

THE VIRGINIA REGISTER

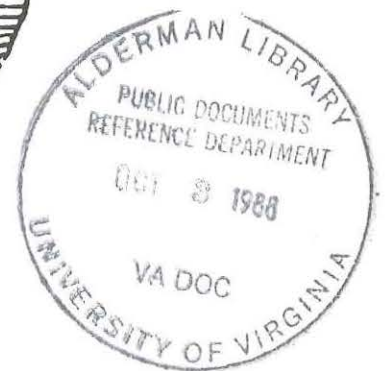
OF REGULATIONS

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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.

CITATION TO THE VIRGINIA REGISTER

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

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VIRGINIA REGISTER OF REGULATIONS

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Symbol Key

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

DEPARTMENT FOR THE AGING

Title of Regulation: VR 110-01-02. Area Agencies on Aging.

Statutory Authority: § 2.1-373(a)7 of the Code of Virginia.

Public Hearing Dates:

November 29, 1988 - 10 a.m.

December 1, 1988 - 10 a.m.

December 8, 1988 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

The proposed regulation sets forth the methods for (i) designating a planning and service area and an Area Agency on Aging and (ii) suspending or terminating the designation of an Area Agency on Aging.

VR 110-01-02. Area Agencies on Aging.

PART I DEFINITIONS.

§ 1.1. Definitions.

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

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.) and incorporated by reference in this regulation, which has submitted an approved Area Plan and is designated by contract with the Virginia Department for the Aging to develop and administer its area plan as approved for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Commissioner" means the Commissioner of the Virginia Department for the Aging.

"Contract" means the document of agreement wherein the Virginia Department for the Aging designates the contractor as the duly funded Area Agency on Aging,

consistent with the federally approved State Plan for Aging Services, in consideration for which the area agency assures its specific performance of functions and services pursuant to the approved area plan.

"Older person" or "elderly" means any individual who is 60 years of age or older.

"Planning and service area" (PSA) means a geographic area of the Commonwealth which is designated for purposes of planning, development, delivery, and overall administration of services under an area plan. Unless otherwise exempted, such planning and service areas shall be coterminous with the planning districts established by the Virginia Department of Planning and Budget, pursuant to §§ 2.1-391 and 15.1-1402(a) of the Code of Virginia.

PART II PLANNING AND SERVICE AREAS.

§ 2.1. Designation of planning and service areas.

The following are presently accepted as Virginia's Planning and Service Areas for purposes of execution of the provisions of 45 U.S.C. § 3025 (the "Older Americans Act") and the federal regulations promulgated thereunder (45 C.F.R. § 1321). The respective Area Agencies on Aging, under contract with the Virginia Department for the Aging as of the date of these regulations, are named herein for identification but may be subject to change, pursuant to Part III of these regulations.

Planning and Service Area 1

Mountain Empire Older Citizens, Inc.
Wise, Virginia

Serves Lee, Scott, and Wise Counties; the City of Norton.

Planning and Service Area 2

Appalachian Agency for Senior Citizens, Inc.
Richlands, Virginia

Serves Buchanan, Dickenson, Russell, and Tazewell Counties.

Planning and Service Area 3

District III Governmental Cooperative
Marion, Virginia

Serves Bland, Carroll, Grayson, Smyth, Washington,

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and Wythe

Counties; the Cities of Bristol and Galax.

Planning and Service Area 4

New River Valley on Aging
Pulaski, Virginia

Serves Floyd, Giles, Montgomery, and Pulaski
Counties; the City of Radford.

Planning and Service Area 5

League of Older Americans, Inc.
Roanoke, Virginia

Serves Alleghany, Botetourt, Craig, and Roanoke
Counties; the Cities of Clifton Forge, Covington,
Roanoke, and Salem.

Planning and Service Area 6

Valley Program for Aging Services, Inc.
Waynesboro, Virginia

Serves Augusta, Bath, Highland, Rockbridge, and
Rockingham Counties; the Cities of Buena Vista,
Harrisonburg, Lexington, Staunton, and Waynesboro.

Planning and Service Area 7

Shenandoah Area Agency on Aging, Inc.
Front Royal, Virginia

Serves Clarke, Frederick, Page, Shenandoah, and
Warren Counties; the City of Winchester.

Planning and Service Area 8A

City of Alexandria
(Alexandria Area Agency on Aging)
Alexandria, Virginia

Serves the City of Alexandria.

Planning and Service Area 8B

Arlington County
(Arlington Agency on Aging)
Arlington, Virginia

Serves Arlington County.

Planning and Service Area 8C

Fairfax County
(Fairfax County Area Agency on Aging)
Fairfax, Virginia

Serves Fairfax County; the Cities of Fairfax and
Falls Church.

Planning and Service Area 8D

(Loudoun County Area Agency on Aging)
Leesburg, Virginia

Serves Loudoun County.

Planning and Service Area 8E

Prince William County
(Prince William Area Agency on Aging)
Manassas, Virginia

Serves Prince William County; the Cities of
Manassas and Manassas Park.

Planning and Service Area 9

Rappahannock-Rapidan Community Services Center –
Aging Services
Culpeper, Virginia

Serves Culpeper, Fauquier, Madison, Orange, and
Rappahannock Counties.

Planning and Service Area 10

Jefferson Area Board for Aging
Charlottesville, Virginia

Serves Albemarle, Fluvanna, Greene, Louisa, and
Nelson Counties; the City of Charlottesville.

Planning and Service Area 11

Central Virginia Commission on Aging, Inc.
Lynchburg, Virginia

Serves Amherst, Appomattox, Bedford, and Campbell
Counties; the Cities of Bedford and Lynchburg.

Planning and Service Area 12

Piedmont Seniors of Virginia, Inc.
Martinsville, Virginia

Serves Franklin, Henry, Patrick, and Pittsylvania
Counties; the Cities of Danville and Martinsville.

Planning and Service Area 13

Lake Country Commission on Aging
South Hill, Virginia

Serves Brunswick, Halifax, and Mecklenburg
Counties; the City of South Boston.

Planning and Service Area 14

Piedmont Senior Resources, Inc.
Burkeville, Virginia

Serves Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, and Prince Edward Counties.

Planning and Service Area 15

Capital Area Agency on Aging, Inc.
Richmond, Virginia

Serves Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan Counties; the City of Richmond.

Planning and Service Area 16

Rappahannock Area Agency on Aging, Inc.
Fredericksburg, Virginia

Serves Caroline, King George, Spotsylvania, and Stafford Counties; the City of Fredericksburg.

Planning and Service Area 17/18

Northern Neck-Middle Peninsula Area Agency on Aging, Inc.
Urbanna, Virginia

Serves Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland Counties.

Planning and Service Area 19

Crater District Area Agency on Aging
Petersburg, Virginia

Serves Dinwiddie, Greensville, Prince George, Surry, and Sussex Counties; the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg.

Planning and Service Area 20

Southeastern Virginia Areawide Model Program, Inc.
Norfolk, Virginia

Serves Isle of Wight and Southampton Counties; the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

Planning and Service Area 21

Peninsula Agency on Aging, Inc.
Newport News, Virginia

Serves James City and York Counties; the Cities of Hampton, Newport News, Poquoson, and Williamsburg.

Planning and Service Area 22

Eastern Shore Community Development Group, Inc.

Onancock, Virginia

Serves Accomack and Northampton Counties.

§ 2.2. Boundaries of planning and service areas.

A. Pursuant to §§ 305(a)(1)(E) and 305(b)(1) of the Older Americans Act, the Department for the Aging, in its discretion, has established that the boundaries for planning and service areas (PSAs) will be coterminous with the boundaries of the planning districts established by the Department of Planning and Budget, except that

1. Within the boundaries of planning district 8 the Department for the Aging has established five planning and service areas with the concurrence of the local governing bodies, and

2. The Department for the Aging has combined planning districts 17 and 18 into one planning and service area with the concurrence of the local governing bodies.

B. These boundaries will be maintained until such time as there is good cause, shown by clear and convincing evidence, to create a new planning and service area.

PART III.

APPLICATION PROCEDURES TO OBTAIN DESIGNATION AS A NEW PLANNING AND SERVICE AREA OR AS A NEW AREA AGENCY ON AGING.

§ 3.1. Applications of units of general purpose local government to serve as designated Area Agencies on Aging within established planning and service area or to create a new planning and service area will be made only by formal resolution of city councils or county boards of supervisors and must be submitted in writing to the Commissioner of the Department for the Aging. Such new entities, if approved, will become effective with the beginning of the terms of their approved Area Plan for Aging Services and the contract incorporating such plan, upon execution of the contract. Any application for new Area Agency on Aging status or new planning and service area status will be submitted prior to July 1 of the year preceding the year in which the new status would become effective.

§ 3.2. The application for new Area Agency on Aging status or for new planning and service area status will contain the proposed Area Plan for Aging Services and will show the following:

1. All the city councils and county boards of supervisors in the planning and service area which would be affected have consented to the proposed change.

2. The proposed change will not result in creation of an Area Agency on Aging or new planning and service

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area which would receive less than 1.0% of the formula fund allocation for Virginia, according to the allocation method used by the Department for the Aging for the year in which the application is submitted.

3. Provision of services in a proposed new planning and service area or by a proposed new Area on Aging will be shown, by clear and convincing evidence, to assure more efficient and effective preparation and implementation of the Area Plan for Aging Services for the older Virginians within the planning and service area.

§ 3.3. Upon receipt of an application which meets the foregoing requirements, the Commissioner of the Department for the Aging will provide a public hearing in the planning and service area. At least a 30 day notice will be provided through publication in a newspaper or newspapers of general circulation in the cities and counties to be affected by the proposed new entity and its submitted Area Plan for Aging Services. Notification will be mailed to the local governments and all other interested Area Agencies on Aging. The public hearing will be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the hearing. At the public hearing, interested persons may speak for themselves or be represented by counsel, and written presentations may be submitted. Following the public hearing and for at least 30 days thereafter, the commissioner will receive any additional written information which citizens or organizations wish to submit.

§ 3.4. In addition to the public hearing and reception of comments by the Virginia Department for the Aging and the commissioner, as provided above, the commissioner will consult with the Department of Planning and Budget, pursuant to § 2.1-391 C of the Code of Virginia, whenever a new planning and service area is proposed, and the approval of that department will be persuasive.

§ 3.5. Within 120 days of the public hearing, the commissioner will issue written findings of fact, the consideration of the Department of Planning and Budget, and a particularized conclusion and decision. In the case of a new planning and service area, its effective date will be determined and stated. The designation of Area Agencies on Aging becomes effective upon approval of their Area Plans for Aging Services and execution of the contract.

§ 3.6. Any applicant for designation as a new entity whose application is denied may request an administrative hearing, pursuant to the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia, within 15 days of receipt of the written denial. If, after hearing, the applicant's request is still denied, the applicant may appeal the decision in writing within 30 days after receipt of the decision to the Commissioner of the U.S. Administration on

Aging, pursuant to 45 C.F.R. § 1321.31.

PART IV. TERMINATION OF THE DESIGNATION OF AN AREA AGENCY ON AGING.

§ 4.1. The contractual designation of an incumbent Area Agency on Aging will be renewed annually contingent upon approval of and performance on the Area Plan for Aging Services.

§ 4.2. The contractual designation of an Area Agency on Aging will be withdrawn by the Commissioner of the Virginia Department for the Aging for any of the following:

1. Upon a written request by the Area Agency on Aging that the commissioner terminate its contractual designation.

2. Upon a request by formal resolution of the majority of the city councils and county boards of supervisors within the planning and service area of the Area Agency on Aging that the commissioner designate and contract with another Area Agency on Aging, whose area plan is approved.

3. Upon a finding by the Virginia Department for the Aging, after reasonable notice and opportunity for a hearing, pursuant to 45 C.F.R. § 1321.35, that:

a. An area plan or plan amendment is not approved.

b. An area agency does not meet the requirements of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act, as amended; the Code of Virginia; or the policies and regulations of the Department for the Aging.

c. There is substantial failure in the provisions or administration of an approved area plan to comply with one or more of the provisions of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act as amended; the Code of Virginia; regulations of the Department for the Aging; licensing requirements of the Commonwealth of Virginia; and local ordinances.

d. The activities of the Area Agency on Aging are inconsistent with the statutory mission in the Older Americans Act and its provisions or are in conflict with the Act's requirement that the area agency function only as an Area Agency on Aging.

