using hand controls or a foot pedal. The specific prohibition against PSDI was contained in 29 CFR 1910.217(c)(3)(iii)(b).... This revision allows a presence sensing device to initiate the stroke of the press automatically when the operator's body is out of the danger zone. (53 Fed. Reg. 8322).

"The device also must sense that all parts of the body are sufficiently far away so that accidental action of the employee cannot expose parts of the body to the point of operation during the stroke, or the employee's body reenters the point of operation. Initiation of the stroke by the presence sensing device makes it unnecessary for the employee to initiate manually the stroke of the press." (53 Fed. Reg. 8327). (See attached diagrams of mechnical power presses and PSDI equipment.)

On March 14, 1988, Federal OSHA published in the Federal Register an amendment concerning Presence Sensing Device Initiation of Mechanical Power Presses, 1910.211 and 1910.217 (53 Fed. Reg. 8322). The amendment permits the use of PSDI equipment on certain types of power presses.

"Presence sensing devices have long been permitted as a safeguard to prevent operation of the press when the employee's hands or other part of the body are at the point of operation. However, until this rulemaking, OSHA regulations did not permit the presence sensing device to initiate a stroke of the press when it senses that no part of the body is obstructing the presence sensing field." (53 Fed. Reg. 8327).

"Because presence sensing device initiation has been used safely in other countries, in one case for over 30 years, and on an experimental basis in the United States since 1976, OSHA believes this prohibition is technically outdated and the PSDI, overall, enhances employee safety." (53 Fed. Reg. 8322).

A. Industry Profile.

"The standard affects mechanical power presses, a type of equipment widely used in various metalworking and other industries. In particular, these machines are extensively used in Fabricated Metal Products (SIC 34), Machinery, Excluding Electrical (SIC 35), and Electrical and Electronic Equipment (SIC 36). The impact of this revision is greater upon Metal Forgings and Stampings (SIC 346), the industry that makes the most intensive use of mechanical power presses. Within SIC 346, Automative Stampings (3465), Crowns and Closures (3466), and Metal Stampings, Not Elsewhere Classified (3469) are the primary users of mechanical power presses. A variety of industries outside the metalworking industries will also be affected by the regulation. Thirteen percent of all machine tools (a category of equipment that includes mechanical power presses) are used in industries other than metalworking industries." (53 Fed. Reg. 8351).

"A mechanical power press is a mechanically powered machine that shears, punches, forms or assembles metal or other material by means of cutting, shaping, or combination dies attached to slides. While PSDI will likely have wider application for presses that perform metal stamping operations, any mechanical power press use for materials other than metal may also be considered for PSDI.

A press consists of a stationary bed or anvil, and a slide having a controlled reciprocating motion. The slide, called the ram, is equipped with special punches and moves downward into a die block which is attached to the rigid bed. The punches and the die block assembly are generally referred to as a 'die set'. The main function of a stamping press is to provide sufficient power to close and open the die set, thus shaping or cutting the metal part set on the die block. The metal part is fed into the die block and the ram descends to perform the desired stamping operation. The danger zone for the operator is between the punches and the die block. This area is referred to as the 'point of operation....'

The total population of mechanical power presses in the United States is estimated to be 230,000, about equally divided between full revolution and part revolution presses. Approximately 69,000 of the 115,000 part revolution presses are manually fed, the balance being machine fed. It is estimated that 40 percent of the manually fed presses are operated by hand controls and the remaining 60 percent are operated by foot controls." (53 Fed. Reg. 8322).

B. Benefits of the Amendment.

Federal OSHA has concluded that this amendment allowing the use of PSDI "overall enhances safety at the point of operation of part revolution mechanical power presses when compared with currently permitted actuation means and safeguarding methods. There were several reasons for reaching this conclusion.

1. The press operator is protected just as well with PSDI as with present stroke initiation methods.

2. In addition to the operator, presence sensing devices protect all others who intrude into the point of operation, as opposed to pull-outs, two-hand controls, and restraints, which protect only the operator.

3. Personnel who violate § 1910.217(d)(1)(ii) by attempting to remove scrap or stuck parts with their hands rather than with tools are also protected by PSDI.

4. The overall press and control system safety are enhanced by certification and related requirements to ensure a higher degree of equipment capability and reliability than was provided for in the former standard.

5. With PSDI, there is less operator fatigue than there is with manual controls because the repetitious reaching motions will be eliminated.

6. The previous requirements for training and maintenance have been enhanced to assure the safe use of PSDI.

7. The integral nature of the actuation and guarding device reduce human factors risk because the press cannot be operated without the presence sensing device in the PSDI mode. Presence sensing devices do not have to be removed at the completion of the stroke in order to gain access to the point of operation. Also, the devices do not physically obstruct or interact directly with operators, so there is less tendency for operators to void this safeguarding device than there is with other types of guards, such as gate devices which can be removed; pull-out devices that are strapped to the hands in order to pull them out with the movement of the ram, but which can get out of adjustment with no notice to the operator; or restraint devices that restrict the movement of the hands." (53 Fed. Reg. 8328).

"OSHA has estimated that allowing employers to convert existing presses to PSDI systems will increase the productivity of each press converted by an average of 24.3 percent. This gain implies that the addition of PSDI technology to an existing press will,

on average, annually release about $8,160 worth of resources to the U.S. economy. Multiplying this figure by OSHA's projection of 19,875 conversions of existing mechanical presses indicates that by 1990 this standard would save about $162 million per year." (53 Fed. Reg. 8327).

When the cost of conversion of existing presses to PSDI is taken into account, the estimated net annualized savings is between $85 and $113 million.

By the year 1996, with the addition of approximately 250 newly manufactured PSDI presses per year, the net annualized savings is expected to be between $99.8 and $129.1 million.

C. Impact and Cost to Employers.

Since the amendment permits but does not require use of PSDI, an employer need not incur any expense in complying with standards regulating the operation of mechanical power presses. However, if the employer chooses to convert existing machinery, costs will include:

"(1) The cost of converting the existing equipment to PSDI technology; (2) the cost of certifying and validating the PSDI safety system; (3) the cost of inspecting and maintaining the PSDI systems; and (4) the cost of training workers. OSHA has estimated these annualized costs at between $49 and $77 million by 1991." (53 Fed. Reg. 8351).

"If the press owner converts, the annual savings from increased productivity are more than twice the annualized costs of the conversion. Consequently, the amended standard is clearly economically feasible." (53 Fed. Reg. 8352).

Finally, OSHA has concluded that the amendment will not have a significant impact on a substantial number of small entities.

D. Impact on Employees.

"There are about 73,000 employees who will be affected by the standard. Two occupational groups, "punch and stamping press operators" and "job and die setters," contain nearly all the employees now operating the manually fed presses that could be converted to PSDI technology. There are 96,000 employees in the former occupational group and 74,000 in the latter. This total of 170,000 employees includes both operators of non-mechanical presses as well as die setters who do not mannually feed the presses. OSHA has estimated that about 60 percent of the first occupational group work on manually fed power presses. Thus, about 73,000 workers (58,000 "press operatives" and 15,000 "job and die setters") could be affected by the standard." (53 Fed. Reg. 8351).

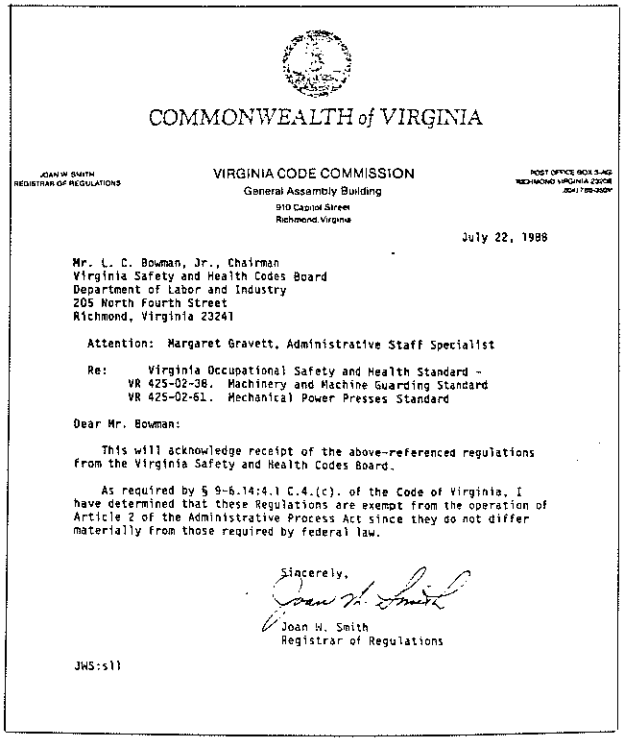
Employees using PSDI presses will have to undergo training in the safe operation of the press.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Machinery and Machine Guarding Standard and the Mechanical Power Presses Standard (1910.211 and 1910.217) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the standard itself will not be printed in the Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-38. Machinery and Machine Guarding Standard (1910.211)
VR 425-02-61. Mechanical Power Presses Standard (1910.217) - Virginia Occupational Safety and Health Standards for General Industry.

The Virginia Occupational Safety and Health Codes Board adopted the Federal OSHA Presence Sensing Device Initiation of Mechanical Power Presses Standard as codified in 29 CFR §§ 1910.211 and 1910.217, and published in the Federal Register, Vol. 53, No. 49, pp. 8352-8365, Monday, March 14, 1988. The amendments as adopted are not set out.



COMMONWEALTH of VIRGINIA

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July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard -
VR 425-02-38. Machinery and Machine Guarding Standard
VR 425-02-61. Mechanical Power Presses Standard

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: VR 425-02-39. Definitions and Requirements for a Nationally Recognized Testing Laboratory (1910.7).
VR 425-02-40. Safety Requirements for Scaffolding

(1910.28).
VR 425-02-41. Means of Egress (1910.35).
VR 425-02-42. Hydrogen (1910.103).
VR 425-02-17. Flammable and Combustible Liquids (1910.106).
VR 425-02-43. Spray Finishing Using Flammable or Combustible Materials (1910.107).
VR 425-02-44. Dip Tanks Containing Flammable or Combustible Liquids (1910.108).
VR 425-02-45. Explosives and Blasting Agents (1910.109).
VR 425-02-46. Storage and Handling of Liquified Petroleum Gases (1910.110).
VR 425-02-47. Storage and Handling of Anhydrous Ammonia (1910.111).
VR 425-02-48. Scope, Application and Definitions Applicable to this Subpart (Fire Protection) (1910.155).
VR 425-02-49. Powered Industrial Trucks (1910.178).
VR 425-02-20. Crawler, Locomotive and Truck Cranes (1910.180).
VR 425-02-21. Derricks (1910.181).
VR 425-02-50. Definitions (Welding, Cutting and Brazing) (1910.251).
VR 425-02-51. Sawmills (1910.265).
VR 425-02-52. Pulpwood Logging (1910.266).
VR 425-02-60. Definitions Applicable to This Subpart (Electrical) (1910.399).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

The standard deletes "the names of Underwriter's Laboratories, Inc. (UL) and Factor Mutual Research Corporation (FMRC) from 23 testing related standards provisions in the OSHA 'general industry' standards (29 CFR 1910). Generally, the Agency is substituting the term 'nationally recognized testing laboratory' (NRTL) and is providing a new definition for this previously undefined term. Additional minor terminology changes are also being made." (53 Fed. Reg. 12102). "This rule also provides a mandatory procedure for a testing organization to be recognized as a nationally recognized testing laboratory (NRTL) by OSHA. This procedure will replace 29 CFR Part 1907 which has remained unimplemented since its promulgation in 1973. This new mandatory procedure includes public review of an applicant's operations against the NRTL definitional criteria." (53 Fed. Reg. 12102).

On April 12, 1988, Federal OSHA published in the Federal Register a standard concerning Safety Testing or Certification of Certain Workplace Equipment and Materials (53 Fed. Reg. 12102). The standard eliminates references to UL and FMRC in 23 testing related standards and substitutes the term "nationally recognized testing laboratory" (NRTL). In addition, the standard provides a definition of NRTL and mandatory procedures for the recognition of NRTL's by OSHA.

Under the 23 standards mentioned above, "third party (or independent) testing for safety is necessary in order that certain equipment and materials be acceptable for workplace use. The safety standards being revised either had explicitly required or had implied that this safety testing be performed only by UL or FMRC. Over the past decade, certain testing laboratories other than UL or FMRC have claimed to have suffered economic losses due to this situation. They repeatedly have sought regulatory relief of a type being afforded here by OSHA." (53 Fed. Reg. 12102).

A. Industry Profile.

"The types of products that OSHA requires to be tested are items such as electrical wiring and equipment; valves and other equipment used in the handling of hazardous substances; equipment necessary for fire protection; and equipment necessary for motor vehicles used in hazardous work areas, etc." (53 Fed. Reg. 12118).

Based on an economic impact study conducted by Eastern Research Group (ERG), OSHA estimates that in 1983 there were approximately 2,500 independent testing laboratories with receipts totalling $950 million. Total employment in these laboratories was approximately 38,500, with 85% of the establishments having fewer than 20 employees; and 82% having annual revenues less than $500,000. (53 Fed. Reg. 12118).

"The market for product testing directly affected by the OSHA requirements has been estimated by OSHA, based on the ERG report, to have total sales of between $70 million and $100 million. Of that total, $50 million goes to UL; $5 million to FMRC; between $10 million and $35 million to manufacturer-affiliated laboratories, and between $5 million and $10 million to independent testing laboratories." (53 Fed. Reg. 12119).

B. Benefits of the Standard.

This standard will allow for additional testing laboratories to qualify as NRTL's while still maintaining "the existing level of worker safety gained from product testing, in the most cost-effective manner....OSHA has determined that allowing nationally recognized testing laboratories into this market will increase competition which, in turn, will likely result in reduction in both product testing fees and product testing time. The main beneficiaries will be the product manufacturers and nationally recognized testing laboratories. The primary groups that may be adversely affected are UL and FMRC." (53 Fed. Reg. 12119) (Neither UL nor FMRC opposed the standard as proposed by OSHA.)

"OSHA has also determined that the final rule will

maintain the existing level of worker safety because only testing laboratories that are recognized by OSHA as being well qualified in that product area will be utilized to test the products covered by Part 1910." (53 Fed. Reg. 12119).

C. Impact and Cost to Employers.

"OSHA estimates that between 25 and 50 testing labs will seek OSHA recognition as meeting the criteria with respect to testing equipment for compliance with Part 1910. Of these testing labs, about 10 will seek acceptance for a wide variety of products within a major testing discipline (e.g., electrical, thermal, etc.), whereas, between 15 and 40 will seek acceptance for a specialized subset of products within a major testing discipline." (53 Fed. Reg. 12119). (UL and FMRC will not be required to initially apply for recognition as an NRTL but will have to file for review of their status in five years.)

"Based on the ERG report, OSHA has determined that certain work practices of some testing labs would need to be upgraded before the testing lab would be recognized by OSHA. In particular, improvements in the follow-up testing procedures will be necessary. On that basis, OSHA estimates that the annual costs of this upgrading for all of these testing labs would be between $144,500 and $200,000. The costs of applying and being reviewed by OSHA would have an annual cost to these testing labs of between $23,000 and $34,700. Thus the total annual costs to these testing labs would be between $167,500 and $234,700.

Finally, OSHA has concluded that the standard would not have a significant adverse impact upon a substantial number of small entities. This final rule, by opening a market to small testing laboratories, would likely have a positive impact on them.

D. Impact on Employees.

The standard will not have a significant impact on employees.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Definition and Requirements for a Nationally Recognized Testing Laboratory; Safety Requirements for Scaffolding; Means of Egress; Hydrogen; Flammable and Combustible Liquids; Spray Finishing Using Flammable and Combustible Materials; Dip Tanks Containing Flammable or Combustible Liquids; Explosives and Blasting Agents; Storage and Handling of Liquified Petroleum Gases; Storage and Handling of Anydrous Ammonia; Scope, Application and Definitions Applicable to this Subpart (Fire Protection); Powered Industrial Trucks, Crawler, Locomotive and Truck Cranes; Derricks; Definitions (Welding, Cutting and Brazing); Sawmills; Pulpwood Logging; Definitions Applicable to this Subpart (Electrical) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in the Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-39. Definition and Requirements for a Nationally Recognized Testing Laboratory (1910.7).
VR 425-02-40. Safety Requirements for Scaffolding (1910.28).
VR 425-02-41. Means of Egress (1910.35).
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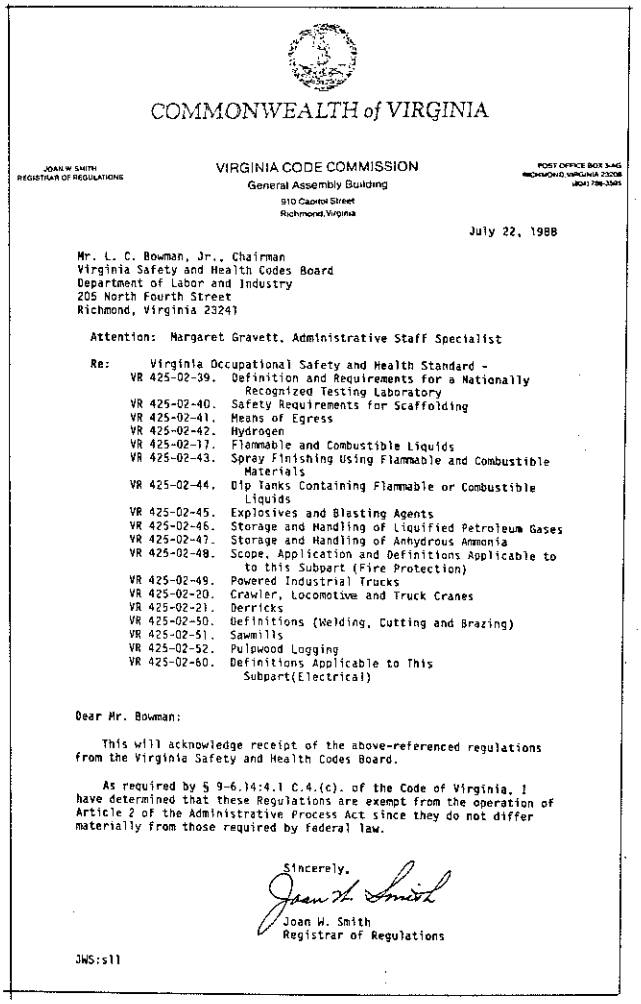
VR 425-02-21. Derricks (1910.21).
VR 425-02-50. Definitions (Welding, Cutting and Brazing) (1910.251).
VR 425-02-51. Sawmills (1910.265).
VR 425-02-52. Pulpwood Logging (1910.266).
VR 425-02-60. Definitions Applicable to this Subpart (Electrical) (1910.399).