4. Upon reasonable application of the terms and conditions stated in the contract. Contractual obligations, failure of fulfillment of which will lead to termination of the contract, include, but are not limited to, the following:

a. Failure to correct deficiencies disclosed in an audit report from an audit conducted as required by the Virginia Department for the Aging, pursuant to Part XI of the Regulations Governing Financial Management Policies;

b. Failure to report promptly to the Virginia Department for the Aging and to the appropriate law-enforcement officials any theft, embezzlement, or unlawful use of funds received from the Department for the Aging;

c. Failure to submit reports required by the Virginia Department for the Aging or deliberate falsification of information in such reports.

5. Upon a decision pursuant to Part III of these regulations creating a new Area Agency on Aging or new planning and service area, to the extent that such a decision makes performance on the existing contract impossible.

§ 4.3. Upon notice by the Virginia Department for the Aging of its intent to terminate, the Area Agency on Aging, within 15 days from receipt of the notice, may request and will be provided an informal fact-finding conference pursuant to the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia. If, from such a conference, a finding is made that one of the conditions set forth in § 4.2 3 of these regulations obtains or that a term or condition in the contract so permits, the contractual designation will be withdrawn. In the alternative, if no request for such hearing has been made by 15 days from receipt of the notice, the contractual designation will terminate 30 days after the date of the notice.

§ 4.4. Suspension of the designation of an Area Agency on Aging.

If the Commissioner of the Department for the Aging has reason to believe that one or more of the reasons for termination constitutes an emergency endangering the health, safety, or welfare of citizens or seriously threatens the financial or programmatic continuation of services required by the Area Plan for Aging Services, the commissioner may order the immediate suspension of the designation of the Area Agency on Aging, in advance of a hearing, and will state in writing the reasons therefor.

§ 4.5. Provision for continuity of functions and services.

When the contractual designation of an Area Agency on Aging is withdrawn, the commissioner, to assure continued conduct of functions and provision of services to the extent feasible, will contractually designate a new Area Agency on Aging in a timely manner, or, for a period of up to 180 days from the withdrawal, the Virginia Department for the Aging itself may perform the responsibilities of the Area Agency on Aging or may assign the responsibilities of the area agency to another agency

in the planning and service area. With the consent of the Commissioner of the U.S. Administration on Aging, the Commissioner of the Virginia Department for the Aging may extend the 180-day period.

PART V. DESIGNATION OF A NEW AREA AGENCY ON AGING.

§ 5.1. Application for designation.

When there is no designated Area Agency on Aging for a planning and service area, or when there has been a decision to create a new planning and service area, the commissioner will solicit applications for a new Area Agency on Aging as soon as possible. Such applications will be solicited by advertisement in the newspapers of general circulation serving the planning and service area and by notification mailed to the local governing bodies of cities and counties within the planning and service area. At least 30 days from the date of advertisement will be provided for applicants to submit their applications to the commissioner. The application will include the applicant's proposed Area Plan for Aging Services. The commissioner will give the right of first refusal to a unit of general purpose local government, if such unit can meet the requirements of the Older Americans Act, as amended, and if the boundaries of such a unit and the boundaries of the planning and service area are reasonably contiguous. Applicants may be:

1. A city or county within the affected planning and service area;
2. All the cities and counties within the affected planning and service area, applying as a joint exercise of powers, pursuant to § 15.1-21 of the Code of Virginia;
3. A public agency or a private nonprofit corporation of Virginia, or any separate organizational unit within such agency which can and will engage only in the planning or provision of a broad range of supportive services within the planning and service area.

§ 5.2. Public hearing.

Within 30 days after the deadline set by the commissioner for submission of applications for designation as an Area Agency on Aging, the commissioner will advertise a public hearing to receive comments on such designation. At least 30 days notice of the hearing will be provided through advertisement in newspapers of general circulation serving the affected planning and service area and by notification mailed to the local governing bodies and all applicants. The hearing will be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the public hearing. At the public hearing, interested parties may speak for

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themselves or be represented by counsel, and written presentations may be submitted. Upon conclusion of the hearing, the commissioner will continue to receive any additional written information which citizens or organizations may wish to provide.

§ 5.3. Designation of a new Area Agency on Aging.

Within 45 days after the public hearing, unless the applicants have agreed otherwise, the commissioner will issue a written decision. The commissioner may designate a new Area Agency on Aging, subject to final approval of its Area Plan for Aging Services and execution of the contract. Such designation will become effective upon execution of the contract or such other data as agreed upon therein. Or, if the commissioner finds that the applicant or applicants applying do not offer functions, services, and an Area Plan for Aging Services which will be in the best interests of the Commonwealth or of the persons to be served, the commissioner may reject all applications and recommence the designation process. Reasons for denial will be set forth with reasonable particularity.

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Title of Regulation: VR 110-01-03. Area Plans for Aging Services.

Statutory Authority: § 2.1-373(a)(7) of the Code of Virginia.

Public Hearing Dates:

November 29, 1988 - 10 a.m.
December 1, 1988 - 10 a.m.
December 8, 1988 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The proposed regulation describes the process by which an Area Agency on Aging develops and implements its Area Plan for Aging Services.

VR 110-01-03. Area Plans for Aging Services.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Area" means the planning and service area served by an Area Agency on Aging.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of

services in the executed contract, in order to receive funding under the Older Americans Act, as amended (42 U.S.C. 3001 et seq.), and incorporated by reference in this regulation.

"Frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"Greatest economic need" means the need resulting from an income level at or below the poverty levels established by the federal Office of Management and Budget.

"Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that caused by racial or ethnic status, which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.

"In-home services" means (i) homemaker/personal care services, (ii) home care/companion services, (iii) home health services, (iv) checking services, (v) residential repair and renovation services, and (vi) in-home respite care for families and adult day care as a respite service for families.

"Older person" or "elderly" or "older individual" means any individual who is 60 years of age or older.

PART II. AREA PLANS FOR AGING SERVICES.

§ 2.1. Preparation and submission of the area plan.

Any existing Area Agency on Aging or any applicant for area agency designation will prepare an Area Plan for Aging Services and submit it to the Virginia Department for the Aging for approval. Approval will be contingent upon assurances that the services set forth in § 2.3 of these regulations will be provided. The area plan will clearly detail the means of providing the services and substantiation for the means selected. An approved area plan will be in effect for two, three, or four years, as determined by the Department for the Aging. Such plan, if approved, will become the scope of services in the contract executed between the Virginia Department for the Aging and the Area Agency on Aging as contractor.

§ 2.2. Amendments to the area plan.

The Area Agency on Aging will submit to the Virginia Department for the Aging for approval all requests for, and reasonable documentation of and substantiation for, necessary changes, additions, or deletions in its area plan. The area agency will submit a written amendment to the

area plan if it intends to change the scope of a service or if it intends to change the arrangements by which a service is delivered (e.g., direct service or contracted service, the number or location of congregate meal sites). Any amendment must be approved by the Virginia Department for the Aging and, when signed by both the Department for the Aging and the Area Agency on Aging as contractor, will be incorporated into the contract as part of the scope of services.

§ 2.3. Services to be provided under the area plan.

A. The area plan will provide for supportive and nutrition services as set forth below:

1. **Checking services.** Calling or visiting older persons at their residence to check on them to make sure they are well and safe. This activity may also serve to provide psychological reassurance to an older person who is alone and in need of personal contact from other individuals.

2. **Congregate meals.** Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The provision of meals must occur at designated nutrition sites which also provide a climate/atmosphere for socialization and opportunities to alleviate isolation and loneliness.

3. **Consolidated access services.** Identifying and locating older persons in need of services and assessing and periodically reassessing their need for services; collecting and providing information to link older persons with the opportunities, services, and resources needed to meet their particular problems and needs.

4. **Dental services.** Provision of needed dental services to limited-income persons 60 years of age and older not otherwise able to obtain the services.

5. **Emergency services.** Provision of money and other resources, including referral to other public and private agencies, for assistance to persons 60 and older who have an emergency need for help. Area agencies must have approved policies established by their governing board for administration of this service.

6. **Employment services.** Assistance to older persons seeking part-time or full-time employment within the public or private sector and advocacy on behalf of the older worker.

7. **Finance, tax, and consumer counseling.** Provision of direct guidance and assistance to older persons and their caregivers in the areas of consumer protection, personal financial matters, and tax preparation.

8. **Geriatric day care services.** Regular daytime supervision and care of frail, disabled, and institutionally at-risk older adults. Participants require a level of care which ensures their safety, and, with the provision of services ranging from socialization to rehabilitation, may experience an enhancement in their quality of life and level of functioning.

9. **Health education.** Provision of information or materials, or both, specifically designed to address a particular health-related issue. The activity may be preventive in nature and may promote self-care and independence.

10. **Health screening.** Provision of screening to determine current health status, including counseling, follow-up, and referral, as needed.

11. **Home care/companion services.** Provision of light housekeeping, companionship and other services to eligible older adults, who, because of their functional level, are unable to perform these tasks themselves.

12. **Home delivered meals.** Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The meals must be delivered and received at the homes of the individuals.

13. **Home health services.** Provision of intermittent skilled nursing care under appropriate medical supervision to acutely or chronically ill homebound older adults. Various rehabilitative therapies and home health aides providing personal care services are included.

14. **Homemaker/personal care services.** Provision of nonmedically oriented services by trained personnel under professional supervision. Services may include personal care activities, nutrition-related tasks, light housekeeping, and respite for family caregivers.

15. **Identification/discount program.** Provision to older persons of a card which can be used as identification to cash checks and to obtain discounts for goods and services from participating merchants.

16. **Legal assistance.** Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Includes counseling or representation by a nonlawyer, where permitted by law, to older individuals with economic or social needs. May also include preventive measures such as community education.

17. **Local long-term care ombudsman program.** Serves as a single point of entry for long-term care recipients, their families and friends, and the

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concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and others to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term care, their families and friends, and recommends changes in the long-term care system which will benefit these individuals as a group.

18. Long-term care coordinating activity. Provides for the participation of area agency staff on the local long-term care coordinating committee(s) and in the planning and implementation of a coordinated service delivery system.

19. Public information. Provision of information to older persons and the general public about the programs and services available to the elderly and their caregivers and about the talents, skills, problems, and needs of older persons.

20. Residential repair and renovation. Provision of home repairs or home maintenance to persons 60 years of age and older (includes weatherization provided with Older American Act funds).

21. Services to persons in institutions. Provision of consultation and assistance to institutionalized older persons, their families, and facility staff in such areas as aging issues, resident rights, and activities for facility residents.

22. Socialization/recreation services. Activities to provide persons 60 years of age and older with opportunities to participate in constructive social experiences and leisure time activities. This may also include senior center activities as well as activities suitable for and within the time constraints of the nutrition sites.

23. Transportation services. Group transportation of older persons to congregate meals, socialization and recreation activities, shopping, and other services available in the community; individual transportation to needed services that promote continued independent living.

24. Volunteer programs. Development of opportunities for the community to do volunteer work in aging programs and services; recruiting and supervising

volunteers; and developing opportunities for older persons to do volunteer work in the community.

B. An Area Agency on Aging may provide a service, other than those listed above, under the following conditions:

1. The service is consistent with the goals and objectives of the Older Americans Act.

2. The area agency makes a written request to, and receives written approval from, the Virginia Department for the Aging.

3. Such written request includes at least the following:

a. A description of the service to be provided;

b. A budget for the service for the duration of the current Area Plan for Aging Services, including sources and amounts of all funding for the service; and

c. A summary of the process which the area agency used to obtain public comment on the service to be provided.

4. If the area agency plans to provide the service directly, the area agency must comply with the regulations concerning direct services, Part VI of these regulations.

§ 2.4. Complaints concerning substantial failure of an Area Agency on Aging or its Area Plan for Aging Services to comply with provisions of the Older Americans Act.

A. If a citizen, organization, or local government should believe an Area Agency on Aging or its Area Plan for Aging Services substantially fails to comply with the provisions of the Older Americans Act, the complaint will be addressed in writing to the Commissioner of the Virginia Department for the Aging, detailing the reasons and bases for the complaint.

B. In the alternative, a complaint can be initiated at the local level with the local/substate ombudsman program, under circumstances described in § 3.2 C or D of the Regulations Governing Operation of the Ombudsman Program for reporting complaints to the Virginia Department for the Aging.

C. If the commissioner has cause to believe that there are substantial grounds for termination of the designation of the area agency which is the subject of the complaint, pursuant to § 4.2 C of the Regulations Governing Planning and Service Areas and Area Agencies on Aging, the commissioner will provide notice to the area agency of intent to withdraw its area agency designation within 30 days, stating the bases, and will provide an opportunity for a hearing if requested within 15 days of receipt of the notice by the area agency involved. Failure to request a

hearing will result in withdrawal of the area agency designation at the end of the 30th day after receipt of the notice by the area agency.