The Virginia Occupational Safety and Health Codes Board adopted the Federal OSHA amendment concerning Safety Testing on Certification of Certain Workplace Equipment and Materials; Deletion of Specific Testing Laboratory Names; Definition of Nationally Recognized Testing Laboratory; Determination of Eligible Testing Organizations as codified in 29 CFR §§ 1910.7, 1910.28, 1910.35, 1910.103, 1910.106 to 1910.111, 1910.155, 1910.178, 1910.181, 1910.251, 1910.265, and 1910.266 and published in the Federal Register, Vol. 53, No. 70, pp. 12120-12125, Tuesday, April 12, 1988. The amendments as adopted are not set out.



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July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard -
VR 425-02-39. Definition and Requirements for a Nationally Recognized Testing Laboratory
VR 425-02-40. Safety Requirements for Scaffolding
VR 425-02-41. Means of Egress
VR 425-02-42. Hydrogen
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VR 425-02-51. Sawmills
VR 425-02-52. Pulpwood Logging
VR 425-02-60. Definitions Applicable to This Subpart(Electrical)

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * * * * *

Title of Regulation: **VR 425-02-53. Scope, Application and Definitions Applicable to this Subpart (Concrete and Masonry Construction) (1926.700).**
VR 425-02-54. General Requirements (Concrete and Masonry Construction) (1926.701).
VR 425-02-55. Requirements for Equipment and Tools (Concrete Masonry and Construction) (1926.702).
VR 425-02-56. Requirements for Cast-In-Place Concrete (1926.703).
VR 425-02-57. Requirements for Precast Concrete (1926.704).
VR 425-02-58. Requirements for Lift-Slab Operations (1926.705).
VR 425-02-59. Requirements for Masonry Construction (1926.706).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 19, 1988.

Summary:

"This rule revises OSHA's safety standards for Concrete and Masonry Construction (fomerly Concrete, Concrete Forms, and Shoring) located in Subpart Q of 29 CFR Part 1926." (53 Fed. Reg. 22612).

"The Final Rule removes ambiguities that have existed; closes gaps in coverage; recognizes technological changes; and finally, where possible, uses language that states the performance to be achieved by the employer without specifying unnecessary details as to how the employer must meet the requirement." (53 Fed. Reg. 22613).

"Some of the revisions made in the final rule include the elimination of the reference to the ANSI A10.9-1970 standard. OSHA, instead, has promulgated many provisions that are identical or similar to provisions in either the ANSI A10.1970 or the ANSI A10.9-1983 Standard for Concrete and Mansonry Work.

OSHA has also revised its requirements for concrete testing, allowing employers to use methods other than the one specified in the existing rule. OSHA believes that all of the testing methods listed in Appendix A will provide the employer with the information necessary to determine if the concrete has reached its design strength, and therefore will reduce the hazards of premature formwork removal.

OSHA observes that it is not revising the existing requirements for lift-slab operations as a part of the Final Rule. Instead, OSHA is reopening the record to receive additional information and evidence. Additional information and evidence became available to OSHA as a result of its investigation of the collapse of a building under construction using the lift-slab construction method, and was not available to the public rulemaking record at the time OSHA was considering its revision to the Concrete and Masonry Construction Safety Standards. OSHA intends to repropose the section on lift-slab operations as a separate rulemaking effort." (53 Fed. Reg. 22613).

On June 16, 1988, Federal OSHA published in the Federal Register an amendment to the Concrete and Masonry Construction Safety Standard, 1910.700 to .706 (53 Fed. Reg. 22612). The amendment removes ambiguities, closes gaps in coverage, recognizes technological changes and changes language to emphasize the performance oriented nature of the standard.

This amendment is the result of a review by OSHA of existing concrete and masonry construction standards in light of numerous accidents and fatalities that have occurred in the industry while the standards were in effect.

"OSHA examined a number of accidents that occurred in concrete and mansonry work since OSHA's inception in 1971, including the accidents at Willow Island, West Virginia, where a cooling tower collapsed and 51 workers were killed, and the collapse of the Skyline Tower Plaza in Fairfax County, Virginia, which took 14 lives. Also included in OSHA's examination were many masonry wall collapses. Although many workers have been injured or killed in wall collapses, these accidents had not received the publicity or public attention that the structure collapses had received, probably because workers are killed one at a time rather than in large numbers at one time. OSHA identified hazards that contributed to these accidents which caused identified hazards that contributed to these accidents which caused worker injury and death. OSHA then reviewed its existing regulations to determine if the hazards identified such as formwork failure and the collapse of masonry walls were adequately regulated.

The review revealed ambiguities, redundancies, gaps in coverage, and, in some cases, requirements which did not allow use of state-of-the-art technological changes." (53 Fed. Reg. 22612).

"While OSHA was preparing the final rule, another tragic accidenct occurred. This time, a building in Bridgeport, Connecticut, collapsed, taking the lives of 28 workers. Like the other accidents, OSHA's investigation of this collapse revealed that there had been a failure to comply with the existing regulations, regulations that some thought were ambiguous and others thought needed more flexibility to provide an incentive for compliance—regulations that OSHA has revised in this Final Rule, except that the regulations for lift-slab operations, as discussed below, are not a part of this Final Rule. The existing requirements for lift-slab operations remain in effect." (53 Fed. Reg. 22613).

"OSHA intends to repropose the section on lift-slab operations as a separate rulemaking effort." (53 Fed. Reg. 22613).

A. Industry Profile.

"Concrete and masonry work occurs across a broad range of four-digit Standard Industrial Classification (SICs) codes within the construction industry. OSHA has determined that the proposal would affect all of SIC 15 (Building Construction), and all but SIC 1611, (Street and Highway Construction) in SIC 16. In SIC 17, SICs 1741 (Masonry), 1751 (Carpentering), 1771 (Concrete Work), 1794 (Excavation and Foundation Work), and 1799 (Special Trade Contractors Not Elsewhere Classified) would also be affected. OSHA has assumed that virtually all firms with paid employees within these affected SICs would be affected by the standard, although this is doubtlessly an overestimate particularly for special trade contractors. There were 246,975 firms in these SICs in 1984.

OSHA has also estimated the amount of construction that would be affected by the revised standard. It is estimated to affect about 12.5% of total new construction, or about $48.8 billion in 1987. OSHA has also estimated the affected population in several ways. The best estimate of the population potentially at risk is about 503,369 full-time equivalent workers in 1987." (53 Fed. Reg. 22642).

B. Benefits of the Amendment.

"Full compliance with the revised standard would prevent an additional 74 fatalities, 1,556 lost workday injuries and 1,469 nonlost workday injuries annually....

OSHA has also estimated the potential cost savings resulting from concrete and masonry accidents that would more than offset the increased costs of compliance. These cost savings resulted from the indirect costs of accidents such as property damage, scheduling delays, increased insurance premiums, and lost worktime. Based on the number of fatalities and injuries that will be avoided under full compliance it is estimated that these cost savings would be about $348 million annually."

C. Impact and Cost to Employers.

"Full compliance with the revised standard would cost approximately an additional $38.2 million. These costs do not include estimates for any changes in the lift-slab provisions as these will be addressed in a separate Federal Register notice." (53 Fed. Reg. 22642).

These costs would be offset by the lost workday and nonlost workday injuries avoided and the cost savings related to property losses. Estimated cost savings would be approximately $348 million annually.

"OSHA has calculated the maximum impact on profits of the revised standard, assuming a worst case where the contractors would bear all of the costs. Due to the incremental costs, the largest potential impact of the proposed standard would be on Masonry and Stonework which could experience a 55 percent decline in return on assets, from 6.5 percent to 2.9 percent. OSHA has also estimated the potential impact on output and employment. The impacts are expected to be quite small for all industries except Masonry and Stonework where there is potential for output and employment declines of about 2.65 percent." (53 Fed. Reg. 22642).

"OSHA has evaluated the expected cost of compliance for small entities. For the purpose of this analysis, a small entity has been defined as a firm having nine or fewer employees. Approximatley 82 percent of the

affected firms would fall within this size category. OSHA has estimated that even in Masonry and Stonework, where the impact is potentially the greatest, the cost per firm would be approximately $339 for the smallest size class. In addition, the standard would not require large capital expenditures or any sort that would put small firms, with limited access to funds, at a relative disadvantage. Nor is special technical expertise required for compliance that would be beyond the resources of small firms."

For the above reasons... OSHA certifies that, while the revised standard may affect a substantial number of small entities, it is not expected to have a significant impact for these small entities." (53 Fed. Reg. 22642 and 22643).

D. Impact on Employees.

The amendment will not have a significant impact on employees other than the benefit of fewer accidents and fatalities and additional training that would be required for dealing with state-of-the-art technologies permitted under the new standard.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Amendment to the Concrete and Masonry Construction Safety Standard (1926.700 to 1926.706) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the standard itself will not be printed in the Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-53. Scope, Application and Definitions Applicable to this Subpart (Concrete and Masonry Construction) (1926.700).
VR 425-02-54. General Requirements (Concrete and Masonry Construction) (1926.701).
VR 425-02-55. Requirements for Equipment and Tools (Concrete Masonry and Construction) (1926.702).
VR 425-02-56. Requirements for Cast-In-Place Concrete (1926.703).
VR 425-02-57. Requirement for Precast Concrete (1926.704).
VR 425-02-58. Requirements for Lift-Slab Operations (1926.705).
VR 425-02-59. Requirements for Masonry Construction (1926.706).

The Virginia Occupational Safety and Health Codes Board adopted the Federal OSHA amendment to the Concrete and Masonry Construction Safety Standard as codified in 29 CFR §§ 1926.700 to 1926.706, and published in the Federal Register, Vol. 53, No. 116, pp. 22643-22646, Thursday, June 16, 1988. The amendments as adopted are not set out.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building
910 Capitol Street
Richmond, Virginia

POST OFFICE BOX 3-AG
RICHMOND, VIRGINIA 23208
(804) 786-3591

July 22, 1988

Mr. L. C. Bowman, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Margaret Gravett, Administrative Staff Specialist

Re: Virginia Occupational Safety and Health Standard –
VR 425-02-53. Scope, Application and Definitions Applicable to this Subpart (Masonry and Concrete)
VR 425-02-54. General Requirements
VR 425-02-55. Requirements for Equipment and Tools
VR 425-02-56. Requirements for Cast-In-Place Concrete
VR 425-02-57. Requirements for Precast Concrete
VR 425-02-58. Requirements for Lift-Slab Operations
VR 425-02-59. Requirements for Masonry Construction

Dear Mr. Bowman:

This will acknowledge receipt of the above-referenced regulations from the Virginia Safety and Health Codes Board.

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

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

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 450-01-0050. Pertaining to Grey Trout (Weakfish).**

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: August 1, 1988.

Preamble:

This regulation establishes a minimum size limit for grey trout. It is intended to reduce the possibility of growth overfishing of Virginia's grey trout stocks and to reduce the wastage of small trout.

§ 1. Authority, repeal of prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. This regulation repeals VR 450-01-0048 which was promulgated by the Marine Resources Commission and made effective May 16, 1988.

C. The effective date of this regulation is August 1, 1988.

§ 2. Purpose.

The purpose of this regulation is to conserve Virginia's grey trout stocks, to reduce the possibility of growth overfishing, and to prevent the wastage of undersized fish.

§ 3. Definition.

Grey Trout (Weakfish) shall include any fish of the species Cynoscion regalis.

§ 4. Minimum size limit, tolerance.

A. It shall be unlawful for any person to take, catch, or possess any quantity of fish of any species which consists of more than 10% of grey trout less than nine inches (9") in length.

B. Whenever any person has possession of more than 100 pounds of fish, the possession of which might be unlawful due to the percentage of grey trout less than nine inches (9") in length contained therein, a lot of 100 pounds may be separated from the whole quantity thereof by the Marine Patrol Officer for purposes of determining whether more than 10%, by weight, are grey trout less than nine inches (9") in length. If more than 10%, by weight, are grey trout less than nine inches (9") in length, then the person shall be presumed guilty of having violated this regulation.

C. Whenever any person has possession of less than 100 pounds of fish, the possession of which might be unlawful due to the percentage of grey trout less than nine inches (9") in length contained therein, the Marine Patrol Officer shall count the total number of fish in possession for purposes of determining whether more than 10%, by count, are grey trout less than nine inches (9") in length. If more than 10%, by count, are grey trout less than nine inches (9") in length, then the person shall be presumed guilty of having violated this regulation.

D. Length is measured in a straight line from the tip of the nose to the tip of the tail.

§ 5. Exemption from size provision.

The provisions of this regulation shall not apply to persons in possession of undersized trout while in the conduct of a retail seafood business nor to licensed crab pot fishermen in possession of undersized trout purchased as bait.

§ 6. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-08-1. Virginia [~~Fuel~~ *Energy*] Assistance Program.**

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

Effective Date: October 1, 1988

Summary:

The amendments make two changes to the Energy Assistance Program. Liquid resources for a household which does not contain a member who is 60 years of age or older or disabled cannot exceed $2,000. Total local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of 7.0% of the program grant allocation.

The proposed amendment relating to the eligibility of aliens is being withdrawn at the present time because final regulations from the Department of Health and Human Services have not been published that would provide the necessary policies and procedures to implement this new policy.

In addition, these final regulations change the name of the Fuel Assistance Program to the Energy Assistance Program.

VR 615-08-1. Virginia [~~Fuel~~ *Energy*] Assistance Program.

PART I.
DEFINITIONS.

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

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, *100% Veterans Administration disability,* Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Household" means an individual or group of individuals who occupy a housing unit and function as an economic unit by: purchasing residential energy in common (share heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house.

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of $900, or any other similar resource which can be liquidated in not more than 60 days.

"Energy-related, weather-related, or supply shortage emergency" means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

PART II.
FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance [~~Program~~ *component*] is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 150% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be $3,000. The resource limit for all other households shall be ~~$1,500~~ *$2,000* . In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

[~~*3. Alien Status. An alien who is not lawfully admitted into the USA is ineligible for benefits. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.*~~]

B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for Fuel Assistance;

2. The resource was less than the allowable resource limit;

3. The disposition or transfer was done without the person's full understanding.

§ 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest benefit given to households with the least income and the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each geographic area shall be determined by the following method:

A. A projection will be made of the number of households who will apply for Fuel Assistance. The projection will be based on the number of households who applied the previous year increased by the additional number of people who applied the year before.

B. An average grant per household will be determined based on the estimated amount of funds that will be available for benefits.

$$\frac{\text{\$ available}}{\text{no. of households}} = \text{average grant}$$

C. The benefits for each geographic area will be determined by using the average grant as a base figure and obtaining the highest and lowest benefits by using a ratio for each area based on degree days and the cost of various fuel types.

PART III.
[~~ENERGY~~] CRISIS ASSISTANCE [~~PROGRAM~~].

§ 3.1. The purpose of the [~~Energy~~] Crisis Assistance [~~Program~~] component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance [

~~Program~~ *component*] or other local resources.

A. Eligibility criteria.

In order to be eligible for [~~Energy~~] Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance [~~Program~~] criteria as set forth in Part II, § 2.1;

2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;

3. Other resources cannot meet the emergency (including Fuel Assistance);

4. Did not receive [~~Energy~~] Crisis Assistance during the current federal fiscal year: October 1 - [~~August 31~~ *April 30*].

B. Benefits.

An eligible household can receive no more than $200 for Energy Crisis Assistance during any federal fiscal year, unless the assistance is for the major repair or replacement of heating equipment, in which case the maximum amount of assistance shall be $500.

The following forms of assistance shall be provided:

1. Repairs or replacement of inoperable or unsafe heating equipment;

2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to a portion of the bill unless the household's income is zero in which case the entire bill will be paid up to the $200 maximum ~~.~~ ;

3. A one-time-only payment per fuel type of a heat-related utility security deposit.

The following forms of assistance can be provided at local option:

1. Providing space heaters.

2. Providing blankets or warm clothing.

3. Providing emergency shelter.

4. Emergency repairs of dwelling to prevent heat loss.

5. Other (locality must specify).

PART IV.
COOLING ASSISTANCE [~~*PROGRAM*~~].

§ 4.1. [~~*The*~~] *Cooling Assistance* [~~*program*~~] *is an optional component of the* [~~*Fuel*~~ *Energy*] *Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.*

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their ECAP allocation and will provide the assistance no earlier than June 15 through no later than August 31.

A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

B. Benefits.

The assistance is limited to: no more than $200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than $400 for purchasing an air conditioner.

PART ~~IV.~~ *V.*
ADMINISTRATIVE COSTS.

§ ~~4.1.~~ *§ 5.1.* Local administrative expenditures for the implementation of the [~~Fuel~~ *Energy*] Assistance Program shall not be reimbursed in excess of ~~whichever is the higher of 9.0% of the agency's allocation or 125% of the average administrative cost per case for the previous year~~ *7.0% of the program grant allocation* .

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-21-01.13. Tributyltin in Surface Waters - Water Quality Standards.**

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

Effective Date: September 14, 1988.

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:

This amendment establishes an instream water quality standard for tributyltin (TBT), an extremely toxic biocide which has been found to be harmful to many aquatic organisms in extremely low concentrations. The Environmental Protection Agency's Advisory on Tributyltin was used as the basis for developing a state water quality standard for tributyltin in

freshwater but the EPA Advisory concentration for saltwater was found not be be protective enough for Virginia marine waters. Thus, the saltwater concentration limit for TBT was developed from more recent literature submitted during the public comment period.

VR 680-21-01.13. Tributyltin in Surface Waters - Water Quality Standards.

The concentration of tributyltin (TBT) in freshwater shall not exceed 0.026 parts per billion (ug/1), and the concentration of tributyltin in saltwater shall not exceed [~~0.010~~ 0.001] parts per billion (ug/1).

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

Title of Regulation: **VR 245-01-01. Public Participation Guidelines.**

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Effective Dates: July 14, 1988 through June 30, 1989.

Preamble:

During the 1988 General Assembly Session $750,000 was appropriated to be utilized for publicity, procurement and distribution of Telecommunication Devices for the Deaf (TDDs), effective July 1, 1988. The Virginia Department for the Deaf and Hard of Hearing is responsible for formulating standards, regulations and personnel to ensure efficient and effective distribution of the devices during the biennium. The Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia includes statutory requirements for Public Participation Guidelines which must be effective before other regulations can be adopted.

The department recognizes the importance of public participation when adopting public participation guidelines but due to the July 1, 1988 deadline, promulgation of TDD distribution regulations needs to start immediately.

VR 245-01-01. Public Participation Guidelines.

PART I.
POLICY.

§ 1.1. The department will seek public participation from interested parties prior to formation and during the drafting, promulgation and final adoption process of regulations applicable to distribution procedures for the TDDs.

§ 1.2. Purpose.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to formulate and promulgate public participation guidelines as regulations subject to the Administrative Process Act. The intent of the public participation guidelines is to establish written procedures to solicit input from "interested parties" prior to formation and drafting of the proposed regulations and during the formation, promulgation and final adoption process of the regulations.

This process will be applicable to the development of all regulations as defined by § 9-6.14:4.F of the Administrative Process Act:

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

PART II.
GUIDELINES.

§ 2.1. Notice of intent.

When the department deems it necessary to develop a regulation or make substantial change to regulations, a notice of intent will be published in the Virginia Register, General Notices section. This notice will invite those interested in providing input to notify the department of their interest. Various agencies and associations will be notified and requested to advise their constituency through newsletters, etc. In addition to this notice, known interested parties will be advised, through a special mailing, of the agency's desire to develop a regulation and will be invited to assist the Department in developing the regulations or in providing information on how the regulations may affect the consumer.

The notice of intent will include:

1. Subject of the proposed regulation.

2. Identification of the entities that will be affected.

3. Timetable for reaching a decision, if available.

4. Name, address and telephone number of staff person to be contacted for further information.

§ 2.2. Formation of ad hoc advisory committees.

Whenever appropriate, as determined by the nature and scope of the regulation and the change(s) under consideration, an ad hoc advisory committee may be established by the director to include selected individuals who responded to the notice of intent, newsletter or special mailing and representatives of relevant associations or disciplines.

Committee members will be oriented to the Department and program issues, constraints, entities to be affected, program options and time limitations. The committee will discuss the issues and make recommendations which will be considered in the drafting and adoption of regulations. Once the regulations have been developed the committee will review them and continue to participate during the promulgation process.

§ 2.3. Orientation/training.

The department will develop orientation/training materials to be used with members of the ad hoc advisory committee(s) which will include:

1. The responsibility/authority of the department.

2. Orientation to TDD distribution requirements and

issues; and

3. Method of promulgating regulations.

PART III.
BASIS FOR POLICY.

§ 3.1. Chapter 5, Acts of Assembly of 1984, made amendments to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, which included statutory requirements for participation guidelines. These guidelines must be effective before other regulations can be adopted.

Submitted by:

/s/ Lily P. Bess, Director
Date: May 16, 1988

Approved:

/s/ Gerald L. Baliles, Governor
Date: June 25, 1988

Filed by:

/s/ Ann M. Brown, Deputy Registrar
Date: July 14, 1988 - 2:50 p.m.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.**

Statutory Authority: § 9-164 of the Code of Virginia.

Effective Dates: July 15, 1988, through July 14, 1989

Summary:

REQUEST: The Virginia Health Services Cost Review Council is required to report the results of the Commercial Diversification Survey of Virginia hospitals to the General Assembly by December 1, 1988. This legislative mandate was set forth in House Bill 1058 during the 1988 session of the General Assembly.

RECOMMENDATION: The Emergency Rules and Regulations must be signed in order to implement this study and have the data presentation for the General Assembly by December 1, 1988, as required by House Bill 1058.

Submitted by:

/s/ Ann Y. McGee, Director
Date: June 30, 1988

Concur:

/s/ Eva S. Teig, Secretary of Health and Human Resources

Approved:

/s/ Gerald L. Baliles, Governor
Date: July 11, 1988

Filed:

/s/ Ann M. Brown, Deputy Registrar
Date: July 15, 1988 - 1:53 p.m.

Background:

The Joint Subcommittee that studied the extent of unfair competition between nonprofit organizations and small for-profit businesses in Virginia issued a report in which the salient organizations of concern were the Virginia hospitals. The issue is whether or not nonprofit hospitals may be unfairly competing in the healthcare marketplace.

Although nonprofit hospitals benefit from a tax-exempt status, the recent phenomenon of diversification by these entities has raised many questions. The extent to which commercial diversification exists and its appropriateness is an issue which can best be evaluated when data are collected that will provide insight into the number and types of facilities that have diversified as well as the types of business enterprises in which these institutions are engaging.

The Virginia Health Services Cost Review Council was charged by the General Assembly to conduct a survey of commercial diversification of Virginia healthcare institutions and to present these data to the General Assembly by December 1, 1988.

In order to prepare a clear, concise and meaningful report for the General Assembly, an emergency exists for the Council. Although the survey instrument has been developed, it is essential to get it mailed to all 124 Virginia hospitals no later than July 15, 1988. This leaves less than 7 weeks turn around time for the institutions to complete the instrument. Each institution will be required to complete one instrument for each corporation in its organizational structure. Consequently, a very large volume of data will be returned to the Council for analysis.

A return date for this data has been set for August 31, 1988, as it is anticipated that many of the forms will have errors or will be incomplete due to the various skill levels of staff in the hospitals. Therefore, it will be necessary to communicate with the staff and make these adjustments. This will create time delays but is essential if the report is to be accurate and credible. History dictates that some hospitals will be late in their filing. Although a late fee of $25 per working day is set forth in the Rules and Regulations as a motivator, it is expected that in a few cases

more drastic and time-consuming measures will be needed such as having the Attorney General's Office to write a letter explaining the seriousness of the non-compliance. Although the number of hospitals that do not comply is small, it is nevertheless time-consuming to right the situation.

It is imperative that this large volume of data be carefully analyzed and presented in a form that is clear, concise and meaningful. Therefore, if all the data are gathered and corrected by September 30, 1988, this leaves an unusually short time for the complex analysis process and data formatting.

The Virginia Health Services Cost Review Council at its June 22, 1988, meeting adopted the attached Rules and Regulations and directed me to proceed with promulgation on an emergency basis in order to ensure a timely report for the General Assembly.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I.
DEFINITIONS.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;

3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2. of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means a general hospital, ordinary hospital, or out-patient surgical hospital licensed pursuant to § ~~32-297 et seq.~~ *§ 32.1-123 et seq.* of the Code of Virginia and mental or psychiatric hospital licensed pursuant to § ~~37.1- 179 et seq.~~ *§ 37.1-179 et seq.* of the Code of Virginia but in no event shall such term be construed to include any physician's office, nursing home, intermediate care facility, extended nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or out-patient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity with a federally exempt tax status which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia, P.L. 93-641, or P.L. 92-603 including the Statewide Health Coordinating Council, Department of Health and any health systems agency.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia ,

is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilites as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective ~~30 days after the council has filed them in accordance with the Virginia Register Act~~ *July 15, 1988* .

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III
COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV.
VOLUNTARY COST REVIEW ORGANTIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization: including copies of its Commonwealth of Virginia Charter, bylaws, and evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers

have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classificiation; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation. Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval. The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication. An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under §4.2.B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V.
CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI.
FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms

provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia, which shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times may be granted for extenuating circumstances upon a health care institution's written application for a 30- to 60-day extension. Such request for extension shall be filed no later than 90 days after the end of a health care institution's fiscal year.

§ 6.2. Each health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year.

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council no later than 10 days after the beginning of its respective applicable fiscal year.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

§ 6.3:1. Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the Council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the Council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:

a. The name and principal activity;

b. The date of the affiliation;

c. The nature of the affiliation;

d. The method by which each affiliate was acquired or created;

e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;

f. The total assets;

g. The total revenues;

h. The net profit after taxes, or if not-for-profit, its excess revenues; and

i. The net quality, or if not-for-profit, its fund balance.

§ 6.3:2. The information specified in § 6.3:1 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.

§ 6.3:3. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3:1 shall complete and return the survey to the Council by the 31st day of August of each calendar year in which the survey is required to be submitted.

§ 6.4. All filings prescribed in § 6.1 ~~and~~ , § 6.2 *and § 6.3:1* of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year.

§ 6.7. A late charge of $10 per working day shall be paid to the council by a health care institution that files its budget or annual report past the due date.

§ 6.8. A late charge of $50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of $25 per working day shall be paid to the Council by the reporting entity required to complete the survey required in § 6.3:1.

PART VII.
WORK FLOW AND ANALYSIS.

§ 7.1. The annual report date filed by health care institutions as presecribed in § 6.1 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75

days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall received a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII.
PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each hospital in Virginia for at least each of the 25 most frequently used hospital services in Virginia, including each hospital's average semi-private and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, Virginia's hospital costs compared with other states, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. The provisions of § 8.5 of these regulations will also apply to recognized and designated health systems agencies (HSAs) and professional standards review organizations (PSROs) in the Commonwealth of Virginia, provided that the data requested have a definite bearing on the functions of these organizations.

§ 8.8. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurors, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.9. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: **VR 615-45-2. Child Protective Services Client Appeals.**

Statutory Authority: § 63.1-248.6:1 of the Code of Virginia.

Effective Dates: July 26, 1988 through July 25, 1989.

Preface:

It is necessary for the proposed procedures to be published as emergency regulations due to the July 1, 1988, change to the Code of Virginia, specifically the addition of § 63.1-248.6:1. This change addresses the due process rights of individuals found to have abused or neglected a child in their care. The new section establishes appeal hearings at the request of the individual. Current Departmental procedures require a process which is not compatible with the new Code requirements. Due to the effective date of the change, the attached procedures are being submitted as emergency regulations to be in effect until they can be submitted and approved through the regular Administrative Process Act process.

VR 615-45-2. Child Protective Services Client Appeals.

PART I.
DEFINITIONS.

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

"Alleged abuser" means any person who is the subject of a complaint and is suspected of or is found to have committed the abuse or neglect of a child pursuant to § 63.1-248 et. seq. of the Code of Virginia.

"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, and providing social casework and other services for the child, his family, and the alleged abuser.

"Complaint" means a valid report of suspected child abuse/neglect which must be investigated by the local department of social services.

"Final disposition" means the determination of founded, reason to suspect, or unfounded, made on each complaint by the investigating worker.

"Founded" means that a review of the facts shows clear and convincing evidence that child abuse or neglect has occurred.

"Reason to suspect" means that a review of the facts shows no clear and convincing evidence that abuse or neglect has occurred. However, the situation gives the worker reason to believe that abuse or neglect has occurred.

"Unfounded" means that a review of the facts shows no reason to believe that abuse or neglect has occurred.

PART II.
POLICY.

§ 2.1. Appeal Process.

Appeal is the process by which the alleged abuser may request amendment of the record in cases where the investigation has resulted in a "founded" or "reason to suspect" disposition.

A. Final Disposition.

The agency shall notify the alleged abuser of its disposition of the investigation in writing, to be mailed to the alleged abuser by certified mail, return receipt requested. The written decision shall state the finding as "founded" or "reason to suspect" and outline the rights of appeal and the right to review the case record pursuant to the Virginia Privacy Proctection Act of 1976.

B. Local Conference.

1. A request to amend the record must be made in writing to the local director within 30 days of receipt of the agency decision by the alleged abuser. The local department shall stamp the date of receipt on the request. The local department shall also notify the Child Protective Services Information System that an appeal is pending.

2. The local director or his designee shall arrange a convenient time for an informal conference with the appellant. Participants in the conference will include the appellant and, if the appellant chooses, his authorized representative, and the worker who made the disposition on the case. The local director or his designee shall preside during conference; a designee must be one to whom the worker who made the disposition is subordinate.

3. Prior to the informal conference, the appellant shall have the opportunity to review the record pursuant to the Virginia Privacy Protection Act of 1976.

4. During the informal conference, the appellant may submit any additional documentation or arguments that he deems relevant to the disposition. Such documentation shall become part of the record.

5. The presiding employee shall issue a written decision as a result of the informal conference within 30 days of receipt of the written request from the appellant. The written decision shall prescribe:

a. What action will be taken on the request for amendment, and

b. What further appeal rights exist.

The written decision shall be mailed to the appellant by certified mail, return receipt requested.

C. Administrative Hearing.

1. Within 30 days of receipt of the written decision of the informal conference or if the local department fails to render a decision within 30 days of a request by an appellant, the appellant may request in writing that the Commissioner provide an administrative hearing to review the request for amendment.

2. The Commissioner shall appoint a hearing officer to conduct an administrative hearing to review the request for amendment.

3. Hearing Officer's Powers and Responsibilities.

a. The hearing officer shall set a convenient time to conduct the hearing. The hearing officer can reschedule the hearing upon good cause, such as illness.

b. The hearing officer has no subpoena power or authority to administer oaths or affirmations.

c. The hearing officer can accept all relevant evidence submitted during the hearing, and is not bound by strict rules of evidence.

d. Either party has the right to have the hearing recorded by a court reporter. In the absence of a court reporter, the hearing officer shall make or cause to be made an audio recording, a copy of which shall be available to either party.

e. The hearing officer may defer his decision for a specified period after conclusion of the hearing in order for either party to present additional evidence.

f. The hearing officer may examine any witness and give the appellant and the local department an opportunity to examine any witness.

4. Hearing Procedure.

a. All persons present shall be identified on the record. The appellant may be accompanied by an authorized representative.

b. The hearing officer shall explain the purpose of the hearing and the procedures that will be followed. The hearing officer shall state that the appellant must prove by a preponderance of the evidence that the record should be amended because it contains information which is irrelevant or inaccurate.

c. The local department will submit a copy of all material in the local agency's record which contains information and documentation used to make the determination of "founded" or "reason to suspect," which shall be accepted into evidence by the hearing officer.

d. The appellant will state his objections to the disposition reached by the local department and summarize the evidence supporting his conclusion. The appellant may submit any further relevant evidence not previously submitted to the local department.

5. Hearing Decision.

a. The hearing officer shall render a written decision which shall be mailed to the appellant by certified mail, return receipt requested. A copy of the decision shall be mailed to the local department by first class mail.

b. The decision of the hearing officer shall outline:

1. Findings of fact

2. Final disposition of the case

3. Expungement or amendment of any information in the record

4. Right to judicial review

D. Final Action.

Upon receipt of the hearing officer's decision, the local department shall amend the record and the Child Protective Services Information System report in accordance with the decision.

/s/ Larry D. Jackson, Commissioner
Department of Social Services
Date: July 11, 1988

/s/ Gerald L. Baliles, Governor
Date: July 25, 1988

/s/ Joan W. Smith, Registrar of Regulations
Date: July 26, 1988 - 11:56 a.m.

AGENCY RESPONSE TO GUBERNATORIAL OBJECTION

STATE WATER CONTROL BOARD

In response to a Gubernatorial Objection on VR 680-14-03. Toxics Management Regulation, published in the Virginia Register of Regulations on June 20, 1988, the State Water Control Board released a notice soliciting additional public comment on the regulation. Comments could be submitted to the board orally at its meeting on June 28, 1988, or in writing until July 20, 1988. At its meeting on June 28, 1988, the board suspended the effective date of VR 680-14-03 pending consideration of public comments and any modifications to the Toxics Management Regulation and the establishment of a new effective date at a special meeting of the board on August 8, 1988.

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 13, 1988

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS880219

Ex Parte In re: Determination of Competition as an Effective Regulator of Rates Pursuant to Virginia Code § 38.2-1905.1.E.

ORDER RENEWING PREFILING RULE FOR MEDICAL MALPRACTICE LIABILITY INSURANCE

WHEREAS, pursuant to an order entered herein June 1, 1988, a hearing was conducted by the Commission, at 10:00 a.m. on June 29, 1988, in the Commission's Courtroom to receive evidence from interested parties with respect to whether competition is an effective regulator of the rates charged for, among certain other lines and subclassifications of commercial liability insurance which will be the subject of a subsequent order, medical malpractice liability insurance in this Commonwealth. Rates for medical malpractice liability insurance have been subject to delayed effect pursuant to a sixty day prefiling rule promulgated by Commission order annually since August 25, 1975.

AND THE COMMISSION, having considered the record herein, is of the opinion and finds that competition is not an effective regulator of the rates charged for medical malpractice liability insurance in the Commonwealth of Virginia and that, pursuant to Virginia Code § 38.2-1912, the rule promulgated by the Commission by order entered herein August 25, 1975, and thereafter annually renewed by Commission order, should be renewed.

THEREFORE, IT IS ORDERED pursuant to Virginia Code §§ 38.2-1905.1.E and 38.2-1912 that the rule promulgated by the Commission by order entered herein August 25, 1975, and thereafter annually renewed by Commission order shall be renewed for a period of one year from the date of this order as follows:

RULE

All insurance companies licensed to write medical malpractice liability insurance in the Commonwealth of Virginia and all rate service organizations licensed pursuant to the provisions of Chapter 19 of Title 38.2 of the Code of Virginia shall file with the Commissioner of Insurance any and all changes in medical malpractice liability insurance rates and supplementary rate information and, pursuant to § 38.2-1912 B and D, such supporting data and information as it is deemed necessary by the Commissioner of Insurance for the proper functioning of the rate monitoring and regulating process at least sixty (60) days prior to their effective date.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Honorable Mary Sue Terry, Attorney General of Virginia, in care of Gail D. Jaspen, Esquire, Office of Consumer Counsel, 101 North 8th Street, Richmond, Virginia 23219; C. William Waechter, Jr., Esquire, 6722 Patterson Avenue, Richmond, Virginia 23226, counsel for the Alliance of America Insurers; James C. Roberts, Esquire and Donald G. Owens, Esquire, P.O. Box 1122, Richmond, Virginia 23208-9970, counsel for the American Insurance Association; John William Crews, Esquire, 700 E. Main Street, Suite 1015, 700 Building, Richmond, Virginia 23219, counsel for the Virginia Insurance Reciprocal; and the Bureau of Insurance in care of Robert A. Miller, Deputy Commissioner, who shall forthwith cause a copy of this order to be sent to all insurers licensed to write general liability insurance in the Commonwealth of Virginia and all rate service organizations licensed pursuant to Chapter 19 of Title 38.2 of the Code of Virginia.

* * * * * * * * *

AT RICHMOND, JULY 19, 1988

COMMONWEALTH OF VIRGINIA, ex rel.

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC870004

Ex Parte: Investigation of Deregulation of Telephone Company Billing and Collection Services.

ORDER INVITING ADDITIONAL COMMENTS

On January 28, 1988, the Commission entered an Interim Order herein that, inter alia, retained intrastate regulation of billing and collection services offered by local exchange carriers (LECs), required the LECs to continue to file tariffs for billing and collection services, but permitted those tariffs to be individually negotiated agreements with interexchange carriers (IXCs).