D. The hearing, if timely requested, will be provided consistent with the provisions of the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia. Within 30 days of the close of the hearing, unless the case is disposed of by consent during the hearing process, the commissioner will render a written decision. If the commissioner finds that the Area Plan for Aging Services of the Area Agency on Aging or the administration of the area plan by the area agency does not comply with the requirements and provisions of the Older Americans Act, the commissioner will withdraw the designation, pursuant to 45 C.F.R. § 1321.35 of the Act. If there are significant, correctable problems in the Area Plan for Aging Services or the administration thereof, the commissioner may allow the area agency to continue as such, contingent upon appropriate changes and attainment of compliance within a stated time period.

E. When the cause for termination endangers the health, safety and welfare of the population to be served or jeopardizes the financial or programmatic provision of functions and services, suspension of the area agency will be immediate, and termination will become final within 30 days, unless good cause is shown by clear and convincing evidence.

PART III. POPULATION TO BE SERVED.

§ 3.1. General requirements.

All Virginians age 60 years or older are eligible to receive services provided under an Area Plan for Aging Services. An Area Agency on Aging will give preference to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals. Older Americans Act funds and state funds will be targeted to services which can assist older persons to function independently for as long as possible.

§ 3.2. Additional eligibility criteria for receipt of congregate nutrition services.

A. Any Virginian 60 years of age or older and his or her spouse, regardless of age, are eligible to receive congregate nutrition services.

B. The following individuals are also eligible to receive congregate nutrition services:

1. A handicapped or disabled individual who is under the age of 60 years and who resides in a housing facility occupied primarily by older individuals at which congregate nutrition services are provided.

2. An individual, regardless of age, who provides

volunteer services during the meal hours.

3. An individual with a disability who resides at home with and accompanies an older individual who is otherwise eligible.

§ 3.3. Additional eligibility criteria for receipt of home-delivered nutrition services.

A. Any Virginian 60 years of age or older, who is homebound by reason of illness or incapacitating disability or otherwise isolated, is unable to prepare his own meal, and has no one to prepare food for him is eligible to receive home-delivered nutrition services.

B. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal if receipt of the meal is in the best interest of the homebound older person. Each Area Agency on Aging will establish criteria for determining when receipt of the meal is in the best interest of the older person.

PART IV. PRIORITY SERVICES.

§ 4.1. Priority services and the proportionate expenditures required to be made thereon, pursuant to Title III-B of the Older Americans Act (for federal fiscal year 1989).

A. An Area Agency on Aging will spend at least 15% of its Title III-B allotment for services associated with access to other services. Services associated with access to other services are consolidated access services and transportation services.

B. An Area Agency on Aging will spend at least 5.0% of its Title III-B allotment for in-home services, as defined in Part I of these regulations.

C. An Area Agency on Aging will spend at least 1.0% of its Title III-B allotment for legal assistance for the elderly, especially those in the greatest economic or social need.

D. An Area Agency on Aging, whose spending in a priority service category exceeds the minimum proportional expenditure level specified above, will spend in each such category of services at least the same amount of actual funds as it spent in such category for the previous fiscal year.

E. To the extent that the priority services and the proportion of expenditure to be allotted to them are prescribed by law and regulation of the federal government, this section (§ 4.1) of the Regulations Governing Area Plans for Aging Services is exempt from the procedural requirements of the Virginia Administrative Process Act, pursuant to § 9-6.14:4.1 of the Code of Virginia.

§ 4.2. Waivers.

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A. The Virginia Department for the Aging may waive the requirement described in §§ 4.1 A through 4.1 C of these regulations for any category of services described in that section if the Area Agency on Aging demonstrates to the department that services being provided in such category in the area are sufficient to meet the need for such services in such area.

B. Before an Area Agency on Aging requests a waiver pursuant to § 4.2 A of these regulations, the Area Agency on Aging will conduct a public hearing as follows:

1. The Area Agency on Aging requesting a waiver will notify all interested persons of the public hearing.
2. The area agency will provide interested persons with an opportunity to be heard.
3. The Area Agency on Aging requesting the waiver will receive, for a period of 30 days, any written comments submitted by interested persons.

C. The Area Agency on Aging will furnish a complete record of the public comments with the request for the waiver to the Virginia Department for the Aging.

PART IV. IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

§ 5.1. Scope.

The services to be provided under this Part IV are those mandated by Title III-D of the Older Americans Act, as amended, and are expressly in addition to the in-home services and the expenditures for such category of services required pursuant to § 4.1 B of these regulations.

§ 5.2. Eligibility criteria.

In order to determine the eligibility of a frail older person to receive in-home services under Title III-D of the Older Americans Act, as amended, an Area Agency on Aging will take into account the following criteria:

1. The person will be at least 60 years of age;
2. The person will have an income at or below the poverty level established by the U.S. Office of Management and Budget;
3. The person will be restricted in his ability to perform at least two activities of daily living; and
4. The person will lack community support mechanisms to assist in the provision of Title III-D services.

§ 5.3. Limitation on expenditures for services under Title III-D.

Title III-D funds will be used in addition to, and not to supplant, any funds which are, or would otherwise be, expended under any other federal, state, or local program. As a new provision within the Older Americans Act, Title III-D has earmarked these funds to be applied exclusively for in-home services for eligible individuals as defined in § 5.2 of these regulations. Distribution of funds appropriated by the U.S. Congress for purposes of Title III-D will be made in accordance with a formula promulgated as an emergency regulation to meet the explicitly targeted persons and services of this new provision. The emergency formula will remain in effect no more than 12 months from its effective date or upon revision of the general formula in a manner which reflects proportionately the added purpose and intent of Title III-D, whichever comes first. This section will be an interim regulation, subject to clerical correction by the new formula, when duly adopted, and by promulgation of any new federal regulations governing the provisions of Title III-D.

§ 5.4. Coordination.

A. An Area Agency on Aging expending funds under Title III-D will consult and coordinate the provision of Title III-D services with other agencies and organizations which administer or provide health, social, rehabilitative, and mental health services to older persons in the planning and service area, as defined in § 5.2 of these regulations. This requirement will remain in force until such time as new federal regulations, the state application for Title III funds, or the Area Plans for Aging Services are written which incorporate explicit requirements or plans for implementation of the Title III-D program.

B. At a minimum, the area agency will consult with the following agencies and organizations providing services to older persons:

1. Local long-term care coordinating committees established pursuant to § 2.1-373.7 of the Code of Virginia;
2. Local community service boards and community mental health centers;
3. Local health departments; and
4. Local departments of social services.

PART VI. DIRECT SERVICES.

§ 6.1. Prohibition.

An Area Agency on Aging will not provide directly any supportive services or nutrition services, except where, in the judgment of the Virginia Department for the Aging, pursuant to a request for waiver as set forth in § 6.2 of these regulations, provision of such services by the area agency is necessary to assure an adequate supply of such services, or where such services are directly related to the

area agency's administrative functions, or where such services of comparable quality can be provided more economically by the area agency.

§ 6.2. Waivers.

A. An Area Agency on Aging will request explicitly in writing a waiver to provide supportive services or nutrition services. The request for a waiver must include, at a minimum, the area agency's rationale for providing the service directly, including sufficient documentation that provision of such service by the area agency is necessary to assure an adequate supply of such service, or that such service is directly related to the area agency's administrative functions, or that such service of comparable quality can be provided more economically by the area agency.

B. Unless and until a waiver has been granted in writing by the Virginia Department for the Aging, an Area Agency on Aging will not provide or begin to provide any supportive or nutrition service using Older Americans Act or state funds.

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Title of Regulation: VR 110-01-04. Financial Management Policies Applicable to Area Agencies on Aging.

Statutory Authority: § 2.1-373(a)(7) of the Code of Virginia.

Public Hearing Dates:

- November 29, 1988 - 10 a.m.
 - December 1, 1988 - 10 a.m.
 - December 8, 1988 - 10 a.m.
- (See Calendar of Events section for additional information)

Summary:

The proposed regulation provides detailed information on the administration of grants/contracts from the Virginia Department for the Aging to its grantee/contractor agencies.

VR 110-01-04. Financial Management Policies Applicable to Area Agencies on Aging.

**PART I.
INTRODUCTION.**

§ 1.1. Scope and organization.

The general organization of the regulations is as follows:

Part 1. Introduction – provides the description, scope, and organization of the regulation.

Part 2. Principles and Standards for Financial Management and Accounting – sets forth the standards and principles for the organization of an Area Agency on

Aging's accounting system.

Part 3. Program Management – describes those program policy statements pertaining to fiscal management.

Part 4. Personnel Policies – sets forth those fiscal-related policies pertaining to personnel management.

Part 5. Property Control – covers the definition, inventory, and disposition of equipment, furnishings, and property.

Part 6. Procurement Practices and Contracting – describes the process for the competitive award of subcontracts/subgrants, as well as the essential policies under such a process.

Part 7. General Program Income – sets forth the Virginia Department for the Aging's fiscal policies on the definition, treatment, and use of program income.

Part 8. Bank Balances and Check-Handling Procedures – describes the process for requesting, safeguarding, and handling funds provided by the Virginia Department for the Aging.

Part 9. Monitoring of Area Agencies on Aging and Subgrantees – presents the role of the Virginia Department for the Aging and the responsibility of Area Agencies on Aging in the fiscal assessment of Area Agencies on Aging and their subgrantees.

Part 10. Carry-Over Balance Policies – describes the Virginia Department for the Aging's requirements for reauthorization of carry-over balances and the timing of spending of prior year's funds.

Part 11. Audits – presents the Virginia Department for the Aging's policy on audits of government-sponsored and nonprofit Area Agencies on Aging.

Part 12. Close-Out Procedures – describes the right of the Virginia Department for the Aging to terminate and close out grants/contracts and the handling of all assets and records.

Part 13. Record Retention Requirements – describes the disposition of records.

§ 1.2. Definition of terms.

“Government-sponsored Area Agencies or Area Agencies sponsored by governmental entities” means area agencies created as units of general purpose local governments, area agencies created through the joint exercise of powers, and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District III Governmental Cooperative, New River Valley Agency on Aging, Alexandria Office on Aging, Arlington Agency on Aging, Rappahannock-Rapidan Community Services Center - Aging Services, Jefferson

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Area Board for Aging, Fairfax County Area Agency on Aging, Loudoun County Area Agency on Aging, Prince William Area Agency on Aging, Lake County Commission on Aging, and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as freestanding joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.

"Private nonprofit Area Agency on Aging" means those area agencies created independently of a local governing body or bodies. They include Mountain Empire Older Citizens, Appalachian Agency for Senior Citizens, League of Older Americans, Valley Program for Aging Services, Shenandoah Area Agency on Aging, Central Virginia Commission on Aging, Piedmont Seniors of Virginia, Piedmont Senior Resources, Capital Area Agency on Aging, Rappahannock Area Agency on Aging, Northern Neck-Middle Peninsula Area Agency on Aging, Southeastern Virginia Areawide Model Program, Peninsula Area Agency on Aging, and Eastern Shore Community Development Group.

PART II. PRINCIPLES AND STANDARDS FOR FINANCIAL MANAGEMENT AND ACCOUNTING.

§ 2.1. Basis of accounting.

A. Each area agency/grantee/contractor and all entities with which such area agency itself contracts will report program outlays and program income on the modified accrual basis. Accordingly, expenditures are recorded when a liability is incurred (i.e., when goods and services have been received or the amount can be readily estimated), but revenue is not recorded until actually realized or recognized and collectible by the grantee/contractor or entity under subcontract in a current reporting period.

B. If the grantee/contractor or entity under subcontract presently maintains its accounting system on the cash basis, it must develop the necessary accrual information through analysis of pertinent documentation on hand.

C. Area Agencies on Aging will observe the cash basis of accounting for U.S. Department of Agriculture (USDA) funding and the commodities-received basis for USDA commodities. An unbilled receivable will not be reflected for USDA receivables.

§ 2.2. Authority to expand federal and state funds.

A. By virtue of the Virginia Department for the Aging's approval of an Area Plan for Aging Services, issuance of a notice of approval, and execution of the contract, an Area Agency on Aging is granted authority to incur costs under its approved area plan for eligible activities, for the period covered by the area plan. This authorization to incur costs under its approved area plan is extended only for allowable and allocable costs which are also reasonable and net of all applicable credits.

B. An Area Agency on Aging receiving a contractual award pursuant to an approved area plan understands and agrees that the period of the contractual award is for one year. Prior to the renewal of the contractual award of any additional financial support for any subsequent period, the Virginia Department for the Aging may conduct an on-site evaluation of the Area Agency on Aging to determine if the objectives of the area plan are being met and whether continued financial support is indicated.