The Commission has recently been concerned about who may avail themselves of the billing and collection service of LECs. Ordering paragraph A (5) of the Interim Order provides "LECs may not deny billing and collection service to any requesting certificated IXC unless authorized by the Commission ...." The Commission is concerned that the scope of this ordering paragraph should be clarified to address and possibly to prohibit offering billing and collection service to persons (1) who are not an IXC certificated by either the Federal Communications Commission (FCC) or by this Commission or (2) who do not already have an account established for the subcriber the LEC is asked to bill. While there has been no incident

of a certificated IXC being denied billing and collection service by an LEC, there have been numerous incidents of LECs billing for uncertificated persons that are not recognized by LEC subscribers as being connected in any way with their long distance service. This has been confusing and inconvenient to the public as evidenced by complaints brought to the attention of the Staff. Accordingly, the Commission would like to receive comments from interested parties concerning the propriety of expanding ordering paragraph A (5) to read as follows:

> LECs may not deny billing and collection service to any requesting, certificated IXC unless authorized by the Commission. LECs may only offer billing and collection service to a person (1) who is certificated by this Commission or by the Federal Communications Commission or (2) who establishes an account with the LEC subscriber before any bill for service is rendered.

ACCORDINGLY, IT IS THEREFORE ORDERED that any party desiring to comment upon the proposed expansion of ordering paragraph A (5) of the Commission's Interim Order of January 28, 1988, may file such comments on or before August 19, 1988.

ATTESTED COPIES hereof shall be sent to the Clerk of the Commission to each local exchange company subject to the jurisdiction of the Commission as set out in Appendix A attached hereto; each interexchange carrier certificated in Virginia as set out in Appendix B attached hereto; Russell M. Blau, Esquire, Pepper, Hamilton and Scheetz, attorneys for Operator Assistance Network, 1777 F Street, N.W., Washington, D.C. 20006-5203; Mr. Paul Freels, Executive Vice President, International Telecharge, Inc., 101 Sourth Akard, Dallas, Texas 75202; Mr. Paul Gamberg, President, Operator Service Providers of America, 6611 Valjean Avenue, Suite 201, Van Nuys, California 91406; to the Office of the Attorney General, Division of Consumer Counsel, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; and to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

APPENDIX A

TELEPHONE COMPANIES IN VIRGINIA

Joseph E. Hicks, President
Amelia Telephone Company
P.O. Box 158
Leesburg, Alabama 35983

Raymond L. Eckels, Manager
Amelia Telephone Company
P.O. Box 76
Amelia, Virginia 23002

M. Dale Tetterton, Jr., Manager
Buggs Island Telephone Cooperative
P.O. Box 129
Bracey, Virginia 23919

Sue B. Moss, President
Burke's Garden Telephone Exchange
P.O. Box 428
Burke's Garden, Virginia 24608

James D. Ogg
Vice President and Division Manager
Central Telephone Company of Virginia
P.O. Box 6788
Charlottesville, Virginia 22906

Hugh R. Stallard, President
Chesapeake and Potomac Telephone Company
703 East Grace Street
Richmond, Virginia 23219

James R. Newell, Manager
Citizens Telephone Cooperative
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Robert S. Yeago, president
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24001

Clarence Prestwood, President
Contel of Virginia, Inc.
P.O. Box 900
Mechanicsville, Virginia 23111-0900

Dale E. Sporleder, Vice-President and General Counsel
GTE South
4100 North Roxboro Road
Durham, South Carolina 27704

T. S. Morris, General Manager
GTE South
210 Bland Street
Bluefield, West Virginia 24701

L. Ronald Smith, General Manager
Mountain Grove-Williamsville Telephone Company
P.O. Box 105
Williamsville, Virginia 24487

T. A. Glover, Manager
Highland Telephone Cooperative
Monterey, Virginia 24465

K. L. Chapman, Jr., President
New Hope Telephone Company
P.O. Box 38
New Hope, Virginia 24469

W. Richard Fleming, Manager
North River Telephone Cooperative

P.O. Box 8
Dayton, Virginia 22821

Ross E. Martin, General Manager
Pembroke Telephone Cooperative
P.O. Box 549
Pembroke, Virginia 24136-0549

E. B. Fitzgerald, Jr., President and General Manager
Peoples Mutual Telephone Company, Inc.
P.O. Box 367
Gretna, Virginia 24557

Ira D. Layman, Jr., President
Roanoke and Botetourt Telephone Company
Daleville, Virginia 24083

James W. McConnell, Manager
Scott County Telephone Cooperative
P.O. Box 487
Gate City, Virginia 24251

Christopher E. French
President and General Manager
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virginia 22824

Richard B. Cashwell, President
United Inter-Mountain Telephone Company
112 Sixth Street
P.O. Box 699
Bristol, Tennessee 37620

Dennis H. O'Hearn, General Manager
Virginia Hot Springs Telephone Co.
P.O. Box 699
Hot Springs, Virginia 24445

Ralph L. Frye, Executive Director
Virginia Telephone Association
700 Building - 14th Floor
7th and Main Streets
Richmond, Virginia 23219
643-0688

A. J. Chisholm, Vice President and Regulatory Affairs
The Western Union Telegraph Company
1828 "L" Street, Northwest, Suite 1001
Washington, D.C. 20036

Richard D. Gary, Esquire
* Hunton and Williams
P.O. Box 1535
Richmond, VA 23212

* Represents Virginia Telephone Association

APPENDIX B

INTER-EXCHANGE TELEPHONE COMPANIES - LONG DISTANCE

Gregory F. Allen, Vice President
AT&T Communications of Virginia
Three Flint Hill
3201 Jermantown Road
Room 3B
Fairfax, Virginia 22003-2885

Robert S. Yeago, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24401

Dallas Reid
Continental Telephone Company
P.O. Box 900
Mechanicsville, Virginia 23111

Ms. Mary Rouleau
Institutional Communications Company - Virginia
2000 Corporate Ridge
McLean, Virginia 22102

William F. Marmon, Jr.
MCI Telecommunications Corp. of Virginia
Mid-Atlantic Division
601 South 12th Street
Arlington, Virginia 22202

Ira D. Layman, Jr., Manager
Roanoke & Botetourt Telephone Company
P.O. Box 174
Daleville, Virginia 24083

Warren B. French, Jr.
President & General Manager
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virginia 22824

David H. Jones
SouthernNet of Va., Inc.,
61 Perimeter Street
Atlanta, Georgia 30341

Ms. Sharon Barkely, Manager
Regulatory Affairs
TDX Systems, Inc.
1920 Aline Avenue
Fairfax, Virginia 22180

Rita Barmann
U.S. Sprint Communications Company
1850 M Street, N.W.
Suite 1110
Washington, D.C. 20036

Kevin J. Duane, Manager
Rates, Tariffs, Agreements

United States Transmission Systems, Inc.,
100 Plaza Drive
Secaucus, New Jersey 07096

EXECUTIVE ORDER NUMBER SIXTY-THREE (88)

DECLARATION OF STATE OF EMERGENCY ARISING FROM FOREST FIRES IN FAUQUIER AND PAGE COUNTIES, VIRGINIA

During the week of July 11, 1988, fires were started, of accidental or unknown origin, on Bull Run Mountain in Fauquier County and on Dovel Mountain in Page County, Virginia. The rugged terrain of these areas is inaccessible to land-based firefighting equipment. For this reason, helicopter-borne water buckets from the Virginia Army National Guard were deployed in order to extinguish the fire.

The health and general welfare of the citizens of the affected localities required that state action be taken to help alleviate the conditions brought about by this situation, which constituted an emergency as contemplated under the provisions of Section 44-146.16 of the Code of Virginia.

By virtue of the authority vested in me by Sections 44-75.1 and 44-146.17 of the Code of Virginia, as Governor, as Commander in Chief of the armed forces of the Commonwealth, and as Director of Emergency Services, and subject to my continuing and ultimate authority and responsibility to act in such matters, I do hereby proclaim that on July 17, 1988, I determined that a state of emergency existed in Fauquier and Page Counties, Virginia, and directed that appropriate assistance be rendered by agencies of state and local governments to alleviate these conditions. I further directed that the Adjutant General of Virginia make available, on state active duty service, such members of the Virginia National Guard and such equipment as might be necessary to combat the forest fire in the affected areas.

Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following benefits will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act; and in addition,

(b) The same benefit for injury, disability and/or death, or their equivalent, as would be provided by the federal government if the member were serving on federal active duty at the time of injury or death. Any such federal-type benefits due to a member and his/her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his/her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia and subject to the concurrence of the Board of Military Affairs, I now approve of future expenditures out of the appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

This Executive Order will become effective upon its signing and will remain in full force and effect until June 30, 1989, 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 July, 1988.

/s/ Gerald L. Baliles
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: **VR 115-01-02. Standards for Classification of Real Estate as Devoted to Agricultural Use and Horticultural Use Under the Virginia Land Use Assessment Law.**

Governor's Comment:

The promulgation of these regulations is intended to clarify and strengthen the eligibility requirements for assessing agricultural and horticultural land. It will also simplify validation procedures for real estate taxes devoted to the production for sale of plants and animals. Pending public comment, I recommend approval of these regulations.

/s/ Gerald L. Baliles
Date: July 13, 1988

DEPARTMENT OF CORRECTIONS

Title of Regulation: **VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.**

Governor's Comment:

Although I have no general objections to these regulations as proposed, I strongly encourage the Board

and Department of Corrections to consider revision of the proposed requirements relating to staffing and training.

With respect to the proposed staffing requirements, the Board and Department should solicit and carefully consider comments from affected localities as to whether the mandatory minimum staffing requirements are indeed necessary to provide quality programs in all participating jurisdictions, particularly in light of the substantial fiscal impact that will result from these new requirements. The Board and Department may wish to consider the possibility of providing for waivers from the minimum staffing requirements upon a demonstration by a participating locality that a quality program can be provided without the prescribed staffing requirements, or upon a showing of other good cause.

With respect to the proposed training requirements, the Board and Department should provide some substantive guidance as to the content of the training to be required under the regulations as proposed. Mere requirement of an established number of hours of training, with no further guidance regarding acceptable curricula or subject matters, is unlikely to result in meaningful training opportunities for local program specialists.

I would also encourage the Board and the Department to consider adoption of the clarfications suggested by the Department of Planning and Budget.

/s/ Gerald L. Baliles
Date: July 11, 1988

* * * * * * * * *

Title of Regulation: **VR 230-40-006. Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants.**

Governor's Comment:

I have no substantive objection to the regulations as proposed. I would, however, strongly recommend that the Board and Department of Corrections consider the need for clarfication raised by the Department of Planning and Budget with respect to several sections of the proposed regulations.

/s/ Gerald L. Baliles
Date: July 11, 1988

DEPARTMENT OF FORESTRY

Title of Regulation: **VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law.**

Governor's Comment:

The promulgation of these regulations is intended to clarify and strengthen the eligibility requirements for real estate to be classified for forest use. It will also simplify validation procedures for local assessors of real estate taxes to determine if a parcel of land is devoted to forest use. Pending public comment, I recommend approval of these regulations.

/s/ Gerald L. Baliles
Date: July 13, 1988

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-11-04. Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed.**

Governor's Comment:

Standard policy, approved by the Board of Health in 1983, requires a minimum separation of five miles between the point of discharge from a sewage treatment plant and the downstream point of intake for domestic drinking water supply. With the concurrence of the Health Department, the Water Board has proposed conforming the Dulles Area Watershed policy with that of the rest of the state by making the requirement for separation five miles. Fairfax County has asked that the policy require, in this case, a ten-mile separation. I have no objection to the proposed regulation so long as the Water Board amends it to require a ten-mile separation and so long as adequate assurances are included that no degradation of water quality will occur.

/s/ Gerald L. Baliles
Date: July 13, 1988

Symbol Key †
† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Historic Resources intends to consider amending regulations entitled: **Standards for Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Tax Assessment Law.** The purpose of the proposed action is to amend the Standards for Classification of Real Estate as Devoted to Open Space under the Virginia Land Use Assessment Law to clarify the standards and strengthen eligibility requirements for participation in accordance with the current law as amended by the 1988 Acts of Assembly.

Statutory Authority: §§ 10.1-104 and 58.1-3230 of the Code of Virginia.

Written comments may be submitted until September 1, 1988, to B.C. Leynes, Jr., Director, Department of Conservation and Historic Resources, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Contact: Leon A. App, Executive Assistant, Department of Conservation and Historic Resources, 203 Governor St., Suite 302, Richmond, Va. 23219, telephone (804) 786-6124

VIRGINIA FIRE SERVICES BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Fire Services Board intends to consider amending regulations entitled: **Certification Standards for Fire Inspector I and II.** The purpose of the proposed action is to revise the present regulations to include training for issuing, obtaining and serving inspection warrants according to § 27-98.1 et seq. of the Code of Virginia. This section was added to the Code by the passage of House Bill 564 by the 1988 General Assembly.

Statutory Authority: § 27-34.2 of the Code of Virginia.

Written comments may be submitted until October 1, 1988.

Contact: Robert Williams, II, Fire Services Training Specialist, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Regulations for Disease Reporting and Control.** The purpose of the proposed action is to amend the regulations and thereby comply with current disease control policies and new statutory requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Written comments may be submitted until September 2, 1988.

Contact: C. Diane Woolard, M.P.H., Senior Epidemiologist, Department of Health, Office of Epidemiology, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6261

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Rules and Regulations Governing Emergency Medical Services (EMS).** The purpose of the proposed action is to amend the standards for licensure of EMS agencies and EMS vehicles by type of services rendered, required medical equipment, supplies, vehicle specifications and the personnel required for each classification. By reference EMS Agency guidelines and EMT and First Responder Guidelines and Procedures are part of the regulations and include updated amendments.

Statutory Authority: § 32.1-112 of the Code of Virginia.

Written comments may be submitted until September 2, 1988, to the Division of Emergency Medical Services, 109 Governor Street, Room 1001, Richmond, Virginia 23219.

Contact: Susan D. McHenry, Director, 109 Governor St., Room 1001, Richmond, Va. 23219, telephone (804) 786-5188, toll-free 1-800-523-6019 or SCATS 786-5188

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Rules and Regulations Governing Financial Assistance for Emergency Medical Services (EMS).** The purpose of the proposed action is to amend the requirements and conditions for EMS nonprofit organizations applying for financial assistance from the Virginia Rescue Squad Assistance Fund. The amendments will revise the application form, use of funds, and the review and evaluation process including new procedures and guidelines.

Statutory Authority: § 32.1-115 of the Code of Virginia.

Written comments may be submitted until September 2, 1988, to the Division of Emergency Medical Services, 109 Governor Street, Room 1001, Richmond, Virginia 23219.

Contact: Susan D. McHenry, Director, Department of Health, 109 Governor St., Room 1001, Richmond, Va. 23219, telephone (804) 786-5188, toll-free 1-800-523-6019, or SCATS 786-5188

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 Sanitary Regulations for Marinas and Boat Moorings.** The purpose of the proposed action is to allow a marina/boat mooring to provide pump-out service through a contactual agreement with another marina/boat mooring.

Statutory Authority: § 32.1-246 of the Code of Virginia.

Written comments may be submitted until September 2, 1988.

Contact: A. F. Golding, Marina Supervisor, Department of Health, 109 Governor St., Room 903A, Richmond, Va. 23219, telephone (804) 786-1761 or SCATS 786-1761

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider amending regulations entitled: **Senior Citizens Higher Education Act.** The purpose of the proposed action is to amend the Senior Citizens Higher Education Act to incorporate amendments enacted by the 1988 General Assembly.

Statutory Authority: § 23-38.56 of the Code of Virginia.

Written comments may be submitted until September 1, 1988.

Contact: Dr. Barry M. Dorsey, Associate Director, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2632 or SCATS 225-2632

MARINE RESOURCES COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider promulgating regulations entitled: **Criteria for the Placement of Sandy Dredged Material along Beaches in the Commonwealth.** The purpose of the proposed regulation is to provide criteria to assure that all suitable dredged material is utilized on eroding beach shorelines to the maximum extent practicable. Documents support § 10.1-704 of the Code of Virginia.

Statutory Authority: § 62.1-3 of the Code of Virginia.

Written comments may be submitted until September 2, 1988.

Contact: Norman E. Larsen, Chief, Habitat Management, Commonwealth of Virginia, Marine Resources Commission, P. O. Box 756, Newports News, Va. 23607-0756, telephone (804) 247-2200 or SCATS 535-2200

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider promulgating regulations entitled: **Wetlands Mitigation - Compensation Policy.** The purpose of the proposed regulation is to develop guidelines which will be used by the Marine Resources Commission and Local Wetlands Boards in the evaluation of projects which may require wetlands mitigation or compensation pursuant to Chapter 2.1 of Title 62.1 of the Code of Virginia. The guidelines will be incorporated into the existing Wetlands Guidelines which were promulgated in 1974 and revised in 1982.

Statutory Authority: Chapter 2.1 of Title 62.1 of the Code of Virginia.

Written comments may be submitted unitl September 2, 1988.

Contact: Norman E. Larsen, Chief, Habitat Management, Commonwealth of Virginia, Marine Resources Commission, P. O. Box 756, Newport news, Va. 23607-0756, telephone (804) 247-2200 or SCATS 535-2200

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

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: **Transfer of Assets.** The purpose of the proposed action is to implement the requirements of the Catastrophic Health Care Act as relate to Medicaid's transfer of assets policies.

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

Written comments may be submitted until August 16, 1988, to Ann E. Cook, Director, Division of Medical Social Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

† 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: **Hospital and Nursing Home Audited Financial Statements.** The purpose of the proposed action is to establish program requirements for filing audited financial statements with annual cost reports.

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

Written comments may be submitted until August 31, 1988, to N. Stanley Fields, Division of Medical Social Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mental Health, Mental Retardation and Substance Abuse Services intends to consider amending regulations entitled: **Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation.** The purpose of the proposed action is to assure the department's regulations on the rights of residents are current and adequately protect the rights of the residents served. The Task Force will meet regularly throughout the state in hopes of completing the process in 12 months.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until October 19, 1988, to Elsie D. Little, State Human Rights Director, P. O. Box 1797, Richmond, Virginia 23214.

Contact: Rubyjean Gould, Administrative Services Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3915 or SCATS 786-3915

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider promulgating regulations entitled: **Rules and Regulations Governing Certification of Diesel-Engine Mechanics.** The purpose of the proposed action is to ensure that qualified personnel are responsible for the repair and maintenance of diesel engines used in underground coal mines.

Statutory Authority: § 45.1-13(4) of the Code of Virginia.

Written comments may be submitted until September 1, 1988.

Contact: Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 West Broad Street, Richmond, Va. 23220, telephone (804) 367-6898 or SCATS 367-6898

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Rehabilitative Services intends to consider amending regulations entitled: **Provision of Vocational Rehabilitation Services.** The purpose of the proposed action is to amend certain portions to (i) comply with new federal regulations and (ii) broaden the service capabilities of the department.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Written comments may be submitted until October 1, 1988, to Charles H. Merritt, P. O. Box 11045, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, SCATS 367-6466, toll-free 1-800-552-5019 ☎ , or

(804) 367-0280 ☎

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: **Child Protective Services Client Appeals Procedures.** The purpose of the proposed action is to alter the procedures by which child protective services clients can appeal founded or reason to suspect dispositions.

Statutory Authority: §§ 63.1-25 and 63.1-248.1 of the Code of Virginia.

Written comments may be submitted until September 1, 1988.

Contact: Janine Tondrowski, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or toll-free 1-800-552-7091

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: **Aid to Dependent Children (ADC) Program - Lump Sum, Shortening the Period of Ineligibility.** The purpose of the proposed action is to delete language giving final authority to the local social services agency for decisions regarding conditions deemed to have occurred beyond the control of the assistance unit, that could shorten the period of ineligibility established due to receipt of a lump sum.

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

Written comments may be submitted until August 17, 1988, to I. Guy Lusk, Director, Division of Benefits Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carol Holmes, Program Specialist, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

† 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 promulgating regulations entitled: **Establishment of Administrative Support Orders.** The purpose of the proposed regulation is to provide an administrative means for the expedited handling of support cases in addition to the judicial system.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

† 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 promulgating regulations entitled: **Child Support Enforcement Services.** The purpose of the proposed regulation is to provide for recoupment of funds expended in public assistance and assistance to persons with dependent children who need support.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

† 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 promulgating regulations entitled: **Confidentiality and Exchange of Information for Child Support Enforcement Services.** The purpose of the proposed regulation is to allow for efficient use of information while providing protection for responsible parents and applicants for service.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

† 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 promulgating regulations entitled: **Enforcement of Child Support Obligations.** The purpose of the proposed regulation is to provide for the collection of current and delinquent support obligations to ensure that caretakers and children in need of support receive it.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

† 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 promulgating regulations entitled: **Establishment of Paternity in Child Support Enforcement.** The purpose of the proposed regulation is to establish the rights of children and enable the Department of Social Services to collect support for children from persons responsible for their support.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

† 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 promulgating regulations entitled: **Persons Qualifying for Child Support Enforcement Services.** The purpose of the proposed regulation is to ensure that child support enforcement services be made available to all persons with dependent children who are in need of support.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

† 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 promulgating regulations entitled: **Responsibilities of IV-D Agencies in Interstate Child Support.** The purpose of the proposed regulation is to allow for more efficient and effective handling of interstate child support cases.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled:

VR 630-02-490.1. Virginia Declaration of Estimated Income Tax by Individuals: Definitions.

VR 630-2-490.2. Virginia Declaration of Estimated Income Tax by Individuals: Declarations of Estimated Tax.

VR 630-2-492. Virginia Declaration of Estimated Income Tax by Individuals: Failure by Individual to Pay Estimated Tax.

The purpose of the proposed action is to amend and conform to the changes made by the 1987 General Assembly to §§ 58.1-490 and 58.1-492 (1987 Acts, Chapter 599). These code sections were amended to increase the threshold for filing a declaration of estimated income tax and to increase the percentage of individual income tax that must be remitted by means of estimated and/or withholding payments for individuals from 80% to 90%. These regulations are to permanently amend and to replace the Emergency Regulations adopted January 1, 1988, which will expire December 31, 1988.

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

Written comments may be submitted until August 15, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-3-323.1. Excess Cost Recovery (Corporation Income Tax).** The purpose of the proposed regulation is to provide guidance to taxpayers in how the outstanding balance of excess cost recovery will be returned to taxpayers over the five year period 1988-1992.

The Virginia Tax Reform Act of 1987 (1987 Acts c. 9, HB 1119) eliminated the ACRS addition and addes § 58.1-323.1 which permits individual and corporate taxpayers to recover the outstanding balance of ACRS additions. Section 58.1-323.1 was amended (1988 Acts c. 773, SB 441) relating to recovery by a taxpayer who filed a final federal and Virginia return before 1988.

This regulation will supersede the following Emergency Regulation recently promulgated on this subject:

VR 630-3-323.1 (Corporation Income Tax), adopted May 31, 1988, and published in 4:21 VA.R. July 18, 1988. The text is identical to the individual emergency regulation.

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

Written comments may be submitted until August 19, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-2-323.1. Excess Cost Recovery (Individual Income Tax).** The purpose of the proposed regulation is to provide guidance to taxpayers in how the outstanding balance of excess cost recovery will be returned to taxpayers over the five year period 1988-1992.

The Virginia Tax Reform Act of 1987 (1987 Acts c. 9, HB 1119) eliminated the ACRS addition and added § 58.1-323.1 which permits individual and corporate taxpayers to recover the outstanding balance of ACRS additions. Section 58.1-323.1 was amended (1988 Acts c. 773, SB 441) relating to recovery by a taxpayer who filed a final federal and Virginia return before 1988.

This regulation will supersede the following Emergency Regulation:

VR 630-2-323.1 (Individual Income Tax), adopted May 31, 1988, effective May 31, 1988, and published in 4:19 VA.R. 1978-1985 June 20, 1988.

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

Written comments may be submitted until August 19, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled:

VR 630-5-490. Virginia Fiduciary Income Tax: Declaration of Estimated Tax.

VR 630-5-491. Virginia Fiduciary Income Tax: Payments of Estimated Tax.

VR 630-5-492. Virginia Fiduciary Income Tax: Failure to Pay Estimated Tax.

The purpose of the proposed action is to implement changes made by the 1987 General Assembly to subject estates and trusts to estimated tax. These regulations will supersede emergency regulations published in 4:14 VA.R. 1530-1535 April 11, 1988.

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

Written comments may be submitted until August 15, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

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: **Subdivision Street Requirements.** The purpose of the proposed regulations is to provide a reference source of the Department of Transportation's requirements for the acceptance of subdivision streets into the Secondary System of State Highways.

Statutory Authority: §§ 33.1-12, 33.1-69 and 33.1-229 of the Code of Virginia.

Written comments may be submitted until August 31, 1988, to Gerald E. Fisher, State Secondary Roads Engineer, Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219.

Contact: D. L. Camper, Assistant Secondary Roads Engineer, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2745 or SCATS 786-2745

GENERAL NOTICES

BUREAU OF CAPITAL OUTLAY MANAGEMENT

Procedures for the Receipt and Consideration of Written Public Comment on Survey Standards for Buildings other than School Buildings Developed Pursuant to Article 5.2. [Section] 2.1-526.14 of Chapter 32 of Title 2.1 of the Code of Virginia

Comment pursuant to the above section of the Code of Virginia must in written format and be received by the Bureau of Capital Outlay Management not later than September 30, 1988. It is requested that the comments identify the specific section of the standards referenced and that substitute language be provided which will accomplish the recommended change. General comments will also be accepted; however, it will be more difficult to incorporate "general" concepts into the specific standards.

At the conclusion of the comment period, the Asbestos Management Section will collate the responses to each section of the standard and will review each comment for merit. Proposed changes will be incorporated into the standards and will be presented to the Director for his approval.

Upon the approval of the Director, a copy of the revised survey standards will be submitted to the Agency Head responsible for the implementation of the standards. Copies will be available at a small charge.

Written comments are to be mailed to:

Asbestos Management Section
Bureau of Capital Outlay Management
805 East Broad Street
Richmond, Virginia 23219

Please submit separate comments for each survey standard reviewed. Please include the name, address and telephone number of a contact person who can, if necessary, address specific questions.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† Notice of Grant and Loan Programs

The Department of Housing and Community Development (DHCD) was designated administrative agency for distribution of state funds appropriated by the General Assembly for the 1988-90 beinnum. Three community and economic development programs were authorized under this initiative: Community for Opportunity, Southwest Virginia Economic Development Grant Fund, and Economic Development Revolving Loan Fund.

The Department has developed Program Guidelines for each program with the assistance of local, regional and state government representatives and other individuals interested in promoting economic development. These guidelines reflect a consensus of the comments received during the June 9, 1988, public meeting held in Wytheville and written comments received by DHCD through June 17, 1988.

Notice is hereby given of the availability of grants and loans to eligible project applicants under the following programs.

* Community for Opportunity: Application Deadline - September 2, 1988; Amount Available - $850,000 first year, $3,748,000 second year; Funds targeted to economically distressed areas in Southwest Virginia.

* Southwest Virginia Economic Development Grant Fund: Application Deadline - First-come, first-served; Amount Available - $5 million each year of biennum; Funds targeted to Southwest Virginia.

* Economic Development Revolving Loan Fund: Application Deadline - First-come, first-served; Amount Available - $2.5 million each year of biennum; Funds available to 301 Community Development Block Grant (CDBG) non-entitlement communities.

Copies of Program Guidelines and Application forms are available from DHCD, Office of Community Financial Assistance, 205 North Fourth Street, Richmond, Virginia, 23219, telephone (804) 786-4474 or SCATS 786-4474. Information about the programs can be received by contacting Bill Shelton, Associate Director or Sue Moreland, Program Manager.

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

DEPARTMENT OF PLANNING AND BUDGET
(Transmittal Sheet) - DPBRR09

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

ERRATA

CHILD DAY CARE COUNCIL

Title of Regulation: **VR 175-02-01. Minimum Standards for Licensed Child Care Center.**

Publication: 4:21 VA.R. 2224-2276 July 18, 1988

Correction to the emergency regulation:

Page 2226, § 2.2 D, 3rd line, the word "character" should be "charter."

Page 2226, § 2.8, 4th line, the word "dependent's" should be "department's."

Page 2229, the title of Article 7 should be "Volunteer and Volunteer Personnel."

Page 2243, there is a page preceding this chart which indicates that it is "Appendix I. Communicable Diseases Chart."

Pages 2264-2271 (Initial Application for a License to Operate a Child Care Center) should be deleted as this is a duplicate printing of this form. (See pp. 2249-2255)

CALENDAR OF EVENTS

Symbols Key
† Indicates entries since last publication of the Virginia Register
♿ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

October 4, 1988 - 2 p.m. – Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-05-09. Rules and Regulations - Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law.** This regulation provides official descriptions of the requirements to be used in determining the quality and grade of apples and also specifies packing and marking requirements.

Statutory Authority: § 3.1-615 of the Code of Virginia.

Written comments may be submitted until September 3, 1988, to Raymond D. Vaughan, Secretary, 1100 Bank Street, Room 210, Richmond, Virginia 23219.

Contact: Donald B. Ayers, Chief, Department of Agriculture and Consumer Services, 1100 Bank St., Room 701, Richmond, Va. 23219, telephone (804) 786-3549

VIRGINIA AGRICULTURAL COUNCIL

August 29, 1988 - 9 a.m. – Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia

The annual meeting of the council to (i) hear any new project proposals which are properly supported by the Board of Directors of a commodity group; and (ii) discuss any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, Washington Bldg., 1100 Bank St., Room 203, Richmond, Va. 23219, telephone (804) 786-2373

DEPARTMENT OF AIR POLLUTION CONTROL

September 7, 1988 - 10 a.m. – Public Hearing
State Air Pollution Control Board, Southwest Virginia Regional Office, 121 Russell Road, Abingdon, Virginia

September 7, 1988 - 10 a.m. – Public Hearing
State Air Pollution Control Board, Valley of Virginia Regional Office, 5338 Peters Creek Road, Suite D, Roanoke, Virginia

September 7, 1988 - 10 a.m. – Public Hearing
State Air Pollution Control Board, Central Virginia Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia

September 7, 1988 - 10 a.m. – Public Hearing
Richmond Public Library, 101 East Franklin Street, Conference Room A, Richmond, Virginia

September 7, 1988 - 10 a.m. – Public Hearing
State Air Pollution Control Board, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia

September 7, 1988 - 10 a.m. – Public Hearing
State Air Pollution Control Board, National Capitol Regional Office, Springfield Towers, Suite 502, 6320 Augusta Drive, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Air Pollution Control intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate newly promulgated federal NSPS and NESHAPS.

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

Written comments may be submitted until September 7, 1988, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Nancy Saylor, Policy Analyst, Department of Air Pollution Control, Division of Program Development, P.O. Box 10089, Richmond, Va. 23240, telephone (804) 786-1249

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† **October 18, 1988 - 7 p.m.** – Public Hearing
Fairfax County Government Office, 4100 Chain Bridge Road, "A Level" Massey Building, Board of Supervisors Meeting Room, Fairfax, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Air Pollution Control intends to adopt regulations entitled: **VR 120-99-01. Regulation for the Control of Motor Vehicle Emissions.** The regulation concerns the inspection of motor vehicle emissions and subsequent repairs, as necessary to meet air pollution control requirements.

STATEMENT

Subject: Control of motor vehicle emissions in the Northern Virginia area.

Purpose: The purpose of the proposed regulation is to control and reduce air pollution by ensuring that licensed emissions inspection stations and emissions mechanics/inspectors perform inspections and motor vehicle adjustment and repairs, if necessary, in a manner such that major vehicles subject to the emissions standard are in compliance.

Basis: The legal basis for the proposed regulation is the Virginia Motor Vehicle Emissions Control Law (Title 46.1 Chapter 4, Article 10.1 of the Code of Virginia).

Impact: The regulation will impact upon the owners of gasoline-powered, light-duty motor vehicles (less than 8,500 pounds, gross vehicle weight), model years 1968 to current (exclusive of most recent model year) in the Northern Virginia area (Arlington County, Fairfax County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park). The approximately one million vehicles will have to be inspected every other year for compliance with tail pipe emission limits and emissions control system requirements at a fee of $12.50 per inspection. This inspection is a requirement for vehicle registration in Northern Virginia. If a vehicle fails, it must be repaired within the cost limits established by the code. Usually, all that is required to achieve compliance is a tune-up. Some vehicles that fail the inspection may be required to have the full amount specified in the code expended on the repair of the engine or air pollution control equipment to achieve compliance: pre-1972 - $60, 1972-1974 - $125, 1975-1980 - $175, and 1980-newer - $200. These dollar amounts reflect the average cost of repairing control equipment or performing a tune-up on the model year indicated. These costs do not include costs of repairs covered by warranties and do not pertain to costs of repair for control equipment that has been removed, damaged or otherwise rendered inoperative by tampering. If the control equipment is rendered inoperative, the costs could be even greater. Vehicles for which the cost limit is reached prior to achieving compliance get a two year waiver. The regulation will also impact upon approximately 350 service and repair facilities, to which the $12.50 will be paid. These facilities must forward $1.10 of the $12.50 to the Department of Air Pollution Control to fund the program. The cost to the service and repair facilities will vary but consists primarily of equipment and personnel costs to perform the inspections. However, these costs will be offset for the most part by the portion of the fee ($11.40) kept by the facility. It is not expected that the regulation will result in any cost to the department beyond that currently in the budget.

Statutory Authority: § 46.1-326.6 of the Code of Virginia.

Written comments may be submitted until October 18, 1988, to the Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, Virginia 23240.

Contact: M.E. Lester, Director, Division of Mobile Source Operations, Department of Air Pollution Control, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564 or SCATS 786-7564

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† **October 18, 1988 - 7 p.m.** – Public Hearing
Fairfax County Government Office, Board of Supervisors Meeting Room, "A Level" Massey Building, 4100 Chain Bridge Road, Fairfax, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia the Department of Air Pollution Control intends to adopt regulations entitled: **VR 120-99-02. Regulation for Vehicle Emissions Control Program Analyzer Systems.** The proposed regulation established the specifications that must be met for an analyzer system to be approved for use in conducting emissions inspections in the Vehicle Emission Control Program.

STATEMENT

Subject: Vehicle emissions control program analyzer system specifications.

Purpose: The purpose of the proposed regulation is to control and reduce air pollution by ensuring that licensed emissions inspection stations and emissions mechanics/inspectors perform inspections in a manner such that the inspections are procedurally and technically

validated and properly recorded.

Basis: The legal basis for the proposed regulation is the Virginia Motor Vehicle Emissions Control Law (Title 46.1, Chapter 4, Article 10.1 of the Code of Virginia).

Impact: VR 120-99-01 (a separate regulation being processed parallel to this regulation) provides that the owners of certain motor vehicles in Northern Virginia must have their vehicles comply with air pollution control requirements prior to being registered with the Department of Motor Vehicles. This regulation impact upon the approximately 350 service and repair facilities that inspect the vehicles for compliance with these requirements. This regulation addresses the specifications for the automated analyzer system, the primary equipment mandated for use in conducting the inspection. The cost of an automated analyzer system that meets the proposed specifications is about $8,500. The number of units needed by a particular inspection facility will vary depending upon the volume of business. Under the current program the inspection fee is $5.00 per inspection and the owners of approximately 500,000 vehicles must have their vehicles inspected annually. Of the $5.00 fee, the facility keeps $3.90. Under the new program, effective January 1, 1989, the inspection fee is $12.50 and owners of approximately one million vehicles must have their vehicles inspected every other year. Although the frequency of inspection is reduce, the increased coverage keeps the volume of inspections at aout the same. Of the $12.50, the facility keeps $11.40. There is not cost to manufacturers of the equipment beyond that which would be recovered through the sale of the product. It is not expected that the regulation amendments will result in any cost to the department beyond that currently in the budget.

Statutory Authority: § 46.1.326.6 of the Code of Virginia.

Written comments may be submitted until October 18, 1988, to the Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, Virginai 23240.

Contact: M.E. Lester, Director, Division of Mobile Source Operations, Department of Air Pollution Control, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564 or SCATS 786-7564

ALCOHOLIC BEVERAGE CONTROL BOARD

August 23, 1988 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia.

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Rd., P. O. Box 27491, Richmond, Va. 23261, telephone (804) 367-0616 or SCATS 367-0616

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

September 20, 1988 - 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 Department of Alcoholic Beverage Control intends to amend regulations concerning the possession, sale, distribution and consumption of alcoholic beverages. The proposed amendments will affect the following seven 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 Operations (VR 125-01-5);

Manufacturers and Wholesalers Operations (VR 125-01-6);

Other Provisions (VR 125-01-7).