C. An Area Agency on Aging is to refer to the federal cost principles applicable to its type of organization to ascertain when prior approval is required from the Virginia Department for the Aging. In addition, prior approval may be required by the contractual award of funded support from the Virginia Department for the Aging or required by specific program legislation or regulation, including but not limited to the following:

1. Changes in the scope or objectives of the activities assured by the area plan, as approved and incorporated into the contractual award;
2. Undertaking any activities which are disapproved or restricted as a condition of the contractual award;
3. Any pending change of institutional affiliation of the grantee/contractor, any reassignment to a legal successor of interest, or any nominal or legal change in agency name. The Virginia Department for the Aging will in its discretion determine whether to approve such contractual modification and continue funding the existing project(s) under the new entity. Factors to be considered will include assurances to continue the project(s) as approved and the acceptance of the new entity by the carrier of any surety bonds required for the project(s);
4. Transferring to a third party, by contract or any other means, the actual performance of substantive responsibility for the management of the grant/contract. Generally, such changes may require the designation of a new Area Agency on Aging and the execution of a new contract;
5. Carrying over funds from one budget period to another;
6. Extending the budget/project period with or without additional funds;
7. Expending funds for the purchase of land or buildings;
8. Conveying, transferring, assigning, mortgaging, leasing, or otherwise encumbering property acquired under a grant/contract with the Virginia Department for the Aging;
9. Acquiring automatic data processing equipment (see § 5.3 of these regulations);

10. Incurring costs or liabilities prior to the effective date of any grant/contract award;

11. Paying fees to a consultant whenever the consulting agreement (i) constitutes a transfer of substantive management or administrative work to a third party, (ii) results in a contract for management services that requires Virginia Department for the Aging or the federal grantor agency's prior approval, or (iii) is required by program regulations or other award terms;

12. Additional funding when clearly demonstrated to be essential;

13. Reallocating costs between closely related projects supported by two or more grant sources. Approval may be granted to charge costs to the Title III grant for which the costs are originally approved, or to another Department for the Aging project, when all of the following conditions are met:

- a. The projects are programmatically related;
- b. There is no change in the scope of the individual grants involved;
- c. The reallocation of costs will not be detrimental to the conduct of work approved under each individual award; and
- d. The reallocation will not be used to circumvent the terms and conditions of either individual award;

14. Indemnifying third parties;

15. Transferring funds between construction and nonconstruction;

16. Traveling outside of the continental United States;

17. Contributing to a reserve fund for a self-insurance program;

18. Insuring any U.S. government-owned equipment; and

19. Meeting the costs of nonemergency patient care where other forms of medical cost reimbursement, such as but not limited to Medicaid, are available.

§ 2.3. Chart of accounts.

Provided that an Area Agency on Aging is able to comply with the nine standards for financial management systems in U.S. Office of Management and Budget (OMB) Circulars A-102 and A-110, as applicable, and the financial management standards contained in Title 45 CFR Subpart 74.61, an Area Agency on Aging will adopt its own account structure based on its own external and internal reporting requirements.

§ 2.4. Elements of an acceptable financial management system.

A. An Area Agency on Aging will maintain records and make reports in such form and containing such information as may be required by the Virginia Department for the Aging. As Area Agency on Aging will maintain such accounts and documents as will serve to permit expeditious determination of the status of funds and the levels of services provided under the approved area plan, including the disposition of all moneys received from the Virginia Department for the Aging, and the nature and amount of all charges claimed against such funds.

B. An Area Agency on Aging will keep records that identify adequately the source and application of funds for grant/contract-supported activities and for activities under subcontract. At a minimum, these records shall contain information pertaining to grant/contract, subcontracts, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a governmental entity, liabilities.

C. Special grant/contract conditions more restrictive than those prescribed in Title 45 CFR Part 74 may be imposed by the Virginia Department for the Aging on an Area Agency on Aging, as needed, when the Virginia Department for the Aging has determined that the Area Agency on Aging:

1. Is financially unstable;
2. Has a history of poor performance; or
3. Has a management system which does not meet the standards of 45 CFR Part 74.

D. For the purpose of determining the adequacy of an area agency's financial management system, the Virginia Department for the Aging shall consider the following records maintained on a current basis to be minimum:

1. General journal;
2. General ledger;
3. Separate or combined cash receipts and disbursements journal or voucher register;
4. Payroll register (if the agency has more than 10 employees);
5. Fixed assets register for all owned and leased property and equipment;
6. In-kind journal/worksheets;
7. Project cost control subsidiary ledger/worksheets; and
8. Bank statements reconciled within 15 working days

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of receipt.

E. Grantees/contractors of the Virginia Department for the Aging may substitute the equivalent kind of records for those specified above, provided the substitute records meet the function for which those records have been required.

F. An Area Agency on Aging shall have procedures for determining the reasonableness, allowability, and allocability of all contract costs.

§ 2.5. Use of Title III-C funds until USDA reimbursement.

Title III-C of the Older Americans Act, as amended (42 U.S.C. 3001 et seq.), and incorporated by reference in this regulation, funds will be given priority for reimbursement of the cost of nutrition services. Nutrition funding from USDA should be used to reimburse Title III-C at the time of receipt. Providers of nutrition services to older persons will treat the USDA reimbursement as income upon receipt.

§ 2.6. Reimbursement from other sources.

All reimbursement under Titles XIX and XX of the Social Security Act for services funded jointly by the Older Americans Act will be considered "other federal funds" for budgeting and reporting purposes.

§ 2.7. Liquidation of obligations.

A. Grantees/contractors of the Virginia Department for the Aging and subcontractors of the Area Agencies on Aging will liquidate all obligations incurred under the Older Americans Act within 90 days of the end of the grant period. The Virginia Department for the Aging will consider written requests for waivers of this rule in the case of any multiyear subcontracts involving construction or renovation.

B. All Virginia general fund moneys will be spent by June 30 of the year covered by the award. No unliquidated obligations will exist beyond June 30.

§ 2.8. Area Agency on Aging fiscal manual.

An Area Agency on Aging will prepare a complete, accurate, and current set of written fiscal policies to be maintained in the form of an officially adopted manual. This manual will cover the area agency's own fiscal policies and those applicable to its subcontractors. At a minimum, the manual will provide for a description of each of the following accounting applications and the internal controls in place to safeguard the agency's assets for billings, receivables, cash receipts, purchasing, accounts payable, cash disbursements, payroll, inventory control, property and equipment, and general ledger. Each of the agency's fiscal activities for revenue/receipts, disbursements and financial reporting will also be described.

PART III. PROGRAM MANAGEMENT.

§ 3.1. Authority to transfer funds among the titles of the Older Americans Act.

A. With the prior written approval of the Virginia Department for the Aging, an Area Agency on Aging may transfer funds between the titles of the Older Americans Act, as amended. Area agencies may request transfers of up to 15% of Title III-C(1) funds to Title III-C(2) projects.

B. With the prior written approval of the department, area agencies may transfer up to 10% of Title III-C funds to Title III-B projects.

PART IV. PERSONNEL POLICIES.

§ 4.1. Employment of key Area Agency on Aging personnel.

The Board of Directors of the Area Agency on Aging will have the authority to hire and otherwise supervise the activities of the Director of the Area Agency on Aging. All recruitment efforts will be guided by a description of duties and a list of recruitment criteria provided in advance by the Area Agency on Aging.

§ 4.2. Taking security deposits and making payments on behalf of clients.

Unless an Area Agency on Aging has an approved program for such purposes and any such security deposits and payments are explicitly covered under the agency's fidelity bond coverage, all officers, employees, volunteers and agents will be prohibited from taking security deposits for clients or from making payments on behalf of participants of programs funded under the Older Americans Act. Where such programs are provided for and explicitly covered under the agency's fidelity bond coverage, adequate safeguards shall be formally in place and the operation of the program periodically policed.

§ 4.3. Support for labor distribution.

A. Charges to awards for salaries and wages will be based on documented payrolls approved by a responsible supervisory official of the Area Agency on Aging. The distribution of time worked must be supported by personnel activity reports.

B. Labor distribution reports should be prepared and controlled according to the following minimum standards:

1. Employees, including employees under subcontract, are responsible for preparing their own timecards/timesheets.

2. Employees will be provided clear instructions as to the work to be performed and the grant/contract

category or program to be charged.

3. Periodic internal reviews of the timekeeping system will be performed to assure compliance with system controls.

4. Overtime hours will be approved in advance and justification provided.

5. A list of supervisors authorized to approve timecards/timesheets will be maintained along with signature cards kept on file by the timekeeping office.

C. In situations where the use of labor distribution reports may be impractical or essentially the same results could be obtained through sampling techniques, an Area Agency on Aging may request in writing from the Virginia Department for the Aging approval of a substitute system which involves staff-maintained labor distribution reports for a prototypical period.

§ 4.4. Up-to-date job descriptions for all Title III funded positions.

For all paid and volunteer positions funded by Title III of the Older Americans act, an Area Agency on Aging shall maintain a current and complete job description. This job description shall cover the scope of each position-holder's duties and responsibilities and minimum entry-level standards of performance. These job descriptions shall be updated as often as required.

PART V. PROPERTY CONTROL.

§ 5.1. Inventorying acquired equipment.

An Area Agency on Aging shall conduct or have conducted on an annual basis an inventory of all equipment acquired with funds granted by the Virginia Department for the Aging, including equipment acquired by their subcontractors and subgrantees.

§ 5.2. Control of USDA commodities.

To prevent unauthorized diversion, all elderly nutrition projects obtaining commodities from USDA will conduct a periodic inventory at least once a year of all USDA commodities and will maintain a perpetual inventory system over such commodities.

§ 5.3. Purchase of automated data processing (ADP) equipment.

An Area Agency on Aging shall take special precautions in the purchase of ADP equipment and software. The purchase, lease, or retention of ADP equipment will require prior approval from the Virginia Department for the Aging on an individual or blanket purchase basis.

A. In the acquisition of computer equipment, an Area

Agency on Aging shall ensure the following:

1. A full requirements analysis has been conducted;
2. Its computer utilization needs are projected over at least a three-year period;
3. The intended software system will meet federal and state reporting requirements;
4. There is adequate post-sale vendor support; and
5. Competitive purchasing procedures are adhered to.

B. The cost of ADP services does not require federal or state prior approval.

§ 5.4. Area Agency on Aging property control policies.

An Area Agency on Aging will have written policies and procedures, approved by the board of directors or the governing body, for managing equipment purchased in whole or part with federal, state, or matching funds, to include: (i) accurate and complete property records, (ii) regular physical inventory of equipment, (iii) adequate maintenance procedures, and (iv) disposal of property and equipment.

PART VI. PROCUREMENT PRACTICES AND CONTRACTING.

§ 6.1. Summary of procurement procedures.

A. In general, all purchases of goods and services in excess of \$500 will be based on competitive bids, except when the provider is a sole source. In the case of a sole source provider, the substantiation for such status will be stated in writing and will be posted in a publicly visible location in the area agency office.

B. An Area Agency on Aging shall adhere to the procurement policies of the Commonwealth of Virginia as contained in Chapter 7 (§ 11-35 et seq.) of Title 11 of the Code of Virginia, or, in the case of Area Agencies on Aging sponsored by governmental entities, those procurement policies adopted by their sponsoring local governing body to the extent that such policies are more stringent than the Commonwealth of Virginia's statutory procurement requirements.

§ 6.2. Contract awards to Area Agencies on Aging.

The Virginia Department for the Aging is authorized under Chapter 24 (§ 2.1-372 et seq.) of Title 2.1 of the Code of Virginia to award grants or contracts, or a combination of both, to a designated Area Agency on Aging to administer programs under an approved area plan. The Virginia Department for the Aging has determined that the contracts mechanism is the appropriate vehicle for making awards to Area Agencies on Aging in furtherance of its purpose under its approved

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area plan. Even though the procuring mechanism is called a contract, for purposes of interpreting federal regulations, the provisions for grants and grantees shall apply to an Area Agency on Aging rather than the provisions for contracts.

§ 6.3. Unauthorized awards to debarred, suspended, or high-risk subcontractors.

A. An Area Agency on Aging will make awards only to responsible subcontractors possessing the ability to perform successfully under the terms and conditions of the proposed contract. Consideration will be given to such matters as the integrity of the subcontractor, compliance with public policy, record of past performance, and financial and technical resources.

B. An Area Agency on Aging will not execute any subcontract at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

C. An Area Agency on Aging will require its proposed subrecipients and subcontractors at any tier to certify whether they have been excluded from participation in federal assistance programs.

D. If an Area Agency on Aging believes that there are compelling reasons for executing a subcontract with a debarred, suspended, or voluntarily excluded provider in a particular area, the area agency may apply to the Virginia Department for the Aging for a waiver from this requirement. Such waivers will be granted only in unusual circumstances upon the written determination, by an authorized Virginia Department for the Aging official, that there are compelling reasons justifying the participation.

§ 6.4. Authority for multiyear awards.

A. An Area Agency on Aging may enter into a multiyear subcontract provided such contract has a completion date, a binding schedule of costs for each year of the entire contract period, a satisfactory performance clause, and a funds-availability clause. An optional-year contract is the preferred contracting mechanism for multiyear awards.

B. The maximum period of time for a multiyear subcontract from the effective date of the contract to close out shall be three years. Any subcontracts for periods longer than three years shall be reprocured and renegotiated at the end of the three-year period through normal competitive processes.

§ 6.5. Preference for small business and minority firm awards of grants and contracts.

It is the Virginia Department for the Aging's policy that a fair share of subcontracts be awarded to small and minority business firms and nonprofit organizations. Accordingly, affirmative steps will be taken to assure that small and minority businesses are utilized, when possible,

as sources of supplies, equipment, construction, and services.

§ 6.6. Contract and competitive grants appeals process.

An Area Agency on Aging will establish an appeals and hearing process to resolve disputes, claims or appeals involving contracts and competitively awarded grants, if such are authorized. At a minimum, this process will describe:

1. Applicable procurement rules to be used in the process;
2. Designation of an impartial officer to hear and pass on the dispute, claim, or appeal;
3. Form and timing of the claim to be filed;
4. Right of the claimant to counsel;
5. Hearing procedures;
6. Manner and timing of the hearing officer's opinion;
7. Right to appeal to the Virginia Department for the Aging; and
8. Record retention and disposal of the hearing's record.

PART VII. GENERAL PROGRAM INCOME.

§ 7.1. Acceptable methods for general program income.

An Area Agency on Aging is authorized to observe the additional-costs alternative. Under this alternative, all general program income earned by the Area Agency on Aging shall be retained by the area agency and added to funds committed to the project by the Virginia Department for the Aging and shall be used to further eligible program objectives.

§ 7.2. Treatment of interest earned on advances.

Interest earned on federal funds passed through the Virginia Department for the Aging is to be considered general program income. Such funds may be used as cash match in the supportive services and nutrition programs, to expand any approved program, or to further any activity or benefit to the elderly as approved by the governing board of the Area Agency on Aging. Such funds may not be used to meet the costs associated with the preparation and administration of the area plan.

§ 7.3. Allowable investment and custody policies.

The investment of available federal or state funds shall be directed by two principles: (1) all funds received must be protected from unreasonable loss or diminished value,

and (ii) investments must be selected to earn a reasonable return on funds not expected to be disbursed immediately. In furtherance of such principles, the following investment mechanisms are authorized:

1. Any interest bearing checking account that is fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

2. NOW accounts.

§ 7.4. Timing of spending general program income.

In general, there is no time restriction as to when general program income under the additional-costs alternative must be spent. To avoid any excessive accumulation of funds and the abuse of this alternative, the Virginia Department for the Aging has determined that general program income earned under the additional-costs alternative shall be spent in the year in which it is earned. If it is earned near the end of the agency's fiscal year and the agency is unable to spend this income by then, it shall at least be spent before the expenditure of any federal or state funds in the beginning of the next fiscal year.

§ 7.5. Special internal control safeguards over participant contributions.

Because of the cash nature of participant contributions, agencies will exert special safeguards over such funds. At a minimum, agencies receiving cash for participant contributions will employ one or all of the following precautions: (i) have two persons count all cash contributions; (ii) deposit the amount intact; (iii) make deposits on a daily basis; (iv) maintain all cash contributions in a secure place until deposit; (v) regularly justify cash counts against deposit receipts received from the bank; (vi) for home-delivered means, maintain lock boxes in the vans and encourage mailed contributions; (vii) provide a clearly stated policy concerning provision of client receipts, in duplicate, for each cash transaction; and (viii) rotate staff periodically, if staffing permits.

§ 7.6. Area Agency on Aging written policies on program income.

An Area Agency on Aging will formally adopt written policies and procedures, approved by the Board of Directors or local governing body, regarding collection, disposition, and accounting for (i) program income, including participant contributions, and (ii) interest and other investment income earned on advances of federal and state funds.

PART VIII. BANK BALANCES AND CHECK-HANDLING PROCEDURES.

§ 8.1. Rules on cash management by Area Agencies on

Aging.

A. An Area Agency on Aging shall institute procedures to minimize their cash balances on funding provided by the Virginia Department for the Aging. Accordingly, Area Agencies on Aging will tailor projections of cash requirements from the Virginia Department for the Aging to coincide closely with the actual disbursement of such funds.

B. An Area Agency on Aging will adopt procedures for minimizing the time elapsed between the receipt of federal and state funds and their disbursement.

§ 8.2. Fidelity bond requirements.

For all personnel handling cash or preparing or signing checks, the Area Agency on Aging shall obtain minimum insurance coverage of three-months' cashflow, including checks received, in blanket fidelity bond coverage.

PART IX. MONITORING OF SUBCONTRACTORS OF AREA AGENCIES ON AGING.

§ 9.1. Area Agency on Aging written policies on subrecipient monitoring.

Each Area Agency on Aging shall adopt formal written policies and procedures, approved by the board of directors or governing body, for monitoring their subcontractors and subgrantees under the approved area plan and for follow-up on any findings.

PART X. CARRY-OVER BALANCE POLICIES.

§ 10.1. Prior approval to obligate carry-over funds.

Carry-over funds may represent obligated but unspent funds. For such funds to be available for expenditure in a subsequent fiscal year, the Virginia Department for the Aging must reauthorize in the subsequent area plan such funds for an area agency to obligate and expend. An Area Agency on Aging shall request authority for such reauthorization of funds. In general, carry-over balances from Titles III-B, III-C(1) and III-C(2) should not exceed 10% of the federal/state obligation for the new fiscal year, computed separately. This 10% carry-over policy does not apply to Virginia general fund moneys; all of general fund moneys must be spent by June 30 of the fiscal year in which they have been awarded. Approval for the use of such federal carry-over funds will be granted by the Virginia Department for the Aging only for specific uses and for a specified period of time.

PART XI. AUDITS.

§ 11.1. Area Agencies on Aging retain own independent public accounts.

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A. Each Area Agency on Aging shall retain its own public accountant, who is sufficiently independent of those who authorize the expenditure of federal funds, to produce unbiased opinions, conclusions, or judgments. The auditor shall meet the independence criteria established in Chapter 3, Part 3, of the U.S. Government Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

B. In arranging for audit services, an Area Agency on Aging shall follow procurement standards for retaining professional services. Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practical opportunity to participate in audit contracts awarded.

C. In soliciting and retaining auditors to conduct the annual audit, an Area Agency on Aging must make specific reference in their request for proposals and any resulting subcontract that the auditor will be required to conform its audit to the requirements in the Single Audit Act of 1984, P.L. 98-502, and OMB Circular A-128, or Attachment F, OMB Circular A-110, as applicable. This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Virginia Department for the Aging and quality assurance review, access to audit work papers, plan for corrective action, and resolution of audit findings.

D. The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Virginia Department for the Aging or a federal supervisory agency, either before or after a reasonable time after a draft or final report was issued, because it did not meet the Virginia Department for the Aging's standards, the AICPA Standards, or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

§ 11.2. Frequency of audits and due date for submission of audit reports.

A. An audit of Area Agencies on Aging and their grantees and cost-reimbursement contractors shall be conducted at least annually.

B. The audit report shall be submitted to the Virginia Department for the Aging by December 15. If, for reasons within the control of the Area Agency on Aging, this report cannot be submitted by this time, funding of the agency may be suspended by the Virginia Department for the Aging. An Area Agency on Aging shall make a written request for an extension of time for justifiable reasons to the Virginia Department for the Aging before December 15. Such request shall be submitted with sufficient time for Virginia Department for the Aging review and approval.

§ 11.3. Scope of audit report.

A. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

B. The audit shall cover the entire operations of the agency or, at the option of that agency, it may cover departments, agencies or establishments that received, expended or otherwise administered federal financial assistance during the year. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

C. The auditor shall determine whether:

1. The financial statements and the accompanying schedules of the agency, department, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.

2. The organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations.

3. The organization has complied with laws and regulations that may have a material effect on its financial statements and on each major federal assistance program.

D. The independent public accountant shall render an opinion on three accompanying schedules: Status of Funds, Costs by Program Activity, and Status of Inventories.

§ 11.4. Area Agency on Aging audit resolution.

Each Area Agency on Aging will have a systematic method to assure the timely and appropriate resolution of audit findings and recommendations.

§ 11.5. Access to records.

In addition to the head of the federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, the Commissioner of the Virginia Department for the Aging and the Comptroller of the Commonwealth of Virginia, or their duly authorized representatives, will have right of access to any pertinent books, documents, papers, and records of the Area Agency on Aging and its subcontractors to make audits, examinations, excerpts, and transcripts.

PART XII. CLOSE-OUT PROCEDURES.

§ 12.1. Virginia Department for the Aging right to suspend or terminate a grant contract.

Procedures for suspension have been set forth in Part

IV of the Regulations Governing Planning and Service Areas and Area Agencies on Aging for notices of termination initiated by the Virginia Department for the Aging and in § 2.4 of the Regulations Governing Area Plans for Aging Services for notices of termination initiated in response to locally brought complaints.

§ 12.2. Close-out.

A. In the event of termination, all property, documents, data, studies, and reports purchased or prepared by the Area Agency on Aging or its subgrantees or subcontractors under its approved area plan shall be disposed of as directed by the Virginia Department for the Aging. The terminated Area Agency on Aging shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred up to the point of receipt of the termination notice in satisfactory performance under its approved area plan. Notwithstanding the above, the Area Agency on Aging shall not be relieved of liability to the Virginia Department for the Aging for damages sustained by the Virginia Department for the Aging by virtue of any breach of the approved area plan. The Virginia Department for the Aging may withhold for purpose of a set-off any reimbursement of funds to the Area Agency on Aging until such time as the exact amount of damages due the Virginia Department for the Aging from the Area Agency on Aging is agreed upon or otherwise determined.

B. In the event of rescission, revocation, or termination, all documents and other materials related to the performance under the Area Plan for Aging Services will become the property of the Virginia Department for the Aging.

§ 12.3. Bankruptcy.

Approval of the area plan will be withdrawn and any contractual relations terminated for cause if, upon 60 days notice, either party is adjudicated bankrupt, is subject to the appointment of a receiver and fails to have such receiver removed within 60 days, has any of its property attached and fails to remove such attachment within 60 days, or becomes insolvent or for a period of 60 days is unable to pay its debts as the same become due.

§ 12.4. Follow-up actions to grant or subgrantee close-out or termination.

As a consequence of close-out or termination, the following steps shall be taken:

1. Upon request, the Virginia Department for the Aging shall promptly pay the contractor for all allowable reimbursable costs not covered by previous payments.
2. The contractor shall immediately refund or otherwise dispose of, in accordance with instructions from the Virginia Department for the Aging, any unobligated balance of cash advanced to the

contractor.

3. The contractor shall submit, within 90 days of the date of close-out or termination, all financial, performance, and other reports required by the terms of the agreement. The Virginia Department for the Aging may extend the due date in response to a written or oral request from the contractor. The department will respond in writing to the request.

4. The Virginia Department for the Aging will make a settlement for any upward or downward adjustment of the federal share of costs, to the extent called for by the terms of the agreement.

ARTICLE XIII. RECORD RETENTION REQUIREMENTS.

§ 13.1. Area agency record retention requirements.

Fiscal records will be maintained for five years from the date the Virginia Department for the Aging submits to the U.S. Department of Health and Human Services its final expenditures report for the funding period. This period may be extended, if an audit, litigation, or other action involving the records is started before the end of the five-year period and the records must be retained until all issues arising from the action are resolved or until the end of the five-year period, whichever is later.

§ 13.2. Contractors and subcontractors.

In the case of grantees/contractors and subcontractors, there shall be a five-year record retention requirement from the date when final payment is made and all other pending matters are closed. Grantees/contractors and subcontractors of the Virginia Department for the Aging will include a provision in contracts for the five-year record retention period and for access to the contractor's records by authorized representatives of the Commonwealth of Virginia and the United States Government.

§ 13.3. Record retention requirements.

An Area Agency on Aging and its subrecipients shall also comply with the record retention requirements of the State Corporation Commission and the Internal Revenue Service for corporations and individuals.

§ 13.4. Area agency policy and procedures.