Summary:

New regulations pertaining to beer and beverage excise taxes, solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits, and the prohibition of certain Sunday deliveries by wholesalers are proposed. In addition numerous regulations are being amended some of which relate to: (i) offers in compromise, (ii) advertising sales or reduced prices on alcoholic beverages, (iii) advertisement and sponsorship of cultural events and intercollegiate events, (iv) outdoor alcoholic beverage advertising promoting responsible drinking, (v) advertising of beer in student publications, (vi) placement of wine refund coupons on rebate bulletin boards, (vii) renumbering the tied-house regulations, (viii) solicitation of mixed beverage licensees and disqualifying factors, (ix) wine containers, (x) peddling of wine coolers and (xi) participation of wine wholesalers with specialty shop licensees in wine tastings involving the public.

Interested persons will be afforded an opportunity to submit data, views and arguments orally or in writing with respect to the proposals. Tentative drafts will be available for public inspection at the Office of the Secretary to the Board, with copies obtainable at such address or by request addressed to such office at P. O. Box 27491, Richmond, Virginia 23261.

Statutory Authority: § 4-11 of the Code of Virginia.

Written comments may be submitted until 10 a.m.,

September 20, 1988.

Contact: Robert N. Swinson, Secretary, Department of Alcoholic Beverage Control, P. O. Box 27491, 2901 Hermitage Rd., Richmond, Va. 23261, telephone (804) 367-0616 or SCATS 367-0616

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

† **September 30, 1988 - 9 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

A meeting to (i) approve minutes of the May 20, 1988, meeting; (ii) review enforcement cases; and (iii) review correspondence.

Virginia State Board of Architects

† **September 29, 1988 - 1:30 p.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes of May 6, 1988, meeting, (ii) discuss enforcement cases; (iii) review applications; and (iv) discuss correspondence.

Virginia State Board of Professional Engineers

August 30, 1988 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

A meeting to (i) approve minutes of the May 5, 1988, meeting; (ii) review applications; and (iii) review and discuss enforcement files and general correspondence.

Contact: Bonnie S. Salzman, Assistant Director for APELSCLA, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS 367-8514

VIRGINIA BOATING ADVISORY BOARD

† **September 8, 1988 - 10 a.m.** – Open Meeting
Virginia Institute of Marine Science, Gloucester Point, Virginia

Discussion of and action on issues, legislation and regulations affecting Virginia's recreational boaters.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, Va. 23229, telephone (804) 740-7206

CHARLES CITY COUNTY EMERGENCY PLANNING COMMITTEE

August 25, 1988 - 7 p.m. – Open Meeting
Charles City Neighborhood Facility Building, Multi-Purpose Room, Charles City, Virginia. (Interpreter for deaf provided if requested)

Review draft local plan.

Contact: Fred A. Darden, County Administrator, P. O. Box 128, Charles City, Va. 23030, telephone (804) 829-2401

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **August 24, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia.

Second meeting of the Chesapeake Bay Local Assistance Board. A meeting to conduct general board business and establish various working committees.

Contact: Melany K. Earnhardt, Administrator, Chesapeake Bay Local Assistance Department, Eighth Street Office Building, Room 701, Richmond, Va. 23219, telephone (804) 225-3440

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

† **September 1, 1988 - 5:30 p.m.** – Open Meeting
† **October 6, 1988 - 5:30 p.m.** – Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia.

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40, Chesterfield, Va. 23832, telephone (804) 748-1236

INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

Coordinating Committee

September 9, 1988 - 8:30 a.m. – Open Meeting
Department of Social Services, 1603 Santa Rosa Road, Tyler Building, Suite 221, Richmond, Virginia.

A regularly scheduled monthly meeting to discuss administrative and policy areas related to the Interdepartmental Licensure and Certification of Residential Facilities for Children.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Falls of the James Advisory Committee

August 19, 1988 - 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.

Contact: Richard G. Gibbons, Department of Conservation and Historic Resources, Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-4132

STATE BOARD OF CORRECTIONS

NOTE: CHANGE OF MEETING DATE
August 24, 1988 - 10 a.m. – Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room #3053A, 3rd Floor, Richmond, Virginia

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections. Note: This is a change from the previously published date of Wednesday, August 17, 1988.

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, Va. 23225, telephone (804) 674-3235

VIRGINIA DEPARTMENT OF CORRECTIONS

† **October 18, 1988 - 7 p.m.** – Public Hearing
Board of Corrections Meeting Room, 6900 Atmore Drive, Richmond, Virginia

† **October 20, 1988 - 7 p.m.** – Public Hearing
Marriott Hotel, 2801 Hershberger Road, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **VR 230-30-002. Community Diversion Program Standards.** These regulations establish minimum standards for the administration and operation of community diversion programs.

STATEMENT

Subject of proposal: Adoption of Minimum Standards for the operation and administration of Community Diversion Programs.

Basis: This amendment is proposed under the authority contained in § 53.1-182 of the Code of Virginia.

Purpose: To prescribe minimum standards for the coordination, operation and administration of community diversion programs statewide as required by § 53.1-182 of the Code of Virginia.

Issue: Standards are proposed to accurately reflect acceptable adminstrative, programmatic and operational requirements of the Department of Corrections and service providers under the Virginia Community Diversion Incentive Act.

Substance: The work of a Task Force composed of Department of Corrections personnel, the Board of Corrections, service providers and other interested persons is reflected in standards for the administration and operation of community diversion programs for offenders. Standards address the following areas: establishment of community corrections resources boards; uniform administrative structure; fiscal management; minimum training for program staff; utilization of volunteers; policy and procedure manuals; offender eligibility criteria; maintenance and confidentiality of offender information; intensive supervision of offenders victim restitution, community service, services, service providers and purchase of services; and utilization of residential treatment programs.

Statutory Authority: § 53.1-182 of the Code of Virginia.

Written comments may be submitted until October 14, 1988.

Contact: Robert S. Cooper, Manager, Community Alternatives, 5306-A Peters Creek Road, Roanoke, Va. 24019, telephone (703) 982-7430 or SCATS 676-7430

VIRGINIA BOARD OF COSMETOLOGY

† **August 29, 1988 - 9 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia.

A meeting to review (i) enforcement cases; (ii) correspondence; (iii) applications; (iv) committee reports; and (v) discuss regulatory review.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DANVILLE LOCAL EMERGENCY PLANNING COMMITTEE

† **August 18, 1988 - 3 p.m.** – Open Meeting
Municipal Building, 2nd Floor Conference Room, Danville, Virginia.

Local Committee, SARA Title III. Hazardous Material Community Right-to-Know.

Contact: C. David Lampley, Chairman, 297 Bridge St., Danville, Va. 24541, telephone (804) 799-5228

VIRGINIA BOARD OF DENTISTRY

† **August 19, 1988 - 9 a.m.** – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia.

A formal hearing on Dr. Robert Detrich.

† **September 14, 1988 - 8 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, NW, Roanoke, Virginia.

General board business including reports from various committees. Formal hearings and election of officers.

† **September 15, 1988 - 9 a.m.** – Public Hearing
Rehabilitation Center Auditorium, Belleview at Jefferson Streets, Roanoke Memorial Hospitals, Roanoke, Virginia

A public hearing on proposed regulations for the Virginia Board of Dentistry.

† **September 15, 1988 - 2 p.m.** – Open Meeting
† **September 16, 1988 - 1:30 p.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, NW, Roanoke, Virginia.

General board business including reports from various committees. Formal hearings.

† **September 23, 1988 - 9 a.m.** – Open Meeting
† **September 28, 1988 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia.

Informal conferences.

Contact: N. Taylor Feldman, Executive Director, Board of Dentistry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906 or SCATS 662-9906

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September 15, 1988 - 9 a.m. – Public Hearing
Roanoke Memorial Hospitals, Rehabilitation Center Auditorium, Belleview at Jefferson Streets, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Dentistry intends to amend regulations entitled: **VR 225-01-1. Virginia Board of Dentistry Regulations.** The proposed regulations establish requirements for administration of general anesthesia and conscious sedation; for the use of hand-over-mouth management techniques; and for the issuance of full-time faculty licenses. Also proposes fee adjustments and provisions for reexamination in radiation safety.

Statutory Authority: § 54-175.3 of the Code of Virginia.

Written comments may be submitted until September 15, 1988.

Contact: N. Taylor Feldman, Executive Director, Board of Dentistry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906 or SCATS 662-9906

STATE BOARD OF EDUCATION

August 16, 1988 - 9 a.m. – Open Meeting
August 17, 1988 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D & E, Richmond, Virginia. (Interpreter for deaf provided if requested)

The Board of Education will hold its regularly scheduled meeting on August 16-17, 1988. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

September 26, 1988 - 9 a.m. – Open Meeting
September 27, 1988 - 9 a.m. – Open Meeting
Wise County School Board Office, Wise, Virginia. (Interpreter for deaf provided if requested)

The Board of Education will hold its regularly scheduled meeting on September 26-27, 1988. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

October 27, 1988 - 9 a.m. – Open Meeting
October 28, 1988 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D & E, Richmond, Virginia.

The Board of Education will hold its regularly scheduled meeting on October 27-28, 1988. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret Roberts, James Monroe Bldg., 101 N.

14th St., 25th Fl., Richmond, Va. 23219, telephone (804) 225-2540

DEPARTMENT OF EDUCATION (STATE BOARD OF)

NOTE: CHANGE OF PUBLIC HEARING DATE
August 16, 1988 - 10:30 a.m. – Public Hearing
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia

The July 28, 1988, public hearing has been rescheduled for August 16, 1988.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education indends to amend regulations entitled: **VR 270-01-0020. Classification of Expenditures.** The proposed amendments prescribe the major classification of expenditures that are used by local school boards when the division superintendent, with the approval of the school board, prepares the estimate of moneys needed for public schools.

Statutory Authority: §§ 22.1-92 and 22.1-115 of the Code of Virginia.

Written comments may be submitted until July 22, 1988.

Contact: Robert L. Aylor, Director, Account and Finance, Department of Education, P.O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2040, SCATS 225-2040

LOCAL EMERGENCY PLANNING COMMITTEE OF FAIRFAX COUNTY - TOWN OF VIENNA - CITY OF FAIRFAX - TOWN OF HERNDON

September 8, 1988 - 10 a.m. – Open Meeting
Wood Municipal Center, Old Lee Highway, Fairfax, Virginia

The committee is meeting in accordance to SARA Title III in order to carry out the provisions required within.

Contact: Melanie Pearson, Community Information Coordinator, 4031 University Dr., Suite 400, Fairfax, Va. 22030, telephone (703) 246-2331

VIRGINIA FARMERS MARKET BOARD

† **August 25, 1988 - 10 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ♿

A business meeting.

Contact: R. Duke Burruss, 1100 Bank St., Washington Bldg., Richmond, Va. 23219, telephone (804) 786-1949

VIRGINIA FIRE SERVICES BOARD

† **August 26, 1988 - 9 a.m.** – Open Meeting
Holiday Inn, 301 West Franklin Street, Richmond, Virginia. ♿

Virginia Fire Services Board business meeting to discuss fire training and fire policies. The business meeting is open to the public for their input.

Fire Prevention Committee

† **August 25, 1988 - 9 a.m.** – Open Meeting
Holiday Inn, 301 West Franklin Street, Richmond, Virginia. ♿

Committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

Legislative Committee

† August 25, 1988 - 1 p.m. – Open Meeting
Holiday Inn, 301 West Franklin Street, Richmond, Virginia. ♿

Committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

Fire/EMS Training Committee

† **August 25, 1988 - 1 p.m.** – Open Meeting
Holiday Inn, 301 West Franklin Street, Richmond, Virginia. ♿

Committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

Contact: Anne J. Bales, James Monroe Bldg., 17th Fl., Richmond, Va. 23219, telephone (804) 225-2681

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

August 15, 1988 - 10 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center - West, Surry Building, Richmond, Virginia

An informal fact finding conference.

NOTE: CHANGE OF MEETING TIME
August 30, 1988 - 9 a.m. – Open Meeting
August 31, 1988 - 9 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Koger Center - West, Richmond, Virginia. ♿

Tuesday, August 30, 1988 - A meeting to administer the Virginia Board of Funeral Directors and Embalmers examination, and to hold a general board meeting. Proposed regulations may be discussed. A formal administrative hearing will be held at 1:30 p.m. After the hearing, a committee meeting of the Preneed committee and the legislative committee to prepare information for the HJR 50 Preneed Funeral Planning and the HJR 73 regulation for-profit cemeteries. (This committee meeting is a working session only.)

Wednesday, August 31, 1988 - A continuation of the board meeting to include a formal administrative hearing.

Contact: Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

BOARD OF GAME AND INLAND FISHERIES

† **August 25, 1988 - 1:30 p.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. &

The following committees of the board will meet on the 25th, beginning at 1:30 p.m. to discuss administrative and related matters which will be reported to the full board at its meeting on Friday, August 26, 1988:

Finance Committee - 1:30 p.m.
Wildlife and Boat - 3 p.m.
Law and Education - 4:30 p.m.

† **August 26, 1988 - 9:30 a.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. &

The board will act on game regulation proposals pertaining to waterfowl seasons in the Back Bay area and the inclusion of additional areas where steel shot is required for waterfowl hunting during the 1988-89 season.

The board will set the 1988-89 Migratory Waterfowl Hunting Seasons.

The board will consider proposed changes in the fishing regulations for 1989-90. Committte reports will be given. General administrative matters to be considered.

Contact: Norma G. Adams, Agency Regulatory Coordinator, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 367-1000, toll-free 1-800-237-5712 (hotline) or SCATS 367-1000

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

September 9, 1988 - 10 a.m. – Open Meeting
Main Conference Room, Virginia Museum of Fine Arts, Richmond, Virginia.

The board will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Architect, Rancorn, Wildman & Krause, Architects, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

Division of Consolidated Laboratory Services

September 9, 1988 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. &

The Advisory Board will discuss issues, concerns and programs that impact the Division of Consolidated Laboratory Services and its user agencies.

Contact: Dr. A. W. Tiedemann, Jr., Director, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-7905 or SCATS 786-7905

VIRGINIA STATE BOARD OF GEOLOGY

† **September 15, 1988 - 10 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. &

A meeting to (i) approve minutes of April 20, 1988, meeting; (ii) review applications; (iii) discuss correspondence; and (iv) grade examinations.

Contact: Bonnie S. Salzman, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-553-3016 or SCATS 367-8514

GLOUCESTER LOCAL EMERGENCY PLANNING COMMITTEE

August 24, 1988 - 6:30 p.m. – Open Meeting
Old Courthouse, Court Green, Gloucester, Virginia. &

The LEPC will meet to address and review a working draft of the County Hazardous Materials Response Plan.

Contact: Georgette N. Hurley, Assistant County Administrator, P. O. Box 329, Gloucester, Va. 23061, telephone (804) 693-4042

HANOVER COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† **August 15, 1988 - 7:30 p.m.** – Open Meeting
Virginia State Fire Training Center, State Route 696, Ashland, Virginia. ♿

A review of (i) required facility reporting and (ii) planning guidelines.

Contact: John F. Trivellin, Community Emergency Coordinator, Hanover Fire Administration, P. O. Box 470, Hanover, Va. 23069, telephone (804) 798-8554

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

August 17, 1988 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor, Richmond, Virginia. ♿

A joint meeting with the Department of Education. The agenda is available on request.

Contact: Marla Richardson, 101 N. 14th St., 9th Fl., Richmond, Va. 23219, telephone (804) 225-2638

HOPEWELL INDUSTRIAL SAFETY COUNCIL

September 6, 1988 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ♿ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, City of Hopewell, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

August 16, 1988 - 10 a.m. – Open Meeting
13 South 13th Street, Richmond, Virginia. ♿

A regular monthly meeting of the Board of Commissioners 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 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: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **August 19, 1988 - 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 requests for interpretation of the Virginia Uniform Statewide Building Code; to consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and to approve minutes of previous meeting.

Amusement Device Technical Advisory Committee

† **September 8, 1988 - 9 a.m.** – Open Meeting
Fourth Street State Office Building, 205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. ♿

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

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† **October 17, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-1. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations/1985 Edition.** The proposed amended guidelines will allow for comments from the general public prior to the completion of a final draft of proposed regulations.

STATEMENT

Subject and substance: Proposed amending by the Board of Housing and Community Development of the 1985 edition of the Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.

Issues:

1. Estimated impact with respect to number of persons affected: All citizens of Virginia who own buildings will be

affected.

2. Projected costs for implemented and compliance: No cost.

Basis: § 9-6.14:7 of the Code of Virginia.

Purpose: To provide for maximum input from the citizens of Virginia when adopting agency regulations.

Statutory Authority: § 9-6.14:7 of the Code of Virginia.

Written comments may be submitted until October 17, 1988.

Contact: Jack A. Proctor, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4752

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† **October 17, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition.** The purpose is to provide one uniform Fire Prevention Safety Standard and maintenance of buildings. Enforcement is optional by local government or by the State Fire Marshal in localities choosing not to enforce the Fire Prevention Code.

STATEMENT

Subject and Substance: Proposed amending by the Board of Housing and Community Development of the 1987 edition of the Virginia Statewide Fire Prevention Code.

Issues:

1. Estimated impact with respect to number of persons affected: All citizens of Virginia who own buildings or structures will be affected.

2. Projected costs for implementation and compliance: An increase in cost is anticipated. However, a quantitative analysis is not feasible because each local government may charge fees to defray the cost of enforcement. State cost is anticipated to increase because the State Fire Marshal will be responsible for enforcement in those jurisdictions that choose not to enforce. A quantitative analysis of cost is not feasible until area of enforcement is identified.

Basis: § 27-97 of the Code of Virginia.

Purpose: To amend the minimum statewide fire prevention standards to clarify the scope of the regulations as they apply to existing buildings and structures, to provide minimum standards for the storage, transportation, handling and use of explosives, ammunitions and blasting agents.

Statutory Authority: § 27-94 of the Code of Virginia.

Written comments may be may until October 17, 1988.

Contact: Jack A. Proctor, CPCA, Deputy Director, Department of Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4752

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† **October 17, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the 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/1987 Edition.** The purpose is to provide minimum statewide building construction standards for the design, construction, use and repair of buildings and structures. The proposed amendments add a new section to regulate the construction of magazines for explosive storage; require building security measures; provide additional rest room facilities for women at places of public assembly; increase the requirement for 2-hour fire walls between dwelling units.

STATEMENT

Subject and Substance: Proposed amending by the Board of Housing and Community Development of the 1987 edition of the Virginia Uniform Statewide Building Code - Volume I - New Construction Code.

Issues:

1. Estimated impact with respect to number of persons affected: All citizens of Virginia who own buildings will be affected.

2. Projected costs for implementation and compliance: A slight increase in costs is anticipated; however, a quantitative analysis of any increase is not feasible due to the fluctuations in material costs and varying applications in design.

Basis: § 36-97 - 36-107 of the Code of Virginia.

Purpose: To amend the minimum statewide construction standards to include: building security regulations; new provisions for the construction of ammunition storage magazines; limitations on the size of Use Group R-2 buildings of types 3, 4 and 5 construction; and increased

number of toilet facilities for women in places of public assembly.

Statutory Authority: §§ 36-97 - 36-107 of the Code of Virginia.

Written comments may be submitted until October 17, 1988.

Contact: Jack A. Proctor, CPCA, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (8040 786-4752

COUNCIL ON HUMAN RIGHTS

† **August 18, 1988 - 10 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A monthly council meeting.

Contact: Alison Browne Parks, Executive Assistant, P. O. Box 717, Richmond, Va. 23206, telephone (804) 225-2438, toll-free 1-800-633-5510 or SCATS 225-2438

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† **September 15, 1988 - 9 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

A regular quarterly meeting. Public session begins at 9 a.m. and council meeting at 10 a.m.

Contact: Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381 or SCATS 786-2381

STATE LAND EVALUATION ADVISORY COUNCIL

August 30, 1988 - 10 a.m. – Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia.

September 20, 1988 - 10 a.m. – Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia.

A meeting to set suggested ranges of values for agricultural, horticultural, forest and open-space land use under the use-value assessment program.

Contact: Otho C. W. Fraher, Director, Property Tax Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8020

LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

† **September 27, 1988 - 2:30 p.m.** – Open Meeting
County Office Building, Gate City, Virginia.

Update of progress of draft of Scott County's emergency response plan for Superfund Amendments and Reauthorization Act (SARA).

Contact: Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, Va. 24251, telephone (703) 386-6521

COMMISSION ON LOCAL GOVERNMENT

† **September 13, 1988 - 9 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

The commission will hold a regular meeting to consider such issues as may be presented. The meeting will also be utilized for the receipt of testimony from local governments and from state agency officials with respect to the study being conducted under the direction of Item 76 in the Appropriations Act for the 1988-90 Biennium (HB 30). Item 76 directs the commission to "conduct a study of the financial impact of annexation and immunity actions on affected localities with regard to state aid, mandates, and regulations."

Contact: Ted McCormack, Assistant Director, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

VIRGINIA LONG-TERM CARE COUNCIL

† **September 8, 1988 - 9:30 a.m.** – Open Meeting
Ninth Street Office Building, Ninth and Grace Streets, Room 622, Cabinet Conference Room, Richmond, Virginia.

A meeting of Virginia's Long-Term Care Council. Business conducted pertains to developing increased long-term care services for disabled or chronically ill people of all ages.

Contact: Thelma Bland, 700 E. Franklin St., 10th Fl., Richmond, Va. 23219-2327, telephone (804) 225-2271

STATE LOTTERY DEPARTMENT (BOARD OF)

September 19, 1988 - 2 p.m. – Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the State Lottery Department intends to adopt regulations entitled: **VR 447-01-1. Guidelines for Public Participation in Regulation Development and Promulgation.** This proposed regulation sets out procedures for involving interested parties and the public in the development of the department's regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until September 29, 1988.

Contact: Barbara L. Robertson, Lottery Staff Officer, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

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September 19, 1988 - 2 p.m. – Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Department intends to adopt regulations entitled: **VR 447-02-1. The State Lottery Regulations.** This proposed regulation sets out general operational parameters for the department and board.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until September 29, 1988.

Contact: Barbara L. Robertson, Lottery Staff Officer, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

STATE LOTTERY BOARD

August 24, 1988 - 1 p.m. – Open Meeting
Lottery Department, 2201 West Broad Street, Conference Room, Richmond, Virginia.

A regularly scheduled planning and review session of the board. No action will be taken.

August 25, 1988 - 9 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on the agenda which have not yet been determined.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

MARINE RESOURCES COMMISSION
Habitat Management Division

† **September 6, 1988 - 9:30 a.m.** – Public Hearing
Newport News City Council Chambers, Newport News, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Marine Resources Commission intends to adopt guidelines entitled: **VR 450-01-0051. Wetlands Mitigation - Compensation Policy.** The proposed guidelines will be used by the Virginia Marine Resources Commission and Local Wetlands Boards in the evaluation of projects which may require mitigation or compensation pursuant to Chapter 2.1 of Title 62.1 of the Code of Virginia. These guidelines will be incorporated into the existing Wetlands Guidelines which were promulgated in 1974 and revised in 1982.

STATEMENT

Statement of subject, substance, issues, basis, and purpose: The document sets forth guidelines which will be used by the Virginia Marine Resources Commission and local wetlands boards in the evaluation of projects which will ecroach upon tidal wetlands and which may require wetland mitigation or compensation pursuant to Chapter 2.1 of Title 62.1 of the Code of Virginia. This document will be incorporated into the Wetlands Guidelines which were promulgated in 1974 and revised in 1982 pursuant to Title 62.1-13.4 of the Code of Virginia.

Statutory Authority: Chapter 2.1 of Title 62.1 of the Code of Virginia.

Written comments may be submitted until October 14, 1988.

Contact: Norman E. Larsen, Chief, Habitat Management, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2200

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† **September 6, 1988 - 9:30 a.m.** – Public Hearing
Newport News City Council Chambers, Newport News, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Marine Resources Commission intends to adopt regulations entitled: **VR 450-01-0052. Criteria for the Placement of Sandy Dredged Material along Beaches in the Commonwealth.** The proposed criteria will be used by commission staff to identify dredging projects involving sandy dredged material which may be suitable for placement along beaches in the Commonwealth.

STATEMENT

Substance, issues, basis and purpose: The document sets forth criteria which will be utilized by commission staff to determine which dredging projects justify a requirement for the expenditure of funds by an applicant for necessary tests and studies inherent in every dredge material placement proposal. This document was developed to support § 21-11.16:1 of the Code of Virginia which by Chapter 220, Acts of Assembly of 1987 introduced language giving beaches of the Commonwealth priority consideration as disposal sites for suitable sandy dredged material.

Statutory Authority: § 62.1-3 of the Code of Virginia.

Written comments may be submitted until October 14, 1988.

Contact: Norman E. Larsen, Chief, Habitat Management, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2200

LOCAL EMERGENCY PLANNING COMMITTEE FOR THE CITY OF MARTINSVILLE AND HENRY COUNTY

September 8, 1988 - 9:30 a.m. – Open Meeting
Henry County Administration Building, Collinsville, Virginia.

An open meeting to discuss general business relating to SARA Title III and development of the emergency response plan.

Contact: Benny Summerlin, Public Safety Director, Henry County Administration Building, P. O. Box 7, Collinsville, Va. 24078, telephone (703) 638-5311, ext. 256

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

September 30, 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 adopt regulations entitled: **VR 460-04-8.2. Home and Community Based Ventilator Services.** This regulation regulates provision of services to ventilator dependent individuals up to age of 21 years.

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

Written comments may be submitted until September 30, 1988, to Charlotte Carnes, Manager, Community Based Care, 600 East Broad, Suite 1300, Richmond, Virginia

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

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† **October 14, 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 adopt regulations entitled: **VR 460-03-4.194. Nursing Home Payment System (Part III, Appeals).** These proposed regulations establish the process for providers and the department to use for filing appeals to nursing homes per diem rates.

STATEMENT

Basis and authority: Section 32.1-325A of the Code of Virginia authorizes the Board of Medical Assistance Services to administer and amend the Plan for Medical Assistance, subject to the approval of the Governor. The board approved these proposed changes to proceed to public comment on July 11, 1988. The expected date for publication in the Virginia Register of Regulations is August 15, 1988.

The Code of Federal Regulations, at 42 CFR Part 447.253(c), requires the department to provide an appeals procedure that allows individual providers an opportunity to submit additional evidence and receive prompt administrative reviews of payment rates. The federal regulations also require public notice of changes in statewide methods and standards for setting payment rates at 42 CFR 447.205.

Purpose: This amendment modifies the current Nursing Home Payment System's appeal procedures to incorporate the provisions of the Virginia Administrative Process Act and to permit relief for nursing homes requesting reimbursement rates above their peer group ceilings.

Summary and analysis: This amendment is a complete revision of Part III (Appeals) of the Nursing Home Payment System, which is a supplement to Attachment 4.19D to the State Plan.

As of April 30, 1988, approximately 280 providers of long term care had agreements with the Department of Medical Assistance Services to be reimbursed for rendering medical care to eligible recipients. These providers file cost reports annually which serve as part of the basis for the providers' rate of reimbursement for the next year, as well as determining allowable cost for the year just ended. In addition, the cost reports are subject to audit for three years after the last cost settlement action occurs.

During either the rate setting, cost settlement, or audit process, a provider may take exception to an action taken by the department and an appeal is subsequently submitted by the provider. The existing regulation does not clearly delineate the appeas process contained in the Virginia Administrative Process Act. In addition, the existing regulation does not permit a provider to be granted an operating rate above its peer group ceiling,

even if extraordinary circumstances indicate that such relief should be considered by the Program.

The working draft regulation was developed with input from the nursing home industry's representatives, the Virginia Health Care Association, through meetings and correspondence from October 1986 through April 1988. The department has carefully considered the industry representatives' comments and has incorporated many of them into the proposed regulation.

In general terms, the department was able to incorporate those comments which dealt with minor technical points or which requested clarification of a particular topic. The department was unable to incorporate those comments which stemmed from a misunderstanding of the Administrative Process Act or which would abrogate the department's authority to properly administer the proposed appeal regulation.

The department solicited additional public participation by publishing on December 7, 1987, a Notice of Intended Regulatory Action in the Virginia Register of Regulations. On May 20, 1988, working draft regulations were mailed to the six respondents. No comments have been received to date regarding these.

Impact: The proposed amendment potentially affects all of the 280 enrolled providers of long term care. During 1987, the department received 35 appeals from individual nursing homes. The department expects these revised regulations, once adopted, to facilitate the resolution of provider appeals.

There is little or no estimated budgetary impact on the Program. A few providers may qualify under the proposed extraordinary circumstances provisions for financial relief not currently available.

Forms: The department will use currently existing forms to administer this Plan amendment.

Evaluation: The department will evaluate the effectiveness and continued need for this action as part of its ongoing Plan activities. The department is also monitored closely by the federal Department of Health and Human Services' Health Care Financing Administration in this area of provider reimbursement. following the sale or lease of a facility.

Impact: There are approximately 198 licensed and operating nursing homes in the Commonwealth. There is no estimated budgetary impact on Program administrative costs.

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.

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

Written comments may be submitted until 4:30 p.m., October 14, 1988, to N. Stanley Fields, Director, Provider Reimbursement, Deparment of Medical Assistance Services, 600 E. Broad St., Richmond, Va. 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **August 23, 1988 - 2 p.m.** – Open Meeting
Hyatt Hotel, West Broad Street and I-64, Richmond, Virginia. ♿

An open meeting to discuss (i) amendments to the State Medicaid State Plan; (ii) proposed legislation; and (iii) other business pertinent to the board.

Contact: Jacqueline Fritz, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7958

VIRGINIA STATE BOARD OF MEDICINE

† **August 24, 1988 - 10 a.m.** – Open Meeting
Radisson Hotel, 601 Main Street, Lynchburg, Virginia. ♿

† **August 26, 1988 - 10 a.m.** – Open Meeting
Patrick Henry Inn and Conference Center, York and Page Streets, Williamsburg, Virginia. ♿

† **September 1, 1988 - 10 a.m.** – Open Meeting
Department of Health Regulatory Board, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Richmond, Virginia. ♿

The Informal Conference Committee will 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.

Credentials Committee

† **October 1, 1988 - 8:15 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Board Room 1, Richmond, Virginia. ♿

The Credentials Committee will meet to conduct

general business, interview, and review medical credentials of applicants applying for licensure in Virginia in open and Executive Session and discuss any other items which may come before this committee.

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

August 24, 1988 - 9:30 a.m. – Open Meeting
NOTE: CHANGE IN LOCATION
Central Virginia Training Center, Lynchburg, Virginia. ♿

A regular monthly meeting. The agenda will be published on August 10 and may be obtained by calling Jane Helfrich.

Contact: Jane Helfrich, State Board Staff, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

VIRGINIA MILITARY INSTITUTE

Board of Visitors

October 8, 1988 - 8 a.m. – Open Meeting
The Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ♿

Regular fall meeting of the VMI Board of Visitors to consider committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, Va. 24450, telephone (703) 463-6206

DEPARTMENT OF MINES, MINERALS AND ENERGY

September 1, 1988 - 10 a.m. – Open Meeting
Mountain Empire Community College, Auditorium, Dalton-Cantrell Building, Big Stone Gap, Virginia

The Department of Mines, Minerals and Energy intends to initiate the promulgation of regulations to outline a program to certify diesel-engine mechanics in underground coal mines. This meeting is to offer the public an opportunity to comment on this action.

Contact: Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-6898

COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

† **September 12, 1988 - 3 p.m.** – Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ♿

Development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P. O. Box 3726, Radford, Va. 24143, telephone (703) 639-9313 or SCATS 676-4012

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

(Tentative Dates)
† **August 18, 1988 - 2 p.m.** – Open Meeting
† **August 19, 1988 - 9 a.m.** – Open Meeting
or
† **August 25, 1988 - 2 p.m.** – Open Meeting
† **August 26, 1988 - 9 a.m.** – Open Meeting
or
† **September 8, 1988 - 2 p.m.** – Open Meeting
† **September 9, 1988 - 9 a.m.** – Open Meeting
1001 Douglas Avenue, Martinsville, Virginia

Orientation and business meeting.

Contact: Gail Gregory, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, Va. 24112, telephone (703) 632-1930

VIRGINIA STATE BOARD OF NURSING

August 16, 1988 - 10 a.m. – Open Meeting
The Arlington Hospital, 1701 North George Mason Drive, Hazel Conference Center, Adminstrative Conference Room B, Arlington, Virginia. ♿ (Interpreter for deaf provided if requested)

August 23, 1988 - 1 p.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

Formal hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Informal Conference Committee

† **August 26, 1988 - 8:30 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

An informal conference committee will inquire into

allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

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September 26, 1988 - 1:30 p.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 Virginia State Board of Nursing intends to amend regulations entitled: **VR 495-01-1. Board of Nursing Regulations.** The purpose of these proposed amended and new regulations is to enable the Board of Nursing to more effectively discharge its duties as required by § 54-367.11 of the Code of Virginia in the protection of the health, safety and welfare of the Citizens of the Commonwealth. More specifically, the changes in Part II, Nursing Education Programs, will clarify the standards for attaining and maintaining the approval of nursing education programs and facilitate the evaluation of such programs by visitors representing the board. Changes proposed in Part III, Licensure and Practice, are for clarity, to insure proper mailing addresses of licensees for mailing notices and to establish who may supervise or direct the practice of licensed practical nurses as required by § 54-367.2 of the Code of Virginia as amended by the 1988 session of the General Assembly.

Statutory Authority: § 54-367.11 of the Code of Virginia.

Written comments may be submitted until September 26, 1988.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909 or SCATS 662-9909

PETERSBURG LOCAL EMERGENCY PLANNING COUNCIL

† **August 18, 1988 - 9 a.m.** – Open Meeting
American Red Cross Board Room, 233 South Adams Street, Petersburg, Virginia.

A meeting to discuss (i) reports from subcommittees, correlation of material from subcommittee into major plan; (ii) new business if any; and (iii) report on progress of plan, exercises or any other related material.

Contact: Captain Thomas C. Hairston, Community Emergency Coordinator, Petersburg Fire Department, 400 E. Washington St., Petersburg, Va. 23803, telephone (804) 733-3951

POLYGRAPH EXAMINERS ADVISORY BOARD

† **August 25, 1988 - 9 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia.

The board will meet for the purpose of administering the Polygraph Examiners Licensing Examination to eligible Polygraph Examiner Interns.

Contact: Geralde W. Morgan, Administrator, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8534

VIRGINIA BOARD OF PSYCHOLOGY

August 18, 1988 - 8:15 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; and (iii) respond to correspondence.

† **August 18, 1988 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to conduct general board business.

Contact: Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9913

VIRGINIA REAL ESTATE BOARD

August 16, 1988 - 9 a.m. – Open Meeting
August 17, 1988 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

A regular business meeting of the board. The agenda will consist of (i) investigative cases (files) to be considered, (ii) files to be reconsidered, and (iii) matters relating to Fair Housing, Property Registration and Licensing issues (e.g., reinstatement, eligibility requests).

September 19, 1988 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

A work session for regulatory review of licensing regulations.

Contact: Joan L. White, Assistant Director, Virginia Real Estate Board, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8552, toll-free 1-800-552-3016 or SCATS 367-8552

BOARD OF REHABILITATIVE SERVICES

† **August 26, 1988 - 9:30 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

The board will consider proposed legislation, department reports and conduct its regular business.

Finance Committee

† **August 25, 1988 - 3 p.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

The committee will receive the department's monthly financial report and develop recommendations for board action.

Legislation and Analysis Committee

† **August 25, 1988 - 1 p.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

The committee will consider proposed legislation, the department's five-year plan and develop recommendations for board action.

Program Committee

† **August 25, 1988 - 2 p.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

The committee will hear department reports on grants and contracts, and the status of the community rehabilitative services program.

Contact: James L. Hunter, Board Administrator, Department of Rehabilitative Services, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, toll-free 1-800-552-5019, SCATS 367-6446 or (804) 367-0280/TDD ☎

RICHLANDS LOCAL EMERGENCY PLANNING COMMITTEE

August 17, 1988 - 7 p.m. – Open Meeting
August 24, 1988 - 7 p.m. – Open Meeting
August 31, 1988 - 7 p.m. – Open Meeting
Richlands Town Hall Chamber Room, 217 Railroad Avenue, Richlands, Virginia

A regular planning session in accordance with SARA Act of 1986, Title III open to public comment.

Contact: David M. Curry, Hazardous Materials Coordinator, 217 Railroad Ave., Richlands, Va. 24641, telephone (703) 964-2566

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **September 14, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ♿

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permit.

Contact: Deborah E. Randolph, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **August 18, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ♿

The authority will conduct its regular business meeting and will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation.