An Area Agency on Aging shall have written policies and procedures approved by its board of directors or governing body regarding the retention and access to all financial and programmatic records, supporting documents, statistical records, and other records.

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Title of Regulation: VR 110-01-05. Long-Term Care Ombudsman Program.

Statutory Authority: § 2.1-373(a)(7) of the Code of Virginia.

Public Hearing Dates:

November 29, 1988 - 10 a.m.

December 1, 1988 - 10 a.m.

December 8, 1988 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

The proposed regulation describes the policies by which the Department for the Aging will establish and operate the Office of the State Long-Term Care Ombudsman and will designate and supervise an area or local ombudsman entity.

VR 110-01-05. Long-Term Care Ombudsman Program.

**PART I.
DEFINITIONS.**

§ 1.1. Definitions.

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

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.), and incorporated by reference in this regulation, which has submitted an approved Area Plan for Aging Services and is designated by contract with the Virginia Department for the Aging to develop and administer its area plan, as approved, for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider which adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of services, or (ii) a violation of the regulations, policies or procedures which govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term care services provided in the community who is at least 60 years of age.

"Complaint counseling" means information, guidance, and support to enable the person complaining or the recipient of services to attempt to resolve the complaint or concern

himself, if he so chooses, by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.

"Long-term care facility" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including, but not limited to, nursing homes licensed by the Department of Health, homes for adults licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services.

"Long-term care services" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both, (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.

"Office of the State Long-Term Care Ombudsman" means the program administered and managed by the Virginia Department for the Aging, which serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.

"Local/Substance Ombudsman Program" means an organizational unit within an Area Agency on Aging which the Virginia Department for the Aging designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

**PART II.
OFFICE OF THE STATE LONG-TERM CARE
OMBUDSMAN.**

§ 2.1. Complaint handling.

The following steps will be followed under the circumstances described:

1. Staff of the Office of the State Long-Term Care Ombudsman shall provide complaint counseling to an appropriate person alleging a reasonably specified complaint to assist such person in resolving the complaint himself.

2. If said person alleging a reasonably specified complaint is unable or unwilling to resolve the complaint himself, such person shall submit reasonably specific information, in accordance with which staff of the Office of the State Long-Term Care Ombudsman shall assess the complaint to determine the most appropriate means of investigating and resolving the complaint.

a. Staff of the Office of the State Long-Term Care

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Ombudsman shall investigate reasonably specified complaints reported to the office which allege action, inaction, or decisions of providers of long-term care services (or their representatives) which may adversely affect the rights, health, welfare, or safety of the person complaining or the recipient of services.

b. Staff of the Office of the State Long-Term Care Ombudsman shall initiate the investigation of a complaint within two working days of the date on which the complaint is received.

c. Staff of the Office of the State Long-Term Care Ombudsman shall refer complaints concerning long-term care regulatory issues and allegations of abuse, neglect, and exploitation to the appropriate agency for investigation, pursuant to §§ 2.1-373.1 through 2.1-373.3 of the Code of Virginia.

d. When the complaint alleges abuse, neglect, or exploitation, staff of the Office of the State Long-Term Care Ombudsman shall make a referral by telephone immediately to the appropriate Adult Protective Services staff in the appropriate local Department of Social Services. "Appropriate local Department of Social Services" means the Department of Social Services (i) in the locality where the alleging person resides, or (ii) in the locality where the abuse, neglect, or exploitation is alleged to have occurred, or (iii) in the locality where the complaint is discovered.

e. Staff of the Office of the State Long-Term Care Ombudsman shall forward a reasonably specified complaint to the appropriate regulatory agency or to the Adult Protective Services until within three working days of the date on which the complaint is received.

f. Staff of the Office of the State Long-Term Care Ombudsman shall complete their investigation of a complaint handled by the office within 45 working days of the date on which the complaint is received.

g. No action shall be taken or threatened by any person or facility for the purpose of punishing or retaliating against any resident, ombudsman, employee, or other interested person for presenting a complaint hereunder or for providing assistance to the complaining party.

§ 2.2. Confidentiality.

A. Staff of the Office of the State Long-Term Care Ombudsman shall comply with the provisions of confidentiality required by § 2.1-373.2 and Chapter 26 (§ 2.3-377 et seq.) of Title 2.1 of the Code of Virginia concerning confidentiality with respect to the identity of the alleging person or the service recipient and the records maintained by the office.

B. Staff of the Office of the State Long-Term Care Ombudsman shall provide identifying information to the Adult Protective Services unit of the Department of Social Services concerning the affected person or service recipient alleged to be a victim of abuse, neglect, or exploitation.

C. Staff of the Office of the State Long-Term Care Ombudsman may provide identifying information to appropriate agencies involved in the investigation of complaints, at the discretion of the State Ombudsman.

D. All local/substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the local/substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be bound by the provisions of §§ 2.2 A, B, and C of these regulations.

§ 2.3. Access to residents, records, and facilities.

A. Section 2.1-373.1 of the Code of Virginia provides to the staff of the Office of the State Long-Term Care Ombudsman the right of access to long-term care facilities and to the residents and records of such facilities.

B. All local/substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the local/substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be provided the same rights of access as those set forth in § 2.3 A of these regulations.

PART III. SUBSTATE LONG-TERM CARE OMBUDSMAN PROGRAMS.

§ 3.1. Approval and contract; authority.

A. An Area Agency on Aging shall obtain approval of its Area Plan for Aging Services from, and shall execute a contract with, the Virginia Department for the Aging before it operates a local ombudsman program. Such contract shall be in the form of an agreement incorporating as the scope of services the approved Area Plan for Aging Services or approved amendments thereto, signed by both parties. The contract shall provide assurances by the Area Agency that adequate legal representation, should any be necessary, shall be supplied on behalf of representatives of the local/substate ombudsman program acting in the scope of their services.

B. The actions of the representatives of the local/substate ombudsman program when acting on behalf of the Office of the State Long-Term Care Ombudsman pursuant to the duly executed contract, shall be governed, with regard to confidentiality requirements and rights of

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access, by the provisions of §§ 2.2 A, B, and C, and 2.3 A of these regulations.

C. The authority of the local/substate ombudsman program shall be limited to the geographic area specified in the approved Area Plan for Aging Services or in an approved area plan amendment, recognized as the scope of services of the contract.

§ 3.2. Complaint handling.

The following steps will be observed under the circumstances described:

1. Staff of the local/substate ombudsman program shall comply with the complaint handling and reporting procedures established by the Office of the State Long-Term Care Ombudsman, in accordance with Part II of these regulations and instructions provided by the Office of the State Long-Term Care Ombudsman.

2. Staff of the local/substate ombudsman program shall forward all complaints to the Office of the State Long-Term Care Ombudsman within three working days of the date on which the complaint is received by the local/substate ombudsman program.

3. Staff of the local/substate ombudsman program shall forward all complaints regarding long-term care services provided directly by or under contract by the Area Agency on Aging to the Office of the State Long-Term Care Ombudsman within one working day of the date on which the complaint is received by the local/substate ombudsman program.

4. Staff of the local/substate ombudsman program shall forward all complaints regarding the Office of the State Long-Term Care Ombudsman to the Virginia Department for the Aging within one working day of the date on which the complaint is received by the local/substate ombudsman program.

§ 3.3. Staffing.

A. If the local/substate ombudsman program utilizes volunteers to visit long-term care facilities, such utilization must be indicated in the Area Plan for Aging Services and specified in the contract. Such volunteers shall be screened and trained by the local/substate ombudsman program prior to their assuming their responsibilities.

B. Each volunteer in a local/substate ombudsman program shall sign an agreement with the program which specifies the responsibilities of the volunteer, in accordance with the Area Plan for Aging Services, as approved, and the executed contract.

C. The local/substate ombudsman program shall assure that each volunteer has fulfilled the minimum training requirements established by the Office of the State

Long-Term Care Ombudsman Program and has signed the agreement required by § 3.3 B of these regulations.

§ 3.4. Reports.

The local/substate ombudsman program shall submit accurate and timely reports in accordance with instructions provided by the Office of the State Long-Term Care Ombudsman.

PART IV. CONFLICT OF INTEREST.

§ 4.1. Conflict of interest.

Staff and representatives of the Office of the State Long-Term Care Ombudsman and staff and representatives of the local/substate ombudsman program shall have no conflicts of interest with regard to long-term care facilities, long-term care providers, and long-term care issues, pursuant to Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-40-001. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: November 30, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes the minimum requirements necessary to protect children in care of residential facilities for children and assure that children receive at least a minimal level of care. The proposed revision amends and clarifies the requirements governing management of children's behavior in §§ 1.1 and 5.94 of the Core Standards. The proposed revision is designed to more clearly articulate the requirements governing behavior management.

NOTICE: Please refer to the Department of Social Services in the Proposed Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

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VIRGINIA BOARD OF COSMETOLOGY

Title of Regulation: VR 235-01-02. Virginia Board of Cosmetology Regulations.

Statutory Authority: § 54-1.28(5) of the Code of Virginia.

Public Hearing Date: December 2, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Pursuant to § 54-1.28(5) and in accordance with § 9-6.14:7.1 of the Code of Virginia, the Virginia Board of Cosmetology proposes to amend, add to, delete and reorganize its existing regulations governing the licensure of cosmetologists, cosmetology salons, the certification of cosmetology instructors and cosmetology schools.

The regulations apply directly to approximately 32,500 licensed cosmetologists, 1,700 certified cosmetology instructors, 5,300 licensed cosmetology salons and 90 licensed cosmetology schools. Also affected are approximately 2,500 individuals applying per year to sit for the cosmetology examination.

The proposed substantive amendments to the regulations include fee adjustments necessary for conformance with § 54-1.28:1 of the Code of Virginia; create a student teacher temporary permit; eliminate the requirement for schools to report the number of hours and performances to the board and require instead that the hours and performances be reported directly to the student; require cosmetology schools to maintain written hours and performances completed for each student for five years after the student terminates or completes the curriculum; require all current licenses, permits, and certificates be posted; amend the sanitation regulations in an effort to prevent the risk of transmission of infections and disease; establish the authority for the board to discipline a regulant who fails to provide upon request records regarding the practicing and teaching of cosmetology.

In addition to these substantive changes, many of the proposed changes contain minor language revisions to improve clarity.

VR 235-01-02. Virginia Board of Cosmetology Regulations.

PART I. ENTRY.

1.1. Application Forms. All applications for licensure or certification as a cosmetologist shall be completed in accordance with the accompanying instructions consistent with these regulations and submitted to the Virginia Board of Cosmetology. Each application shall be subscribed and

sworn to before a notary public. (54-1.28)

§ 2.1. § 1.1. General Requirements Individual license .

Upon filing an application with the Virginia Board of Cosmetology on forms approved by the board, and paying the license fee, any person meeting the qualifications set by the board shall be granted a license if the applicant submits with the application evidence satisfactory to the Board that has amply demonstrated that : (54-1.28)

2.1.1. 1. The applicant has received training as defined in Section Four Part III of these regulations. (54-1.28)

2.1.2. 2. The applicant has qualified for licensure either by passing the required examination or by endorsement. (54-1.28)

3. The applicant's license as a cosmetologist has not been previously revoked or suspended.

The application fee for a cosmetology license and license by endorsement shall be \$20.

1.2. Application Deadlines. Applications for an examination must be filed with the Virginia Board of Cosmetology thirty days prior to the announced date of the examination. (54-1.28)

1.3 Review of Applications. All application shall be reviewed by the Board's designee to determine eligibility for examination. An applicant found not eligible for examination may appeal the review, in writing, to the Board within 60 days of the notification. No applicant shall be approved for licensing unless the applicant meets the requirements as set forth in these regulations. (54-1.28)

1.4 Applications Property of the Board. All applications, accompanying material, and references are considered part of the examination and become the property of the Board. (54-1.28)

1.5 Application Fees for Licensure or Certification. Application fees for licensing by examination or by endorsement shall be \$35.00. (54-1.28)

1.6 Shop License. The application fee for a Cosmetology shop license shall be \$35.00. The license shall expire as provided for in 1.3 of these regulations. (54-1.28)

1.7 School License. The initial application fee and renewal fee for a cosmetology school license shall be \$65.00. The license shall expire on December 31 of each even numbered year. (54-1.28, 54-112.2(6), 54-112.26:1)

§ 2.2. § 1.2. Acceptable training.

2.2.1. A. Schools.

Any person graduating from completing a training program in a licensed cosmetology school or a Virginia

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public school program in school's cosmetology program shall be eligible for examination. ~~(54-112.2(6), 54-1.28)~~

2.2.2. B. Apprenticeship training.

Any person completing an the Virginia apprenticeship program in cosmetology shall be eligible for examination. ~~(54-112.2(6))~~

2.2.2.1. 1. Cosmetology salons training apprentices shall comply with the standards established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry for Apprenticeship Training. ~~(54-1.28)~~

§ 2.3. § 1.3. Exceptions to training requirements shown in § 1.4 § 1.2.

2.3.1 A. A licensed barber wishing to enroll for enrolling in a cosmetology training cosmetology school shall be give given credit for 50% of the training required of any licensed barber for a barber's license . ~~(54-112.2(6), 54-1.28)~~

2.3.2. B. A student shall be given educational credit for 50% of the training received in a barber school when transferring to a cosmetology school. ~~(54-112.2(6), 54-1.28)~~

2.3.3. C. Persons with two years of cosmetology training or experience outside the territorial limits of the United States shall be eligible for examination upon submission of satisfactory documentary evidence of the training or experience . ~~(54-112.2(6), 54-1.28)~~

§ 2.4. § 1.4. Examinations required.

2.4.1. A. Examinations generally.

Applicants for licensure shall pass a practical and written examination provided by the board or by a testing service acting on behalf of the board . ~~(54-1.28)~~

B. Fees to cover expenses incurred by a vendor in the administration of the examination will be established in any contract between the vendor and the Department of Commerce. The examination fee will be stated on the application.

2.4.2. C. Any applicant passing one part of the examination shall not be required to take that part again provided both parts are passed within one year. ~~(54-1.28)~~

2.4.3. The fee for retaking one portion of the examination shall be \$20.00. ~~(54-1.28)~~

2.4.4. The fee for retaking the entire examination shall be \$35.00. ~~(54-1.28)~~

2.5. D. Eligibility Failure to appear .

Any candidate failing to appear for an as scheduled for

examination during the two year period following the first notification of eligibility shall be eligible to sit for the examination by paying \$35.00. ~~(54-1.28)~~ shall forfeit the fee, and shall be required to pay a rescheduling fee equal to the original examination fee.

§ 2.6. § 1.5. Conduct Administration of examination. ~~(54-1.28)~~

2.6.1. A. The examination shall be administered by independent examiners independent from the board and shall be supervised by the a chief examiner. ~~(54-1.28)~~

2.6.2. B. Every examiner shall have at least three years of active experience as a licensed cosmetologist, complete training prescribed by the Board, be currently licensed, and currently practicing cosmetology. ~~(54-1.28)~~ Every examiner shall be a practicing cosmetologist who has completed the prescribed cosmetology training and who has three or more years of active experience as a cosmetologist, and who holds a current cosmetology license.

C. No certified instructor who is currently teaching or school owner shall be an examiner.

2.6.3. D. The Chief Examiner shall have at least five years of active experience as a licensed cosmetologist and be currently licensed. ~~(54-1.28)~~ A chief examiner shall be a practicing cosmetologist who has completed the prescribed cosmetology training and who has five or more years of active experience as a licensed cosmetologist, and who holds a current cosmetology license and three years experience as an examiner.

2.6.3.1. The Chief Examiner shall report the results of the examination to the Board's office. ~~(54-1.28)~~

2.6.3.2. At no time shall the Chief Examiner grade the applicants.

§ 2.8. § 1.6. License/certification by endorsement.

Upon properly applying proper application to the board, on prescribed forms, any person currently licensed to practice as a cosmetologist or hairdresser, in any other state or jurisdiction of the United States may be issued a certificate of registration authorizing practice as a cosmetologist in this state, cosmetology license without an examination. ~~(54-1.28)~~

§ 2.9. § 1.7. Temporary permit.

2.9.1. A. A temporary permit to work as a cosmetologist under the supervision of a currently licensed cosmetologist may be issued to any person found eligible by the board for examination. The temporary permit fee shall be \$5.00. ~~(54-112.3)~~

2.9.2. B. The temporary permit shall remain in force until thirty for 30 days following the next scheduled

examination for which the applicant would be eligible to sit. (54-112.3)

2.0.3. C. The temporary permit is non-renewable. (54-112.3) A person qualified for licensure as a cosmetologist may be granted a student instructor permit to function under the direct supervision of a certified instructor. The student permit shall remain in force for no more than 12 months after the date of issuance and shall be nonrenewable.

D. All temporary permits are nonrenewable.

§ 1.8. Salon license.

A. Any individual wishing to operate a cosmetology salon shall obtain a license in compliance with § 54-112.26 of the Code of Virginia.

B. A cosmetology salon license shall not be transferable and shall bear the same name and address as the business. Any changes in the name of the salon, address, or owners shall be reported to the board in writing within 30 days of such changes.

C. The application fee for a salon shall be \$75.

PART II RENEWAL OF LICENSE/CERTIFICATE.

§ 1.8. § 2.1. Cosmetologist/Salon/License Renewal required.

1.8.1. Licenses that expire on December 31, 1984 for individuals to work as a licensed Cosmetologist and for the operation of Beauty Salons will be renewed in a manner to implement a staggered renewal system whereby approximately an equal number of licenses will be renewed each month during a biennium. (54-1.28)

A. All cosmetologist cosmetology licenses, teacher certificates, and salon licenses shall expire 2 two years from the last day of the month in which they were issued.

1.8.1.1. Licenses expiring on December 31, 1984 will be renewed for a period of time ranging from 7 to 30 months determined by a random selection. (54-1.28)

1.8.1.2. Renewal notices mailed in the fall of 1984 will indicate the amount of fee due and the next expiration date. The amount of fees charged to each licensee will be determined based on the following schedule. (This fee schedule is to be used on a one time basis only):

B. Cosmetology school licenses shall expire on December 31 of each even numbered year.

C. The renewal fee for a cosmetology license shall be \$30, for a teacher's certificate shall be \$40, for a salon license shall be \$100.

Expiration Date	Fee Amount	
	Cosmetology	Beauty Shops
July 31, 1985	\$ 7	\$10
August 31, 1985	8	11
September 30, 1985	9	13
October 31, 1985	10	14
November 30, 1985	11	15
December 31, 1985	12	17
January 31, 1986	13	18
February 28, 1986	14	20
March 31, 1986	15	21
April 30, 1986	16	23
May 31, 1986	17	24
June 30, 1986	18	26
July 31, 1986	19	27
August 31, 1986	20	29
September 30, 1986	21	30
October 31, 1986	22	31
November 30, 1986	23	33
December 31, 1986	24	35
January 31, 1987	25	36
February 28, 1987	26	37
March 31, 1987	27	39
April 30, 1987	28	40
May 31, 1987	30	42
June 30, 1987	30	43

(54-1.28)

1.8.1.3. Thereafter, all licenses expiring on or after July 31, 1985, will be renewed for a two year period. The amount of renewal fee will be \$25 for a Cosmetologist and \$35 for a Beauty Salon.

1.8.1.4. Beginning on July 1, 1984, all new licenses will expire two years from the last day of the month in which issued.

§ 1.8.2. § 2.2. Notice of renewal.

The Department of Commerce will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.

§ 1.8.3. § 2.3. Failure to renew.

A. If When a licensee licensed/certified individual fails to renew their the license within one month 30 days following the date it expires, its expiration date, a penalty late renewal fee of \$25 for Cosmetologists and \$35 for Beauty Salons of \$30 for a cosmetology license, of \$40 for a teachers certificate, of \$75 for the salon license, and of \$100 for the school license will be required in addition to the regular renewal fee in order to renew his license. (54-1.28)

1.8.4. B. If When a licensee licensed/certified individual fails to renew their his license within six months following its expiration date, the licensee must apply for reinstatement of the license by submitting to the Department of Commerce a renewal reinstatement application and reinstatement fee of \$160 for a cosmetology license, of \$180 for a teachers certificate, of

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~~\$250 for a salon license, and \$300 for a school license of \$50 for Cosmetologists and \$70 for Beauty salons, with a statement of the reasons for failing to renew prior to the expiration date. (54-1-28)~~

~~1-8.5. C. Upon receipt of the renewal reinstatement application ; and fee ; and statement, the board may reinstate the license or require requalification , reexamination, or both. (54-1-28)~~

~~D. When an individual licensee fails to renew his license after a two-year period of time the licensee must pass both a practical and a written examination to be reinstated.~~

~~1-8.6. E. The date a renewal fee is received by the Department of Commerce, or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a license is applicable for each fee received .~~

~~1-9. F. Fees.~~

~~All fees are nonrefundable. (54-1-28)~~

~~§ 2.4. Board discretion to deny renewal.~~

~~The board in its discretion may deny renewal of a license upon such denial, the application for renewal may request that a hearing be held.~~

PART III. COSMETOLOGY SCHOOLS.

~~§ 4.1. § 3.1. General requirements. (54-112.2(6), 54-112.26:1)~~

~~A cosmetology school shall be an entity that :~~

~~4.1.1. 1. Hold a school license for each and every location ; (54-112.2(6), 54-26.1)~~

~~4.1.2. 2. Hold a salon license if the school receives compensation for services provided in its clinic; (54-112.2(4), 54-112.26)~~

~~4.1.3. 3. Employ a staff of certified cosmetology instructors; and (54-112.2(8))~~

~~4.1.4. 4. Develop individuals for entry level of competency in cosmetology. (54-1-28)~~

~~The application fee for a cosmetology school license shall be \$100.~~

~~§ 2.7. § 3.2. To obtain a certificate as a cosmetology instructor, a person shall: (54e-112.2(8))~~

~~2.7.1. 1. Be the holder of Hold a current Virginia cosmetology license; and (54e-112.2(3))~~

~~2.7.2. 2. Pass a course in teaching techniques approved~~

~~by the State Board of Education; or~~

~~Complete an instructor training course approved by the Virginia Board of Cosmetology supervised by a certified cosmetology instructor in a beauty school and a seminar approved by the Virginia Board of Cosmetology; or~~

~~Pass an examination in cosmetology instruction administered by the board.~~

~~The application for a cosmetology instructor certificate shall be \$30.~~

~~§ 4.2. § 3.3. Curriculum requirements.~~

~~Each school shall submit with its application a detailed course outline, to be taught, which shall to include the following: (54-1-28, 54-112.26:1, 54-112.2(6))~~

~~4.2.1. A. Orientation:~~

~~4.2.1.1. School policies~~

~~4.2.1.2. State law, regulations, and professional ethics~~

~~4.2.1.3. Personal hygiene~~

~~4.2.1.4. Bacteriology, sterilization, and sanitation~~

~~4.2.2. B. Manicuring and pedicuring: (54-1-28, 54-112.26:1, 54-112.2(6))~~

~~4.2.2.1. Anatomy and physiology~~

~~4.2.2.2. Diseases and disorders~~

~~4.2.2.3. Procedures to include both natural and artificial~~

~~4.2.2.4. Sterilization~~

~~4.2.3. C. Shampooing and rinsing: (54-1-28, 54-112.26:1, 54-112(6))~~

~~4.2.3.1. Fundamentals~~

~~4.2.3.2. Safety rules~~

~~4.2.3.3. Procedures~~

~~4.2.3.4. Chemistry, anatomy, and physiology~~

~~4.2.4. D. Scalp treatments: (54-1-28, 54-112.26:1, 54-112.2(6))~~

~~4.2.4.1. Analysis~~

~~4.2.4.2. Disorders and diseases~~

~~4.2.4.3. Manipulations~~

- 4.2.4.4. Treatments
- 4.2.5. *E. Hair styling:* (54-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.5.1. Anatomy and facial shapes
 - 4.2.5.2. Finger waving, molding, and pin curling
 - 4.2.5.3. Roller curling, combing, and brushing
 - 4.2.5.4. Heat curling, waving, and pressing
- 4.2.6. *F. Hair cutting:* (54-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.6.1. Anatomy and physiology
 - 4.2.6.2. Fundamentals, materials, and equipment
 - 4.2.6.3. Procedures
 - 4.2.6.4. Safety practices
- 4.2.7. *G. Permanent waving-chemical relaxing:* (54-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.7.1. Analysis
 - 4.2.7.2. Supplies and equipment
 - 4.2.7.3. Procedures and practical application
 - 4.2.7.4. Chemistry
 - 4.2.7.5. Record keeping
 - 4.2.7.6. Safety
- 4.2.8. *H. Hair coloring and bleaching:* (54-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.8.1. Analysis and basic color theory
 - 4.2.8.2. Supplies and equipment
 - 4.2.8.3. Procedures and practical application
 - 4.2.8.4. Chemistry and classifications
 - 4.2.8.5. Record keeping
 - 4.2.8.6. Safety
- 4.2.9. *I. Skin care and make up:* (45-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.9.1. Analysis
 - 4.2.9.2. Anatomy
 - 4.2.9.3. Health, safety, and sanitary rules

- 4.2.9.4. Procedures
- 4.2.9.5. Chemistry and light therapy
- 4.2.9.6. Temporary removal of hair
- 4.2.9.7. Lash and brow tinting
- 4.2.10. *J. Wigs, hair pieces, and related theory:* (54-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.10.1. Sanitation and sterilization
 - 4.2.10.2. Types
 - 4.2.10.3. Procedures
- 4.2.11. *K. Salon management:* (54-1.28, 54-112.26:1, 54-112.2(6))
 - 4.2.11.1. Business ethics
 - 4.2.11.2. Care of equipment
- § 4.3. § 3.4. Performance completions.