Contact: Cathy Mackey, Virginia Small Business Financing Authority, 1000 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-3791

STATE BOARD OF SOCIAL SERVICES

† **August 17, 1988 - 2 p.m.** – Open Meeting
† **August 18, 1988 - 9 a.m.** – Open Meeting
Sheraton Hotel, Next to Route 275 and I-81, Staunton, Virginia. ♿

A work session and formal business meeting of the aforementioned board.

Contact: Phyllis Sisk, Adminstrative Staff Specialist, 8007 Discovery Dr., Commissioner's Office, Richmond, Va. 23229-8699, telephone (804) 662-9236 or SCATS 662-9236

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

September 2, 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 Social Services intends to amend regulations entitled: **VR 615-01-10. Aid to Dependent Children (ADC) Program - Disregard of Job Training Partnership Act (JTPA) Title IV, Part A, Income.** An amendment to disregard children's earnings income derived through participation in JTPA, Title IV, Part A, indefinitely.

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

Written comments may be submitted until September 2, 1988, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carol Holmes, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

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September 29, 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 Social Services intends to adopt regulations entitled: **VR 615-01-24. Relocation Assistance - General Relief Program.** This regulation establishes a new short-term General Relief Component and identifies the specific criteria that must be met for eligibility for the component.

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

Written comments may be submitted until September 29, 1988, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carolyn Sturgill, Program Specialist, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046

BOARD OF PROFESSIONAL SOIL SCIENTISTS

† **September 1, 1988 - 9 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to (i) approve minutes of July 18, 1988, meeting; (ii) review and revise draft application; (iii) review and revise draft regulations; (iv) review and revise draft Public Participation List; (v) discuss correspondence; and (vi) review and discuss examination.

Contact: Bonnie S. Salzman, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016, or SCATS 367-8514

COMMONWEALTH TRANSPORTATION BOARD

August 18, 1988 - 10 a.m. – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, 3rd Floor, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

Monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

VIRGINIA BOARD OF VETERINARY MEDICINE

† **August 17, 1988 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

General business, regulations, informal conference, formal hearing.

Contact: Terri H. Behr, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9915

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

† **October 8, 1988 - 11 a.m.** – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

Committee meets quarterly to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23277, telephone (804) 371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

September 30, 1988 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ♿

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of a revised Virginia Voluntary Formulary. The proposed revision to the Formulary adds and deletes drugs and drug products to the Formulary that became effective on November 1, 1987, and a supplement to the Formulary that becomes effective on August 15, 1988.

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. Written comments sent to the above address and received prior to 5 p.m., September 30, will be made a part of the hearing record and considered by the board.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

DEPARTMENT OF WASTE MANAGEMENT (BOARD OF)

September 16, 1988 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia.

September 19, 1988 - 7 p.m. – Public Hearing
Virginia Polytechnic Institute and State University, Donaldson Brown Center, Blacksburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Waste Management intends to repeal existing regulations and adopt new regulations entitled: **VR 672-20-10. Solid Waste Management Regulations.** The regulations provide for siting, permitting, design, construction, and operation of solid waste management facilities. They identify solid wastes that are included.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until September 26, 1988.

Contact: William F. Gilley, Director, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Fl., Richmond, Va. 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

August 24, 1988 - 2 p.m. – Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, 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 repeal existing regulations and promulgate new regulations entitled: **VR 680-16-16. Richmond-Crater Interim Water Quality Management.** The purpose is to replace all previously approved water quality plans for major municipal and industrial discharges to the Upper James and Appomattox Estuaries, in Planning District 15 (Richmond Regional) and 19 (Crater).

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

Written comments may be submitted until 4 p.m., September 6, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Thomas D. Modena, Supervisor, Water Resources Development, State Water Control Board, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-1006 or SCATS 367-1006

† **August 25, 1988 - 7 p.m.** – Public Hearing
Town of Blackstone, Council Chambers, 100 West Elm Street, Blackstone, Virginia

A public hearing to receive comments on the proposed denial of a Virginia Pollutant Discharge Elimination System (VPDES) permit for Velvet Textile Co., Inc. The discharge results from the operation of an industrial wastewater pretreatment facility which discharges to the Blackstone sewerage system for conveyance to the Fort Pickett wastewater treatment facility which discharges to an unnamed tributary of Hurricane Branch. This proposed denial is tentative. On the basis of preliminary review and application of lawful standards and regulations, the State Water Control Board proposed to deny the permit.

† **August 30, 1988 - 7 p.m.** – Public Hearing
Neighborhood Facility Building, County Courthouse Complex, Route 5, Charles City, Virginia

A public hearing to receive comments on the proposed issuance of a National Pollutant Discharge Elimination System (NPDES) permit for the Lake Charles on the James, Inc. The proposed facility would be located on the south side of State Route 5, approximately 1 mile east of Route 659 in Charles City County. Lake Charles on the James, Inc., a residential subdivision, is a proposed sewage treatment plant which would discharge municipal sewage to the James River.

† **September 8, 1988 - 7 p.m.** – Public Hearing
United Methodist Church, Travis Chapel, Oyster, Virginia

A public hearing to receive comments on the proposed NPDES permit for the Sea Watch International, LTD., T/A H. Allen Smith, Inc., the issuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of state waters.

† **September 8, 1988 - 8 p.m.** – Public Hearing
United Methodist Church, Travis Chapel, Oyster, Virginia

A public hearing to receive comments on the proposed NPDES permit for C & D Seafood Inc., the issuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of state waters.

† **September 26, 1988 - 9 a.m.** – Open Meeting
† **September 27, 1988 - 9 a.m.** – Open Meeting

General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia.

A quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P. O. Box 11143, 2111 N. Hamilton St., Richmond, Va. 23230, telephone (804) 367-6829

THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

† **September 3, 1988 - 10:30 a.m.** – Open Meeting
Ash Lawn-Highland, Route 6, Conference Room, Charlottesville, Virginia

A meeting of the Executive Committee of the Board of Visitors of the College of William and Mary called by the Rector of the College to review contracts, budget considerations, and any other matters presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the meeting for those individuals or organizations who request it.

Contact: Office of University Relations, James Blair Hall, Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

LEGISLATIVE MEETINGS

JOINT COMMITTEE MEETING OF HOUSE APPROPRIATIONS, HOUSE FINANCE AND SENATE FINANCE

August 26, 1988 - 9:30 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

Agenda to include a summary of fiscal year end revenue collections.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

SENATE TRANSPORTATION SUBCOMMITTEE RELATING TO THE OPERATION OF MOTOR VEHICLES BY PERSONS USING BIOPTIC TELESCOPIC LENSES

† **August 17, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia.

A public hearing. SB 329

Contact: Persons wishing to speak contact: Alan Wambold, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional information contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638

JOINT RULES SUBCOMMITTEE STUDYING NEEDS AND DEMANDS OF CAPITOL POLICE

† **August 19, 1988 - 1 p.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

Special subcommittee established by Joint Rules Committee.

The meeting will focus on discussion of various facility needs of the Capitol Police and demands for their services.

Contact: Jeffrey A Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING INVESTIGATIVE PROCEDURES USED IN CHILD ABUSE CASES

† **September 8, 1988 - 10 a.m.** – Public Hearing
City Council Chambers, Municipal Building, 215 Church Street, S.W., Roanoke, Virginia

Subcommittee will meet for purpose of receiving testimony from the public prior to final work session. HJR 127

† **September 15, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia.

Subcommittee will have working session to finalize recommendations. HJR 127

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING CLINICAL LABORATORY TESTING

† **August 29, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia.

A regular meeting. SJR 62

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742 or Normal E. Szakal, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

VIRGINIA CODE COMMISSION

September 2, 1988 - 9:30 a.m. – Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia.

The commission will continue with the revision of Title 46.1 of the Code of Virginia.

October 6, 1988 - 9:30 a.m. – Open Meeting
October 7, 1988 - 9:30 a.m. – Open Meeting
(These meetings are tentative and the location is to be announced), Virginia Beach, Virginia

The commission will continue with the revision of Title 46.1 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

VIRGINIA STATE CRIME COMMISSION

† **August 16, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia.

The purpose of the meeting will be to discuss Forensic Labs, Virginia's Drug Enforcement Efforts, further examination on jail and prison overcrowding.

Contact: Robert E. Colvin, P. O. Box 3-AG, General Assembly Bldg., 9th Fl., Room 915, Richmond, Va. 23208, telephone (804) 225-4534

JOINT SUBCOMMITTEE STUDYING METHODS OF CLEARING TITLE TO REAL PROPERTY

† **September 19, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

The subcommittee will meet for purpose of discussing statutory right of redemption. HJR 185

† **October 17, 1988 - 9:30 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

The subcommittee will meet for purpose of discussing partition and other methods of clearing title.

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING FIRE PREVENTION SERVICES

† **September 21, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia.

A public hearing. SJR 67

Contact: Persons wishing to speak should contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional information contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638

JOINT SUBCOMMITTEE STUDYING THE NEEDS OF HEAD AND SPINAL INJURED CITIZENS AND NEEDS FOR RESEARCH

† **August 17, 1988 - 10 a.m.** – Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

Second meeting of this study committee. This meeting will consist of a public hearing in House Room 4 of the Capitol from 10 a.m. to noon and a tour of various facilities at the Medical College of Virginia will follow. HJR 135

Contact: Persons wishing to speak contact: Jeffrey A. Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227. For additional information contact: Brenda Edwards, Research Association, or Norma Szakal, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING PRACTICES OF INSURANCE COMPANIES RELATING TO THE REINSURANCE OF ALL OR PARTS OF THE RISKS THEY INSURE, THE ADVISABILITY OF REPEALING THE EXEMPTIONS FROM THE COMMONWEALTH'S ANTITRUST LAWS GRANTING TO THE INSURANCE INDUSTRY, AND MEANS OF ASSURING THE CONTINUED AVAILABILITY AND AFFORDABILITY OF LIABILITY INSURANCE COVERAGE

† **August 17, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

This will be the second meeting of this joint subcommittee. Presentation will be given relating to the subject matter listed in the title of the study resolution. HJR 120

Contact: Persons wishing to speak contact: C. William Cramme', III, Deputy Director, or Terry Mapp Barrett, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional information contact: Jeffrey A. Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227

COMMISSION ON LOCAL GOVERNMENT STRUCTURES AND RELATIONSHIPS

† **September 2, 1988 - 1:30 p.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

The first meeting of the interim for this continued commission. HJR 6

Contact: Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ADMISSIONS OF MINORS TO PSYCHIATRIC HOSPITALS

† **September 12, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

The second in a series of meetings prior to public hearing in October.

Contact: Susan Ward, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telepone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SCHOOL DROPOUTS

† **August 22, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

Initial meeting of this joint subcommittee to consider organization and direction of this study committee. HJR 124

Contact: Persons wishing to speak contact: Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional information contact: Jeffrey A. Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING CONSTRUCTION F A SUPERHIGHWAY ALONG VIRGINIA'S SOUTHERN BOUNDARY

† **September 9, 1988 - 10 a.m.** – Public Hearing
Martha Washington Inn, Ball Room, Abingdon, Virginia

Subcommittee will meet for purpose of receiving public testimony relating to need for construction of superhighway along Virginia's southern boundary.

Contact: Alan Wambold, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

† **August 17, 1988 - 2 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia.

A regular meeting. SJR 3/HJR 118

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638 or Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

SPECIAL JOINT SUBCOMMITTEE STUDYING THE TAXATION OF DAILY RENTAL EQUIPMENT

August 15, 1988 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

This subcommittee will meet to review draft legislation. HB 687

Contact: Reggie McNally, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

STATE WATER COMMISSION

August 17, 1988 - 9 a.m. – Open Meeting
Holiday Inn, Interstate 85 and Route 58 East, South Hill, Virginia

Business meeting to discuss the state and federal role in interbasin transfer of water resources.

Contact: Martin Farber, Research Associate, or John Heard, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

August 15

Funeral Directors and Embalmers, Virginia Board of
† Hanover County Local Emergency Planning Committee
Taxation of Daily Rental Equipment, Special Joint Subcommittee Studying the

August 16

† Crime Commission, Virginia State
Education, State Board of
Housing Development Authority, Virginia
Nursing, Virginia State Board of
Real Estate Board, Virginia

August 17

† Bioptic Telescopic Lenses, Senate Transportation Subcommittee Relating to the Operation of Motor Vehicles by Persons Using
Corrections, State Board of
Education, State Board of
Higher Education for Virginia, State Council of
† Insurance Companies Relating to the Reinsurance of All or Part of the Risks they Insure, the Advisability of Repealing the Exemptions from the Commonwealth's Antitrust Laws Granting to the Insurance Industry, and Means of Assuring the Continued Availability and Affordability of Liability Insurance Coverage, Joint Subcommittee Studying Practices of
Real Estate Board, Virginia
Richlands Local Emergency Planning Committee
† Social Services, State Board of
† Surrogate Motherhood, Joint Subcommittee Studying
† Veterinary Medicine, Virginia Board of
Water Commission, State

August 18

† Danville Local Emergency Planning Committee
† Human Rights, Council on
† Petersburg Local Emergency Planning Committee
† Psychology, Virginia Board of
† Social Services, State Board of
Transportation Board, Commonwealth

August 19

† Capitol Police, Joint Rules Subcommittee Studying Needs and Demands of
Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
† Dentistry, Virginia Board of
† Housing and Community Development, Board of

August 22

† School Dropouts, Joint Subcommittee Studying

August 23

Alcoholic Beverage Control Board
† Medicare and Medicaid, Governor's Advisory Board on
Nursing, Virginia State Board of

August 24

† Chesapeake Bay Local Assistance Board
† Corrections, State Board of
Gloucester Local Emergency Planning Committee
Lottery Board, State
† Medicine, Virginia State Board of
Mental Health, Mental Retardation and Substance Abuse Services Board, State
Richlands Local Emergency Planning Committee

August 25

Charles City County Emergency Planning Committee
† Farmer's Market Board, Virginia
† Fire Services Board, Virginia
- Fire Prevention Committee
- Legislative Committee
- Fire/EMS Training Committee
† Game and Inland Fisheries, Board of
Lottery Board, State
† Polygraph Examiners Advisory Board
† Rehabilitative Services, Board of
- Finance Committee
- Legislation and Analysis Comittee
- Program Committee

August 26

Appropriations, House Finance and Senate Finance, Joint Committee Meeting of House
† Fire Services Board, Virginia
† Game and Inland Fisheries, Board of
† Medicine, Virginia State Board of
† Nursing, Virginia State Board of
- Informal Conference Committee
† Rehabilitative Services, Board of

August 29

Agricultural Council, Virginia
† Clinical Laboratory Testing, Joint Subcommittee Studying
† Cosmetology, Virginia Board of

August 30

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
- Virginia State Board of Professional Engineers
Funeral Directors and Embalmers, Virginia Board of
Land Evaluation Advisory Council, State

August 31

Funeral Directors and Embalmers, Virginia Board of
Richlands Local Emergency Planning Committee

September 1

† Chesterfield County, Local Emergency Planning Committee of
† Medicine, Virginia State Board of

Mines, Minerals and Energy, Department of
† Soil Scientists, Board of Professional

September 2
Code Commission, Virginia
† Local Government Structures and Relationships, Commission on

September 3
† William and Mary, The College of
- Board of Visitors

September 6
Hopewell Industrial Safety Council

September 8
† Boating Advisory Board, Virginia
Fairfax County, Town of Vienna, City of Fairfax, Town of Herndon, Local Emergency Planning Committee of
† Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
† Long-Term Care Council, Virginia
Martinsville and Henry County, Local Emergency Planning Committee for the City of

September 9
Children's Residential Facilities, Interdepartmental Licensure and Certification of
- Coordinating Committee
General Services, Department of
- Art and Architectural Review Board
- Division of Consolidated Laboratory Services
† Superhighway along Virginia's Southern Boundary, Joint Subcommittee Studying Construction of a

September 12
† Minors to Psychiatric Hospitals, Joint Subcommittee Studying Admissions of
† Montgomery, Town of Blacksburg Local Emergency Planning Committee, County of

September 13
† Local Government, Commission on

September 14
† Dentistry, Virginia Board of
† Sewage Handling and Disposal Appeals Review Board, State

September 15
† Child Abuse Cases, Joint Subcommittee Studying Investigative Procedures Used in
† Dentistry, Virginia Board of
† Geology, Virginia State Board of
† Labor and Industry, Department of
- Virginia Apprenticeship Council

September 16
† Dentistry, Virginia Board of

September 19
† Clearing Title to Real Property, Joint Subcommittee Studying Methods of
Real Estate Board, Virginia

September 20
Land Evaluation Advisory Council, State

September 23
† Dentistry, Virginia Board of

September 26
Education, State Board of
† Water Control Board, State

September 27
Education, State Board of
† Local Emergency Planning Committee - Scott County
† Water Control Board, State

September 28
† Dentistry, Virginia Board of

September 29
† Architects, Virginia State Board of

September 30
† Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of

October 1
† Medicine, Virginia State Board of
- Credentials Committee

October 6
† Chesterfield County, Local Emergency Planning Committee of
Code Commission, Virginia (Tentative)

October 7
Code Commission, Virginia (Tentative)
Education, State Board of

October 8
Military Institute, Virginia
- Board of Visitors
† Visually Handicapped, Department for the
- Advisory Committee on Services

October 17
† Clearing Title to Real Property, Joint Subcommittee Studying Methods of

October 27
Education, State Board of

October 28
Education, State Board of

PUBLIC HEARINGS

August 16
Education, Department of

August 17
† Head and Spinal Injured Citizens and Needs for Research, Joint Subcommittee Studying the Needs of

August 18
† Small Business Financing Authority, Virginia

August 24
Water Control Board, State

August 25
† Water Control Board, State

August 30
† Water Control Board, State

September 6
† Marine Resources Commission
- Habitat Management Division

September 7
Air Pollution Control, Department of

September 8
† Child Abuse Cases, Joint Subcommittee Studying Investigative Procedures Used in
† Water Control Board, State

September 15
Dentistry, Virginia Board of

September 16
Waste Management, Department of

September 19
Lottery Department, State
Waste Management, Department of

September 20
Alcoholic Beverage Control, Department of

September 21
† Fire Prevention Services, Joint Subcommittee Studying

September 26
Nursing, Virginia State Board of

September 30
Medical Assistance Services, Department of
Voluntary Formulary Board, Virginia

October 4
Agriculture and Consumer Services, Department of

October 17
† Housing and Community Development, Board of

October 18
† Air Pollution Control, Department of
† Corrections, Department of

October 20
† Corrections, Department of