Each approved school or approved apprenticeship sponsor shall certify, on a form provided by the board, that the student or apprentice has satisfactorily completed the following minimum performance completions on a live model performances. (54-112.2(6))

4.3.1. Hair and scalp treatments	10
4.3.2. Shampooing and hair styling	320
4.3.3. Tinting	15
4.3.4. Bleaching and frosting	10
4.3.5. Temporary rinses	10
4.3.6. Semi-permanent color	10
4.3.7. Cold permanent waving or chemical relaxing	25
4.3.8. Hair shaping	50
4.3.9. Wig care, styling, placing on model	5
4.3.10. Finger waving and thermal waving	30
4.3.11. Manicuring	10
4.3.12. Facials	5
.....	500

§ 4.4. § 3.5. Performances and hours reported.

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Upon completion of 25%, 50%, and 75% of performances or hours completed by a student in a licensed school, the school shall provide a ~~personalized~~ *individualized* written report to the student of performances and hours completed. ~~(54-112.2(6)), 54-112.26:1~~ Upon termination of a student from a licensed school, for any reason, the school shall provide a written report to the student on performances and hours completed.

§ 4.5. Performances and hours Reported Upon Termination.

Upon termination of a student from a licensed school, for any reason, the school shall provide a written report to the Board of Cosmetology on performances and hours completed. ~~(54-112.2(6), 54-112.26:1)~~

§ 3.6. Each cosmetology school shall maintain written records of hours and performances completed for each student for a period of five years after the student terminates or completes the curriculum.

§ 4.6. § 3.7. Hours and performances required, exception:

Curriculum and completion requirements shall be offered over a minimum of 1500 clock hours unless the school presents evidence satisfactory to the board that the school:

4.6.1. 1. Will measure for competency, for each student enrolled, tasks specified in § 4.2.3, 4.2.4, 4.2.5, 4.2.6, 4.2.7, 4.2.8, 4.2.9, and 4.2.10 subsections C through J of § 3.3 of these regulations; and

4.6.2. 2. Inform each student of progress in achieving competency of tasks taught; and

4.6.3. 3. Record the number of clock hours of instructions and performances of for each student.

§ 4.7. Hours to be Reported.

Upon completion of a required course by a student, the school shall report accurately the number of clock hours credited to a student, including transfer hours accepted by the Board for other instruction, to the Board.

PART IV. STANDARDS OF PRACTICE.

§ 3.1. § 4.1. Display of license, permit, and certificate.

The license to practice as a cosmetologist All current licenses, permits, and certificates issued by the board shall be prominently visibly displayed in the school or establishment where the cosmetologist is employed business is conducted. ~~(54-1.28)~~

§ 3.2. § 4.2. Sanitation.

Licensees of schools and salons shall comply with the following sanitation standards: ~~(54-112.26:2, 54-1.28)~~

3.2.1. 1. Premises and equipment. ~~(54-112.26:2, 54-1.28)~~

3.2.1.1. a. Cleanliness. Wash basins and sinks shall be clean. Floors shall be kept free of hair and other waste materials. Instruments used as Combs, brushes, towels, razors, clippers, scissors, towels, etc., and other instruments shall be cleaned after every use and stored free from contamination. ~~(54-112.26:2, 54-1.28)~~

3.2.1.2. b. Soiled towels and gowns robes or smocks shall be stored in a closed container. ~~(54-112.26:2)~~

3.2.2. 2. Operation and service. ~~(54-112.26:2, 54-1.28)~~

3.2.2.1. a. Towels and robes. Clean towels and robes shall be used for each patron. ~~(54-112.26:2, 54-1.28)~~

3.2.2.2. b. Haircloth. When a haircloth is used, a clean towel or neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin. ~~(54-112.26:2, 54-1.28)~~

3.2.2.3. c. Brushes, and combs, scissors, razors, clippers, and all sharp-edged cutting instruments shall must be washed and sanitized after each use. ~~(54-112.26:2, 54-1.28)~~

3.2.2.4. d. Permanent wave equipment Permanent wave rods shall be rinsed after each use and end papers shall not be reused. ~~(54-112.26:2, 54-1.28)~~

§ 3.3. § 4.3. Discipline.

The Board may fine, revoke, suspend and/or deny the renewal of a license or certificate if it finds that: ~~(54-1.28)~~ The board has the power to fine any licensee or certificate holder or to suspend or revoke any license or certificate issued under the provisions of Chapter 6.1 of Title 54 of the Code of Virginia and the regulations of the board, at any time after a hearing is conducted pursuant to the provisions of Chapter 1.1:1 of Title 9 of the Code of Virginia if the board finds that:

3.3.1. 1. The licensee or certificate holder is incompetent or negligent in practice or incapable mentally or physically to practice as a cosmetologist; or ~~(54-1.28)~~

3.3.2. 2. The licensee or certificate holder is guilty of fraud or deceit in the practice or teaching of cosmetology; or ~~(54-1.28)~~

3.3.3. 3. The owner or operator of a school or salon allowed a person to practice or teach cosmetology without the person obtaining a license, temporary permit, or certificate issued by the board. Exception: Holders of associate degrees or higher shall not be

prohibited from teaching theory. (54-1-28)

3.3.4. 4. The licensee, certificate holder, or owner ; or manager violates, induces others to violate, or cooperates with others in violating any of the provisions of Chapters 1.1 and 6.1 of Title 54 of the Code of Virginia, or these regulations. (54-1-28)

5. The licensee, certificate holder, or owner refuses or fails, upon request or demand, to produce to the board or any of its agents, any document, book, record, or copy thereof in a licensee's, certificate holder's, or owner's possession concerning the practice or teaching of cosmetology.

REVISED 07-87

COMMONWEALTH OF VIRGINIA
VIRGINIA BOARD OF COSMETOLOGY
 Post Office Box 11066
 Richmond, Virginia 23230-1066

INSTRUCTIONS FOR REINSTATEMENT OF LICENSE

The Individual Application for Reinstatement form must be completed in its entirety.

1. An individual licensee reinstatement fee of fifty dollars (\$50.00) is required.

GUIDELINES FOR REINSTATEMENT OF AN INDIVIDUAL LICENSE

- A. Persons whose license is not current in Virginia, who show proof of a current license in another jurisdiction, may obtain a Virginia license by endorsement.
- B. If a licensee fails to renew their license within six months after its expiration date, the licensee must apply for reinstatement of the license by submitting to the Department of Commerce a renewal application and a fee of \$50.00 with a statement detailing the reasons for failing to renew prior to the expiration date. Upon receipt of the renewal application, fee, and statement, the Virginia Board of Cosmetology may reinstate the license or require requalification, reexamination, or both. If a licensee fails to renew his license for two or more years the licensee must take and pass the examination, both written and practical.

2. A Cosmetology Shop reinstatement fee of seventy (\$70.00) is required.
3. This application and the appropriate fee should be returned in the enclosed envelope.
4. Make checks payable to the "Treasurer of Virginia." All fees are nonrefundable, including cases when the application is denied.

APPLICATION FOR REINSTATEMENT OF LICENSE
 ANSWER ALL QUESTIONS

Name: _____ Date: _____, 19 ____
 Address: _____

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

<input type="checkbox"/> Cosmetology <input type="checkbox"/> Shop	Certificate Number:	Date Issued:
---------------------------------------------------------------------------	---------------------	--------------

CENTRAL FEE PROCESSING SECTION ONLY

Give reasons for failure to renew. (Use a separate sheet if necessary.) _____

List the States where you are now currently licensed and your license number:

State	License No.	Expiration Date

AFFIDAVIT AND NOTARIZATION

(To Be Executed By all Applicants Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Signature of Applicant _____

Signature of Notary Public _____

Subscribed and sworn to before me this ____ day of _____, 19 ____

My commission expires: _____

For Official Use Only		
Date	Approved	Disapproved

Revised 04-87

Certificate No. _____
Date _____
For office use only

APPLICATION FOR: () Competency Based Program
() Hour Program

FEE: \$65.00
(Make check or money order payable to The Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Virginia Board of Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066

FEE: \$65.00

APPLICATION FOR LICENSE TO OPERATE A COSMETOLOGY SCHOOL

NAME OF SCHOOL: _____ PHONE NO. _____

ADDRESS OF SCHOOL: _____
Street and Number City County Zip Code

OWNER'S NAME: _____
Last Name First Name Middle

OWNER'S MAILING ADDRESS: _____
Street and Number City County Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
(If required by Local Ordinance)

This is to certify _____ cosmetology salon

(Address)

has been inspected and found to comply with the regulations of the Local and/or State Health Department(s).

State and/or Local Health Department Signature of Inspector

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.

Signature of Applicant _____ Signature of Notary Public _____

Subscribed and sworn to before me this _____ day of _____, 19 _____

My commission expires: _____

DO NOT WRITE BELOW THIS LINE

Approved for COMPETENCY BASED PROGRAM _____

Approved for HOUR PROGRAM _____

All schools and programs must be approved by the Board.

HOOR PROGRAM

4.2 Curriculum Requirements - Each school shall submit with its application a detailed course outline-refer to page 9-11 of regulations.

COMPETENCY BASED PROGRAM

4.6 Hours required, exception:

Curriculum and completion requirements shall be offered over a minimum of 1500 clock hours unless the school presents evidence satisfactory to the Board that the school:

- 4.6.1 Will measure for competency, for each student, tasks specified in Sections 4.2.3, 4.2.4, 4.2.5, 4.2.6, 4.2.7, 4.2.8, 4.2.9 and 4.2.10; and
- 4.6.2 Inform each student of progress in achieving competency of tasks taught; and
- 4.6.3 Record the number of clock hours of instruction for each student.

If your school is seeking approval to offer a Competency Based curriculum you must submit evidence of compliance with the above regulation. This may take the form of:

- 1. Identify the competencies a worker on the job must have.
- 2. Students informed prior to instruction, of the competencies or tasks they are expected to master.
- 3. The tests used to evaluate performance be to job standards.
- 4. A system exists for documenting each student's performance on each task.

Certificate No. _____
 Date _____
 For office use only

APPLICATION FOR CERTIFICATE OF AUTHORITY TO
 TEACH IN AN APPROVED SCHOOL OF COSMETOLOGY

Section II

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Virginia Board of Cosmetology
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 Section I

Applicant's Last Name (Place one letter in each block) _____ Phone No. _____

First Name _____ Middle Name _____

Street Address _____

City _____ State _____ Zip Code _____

Date of Birth: [] [] [] Social Security No. [] [] [] [] [] []

FOR OFFICE USE ONLY

_____ Approved for CERTIFICATE _____

_____ Approved for EXAMINATION _____ Area No. _____ Date of Exam _____

Applicants for Examination Only: Fee: \$35.00 (Make check or money order payable to the "Treasurer of Virginia")

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

EXAMINATION RESULTS

DATE	WRITTEN GRADE
_____	_____
_____	_____
_____	_____
_____	_____

- Cosmetology License Number _____
- Must have completed One of the following: (Section 2.7.2 of the Regulations)
 - () Pass a course in teaching techniques approved by the State Board of Education. (Attach Certification)
 - () Complete an instructor training course in cosmetology school and a seminar, both approved by the Virginia Board of Cosmetology. (Attach Certification of Seminar)

Name of school attended for instructor training course: _____

Name of course: _____

Dates of attendance: _____

Starting _____ Completing _____

Written Evaluation by instructor attached.
 - () Pass an examination in cosmetology instruction administered by the Board. (Fee for Examination \$35.00)

Section III

(To Be Executed By all Applicants) Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Signature of Applicant _____ Signature of Notary Public _____

Subscribed and sworn to before me this _____ day of _____, 19____

My commission expires: _____

Certificate No. _____
Date _____
For office use only

APPLICATION FOR: () Examination
() Endorsement

FEE: \$35.00
(Make check or money
order payable to The
Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Virginia Board of Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066
Section I

Applicant's Last Name (Place one letter in each block) _____
Phone No. _____

First Name _____ Middle Name _____

Street Address _____

City _____ State _____ Zip Code _____

Date of Birth: [][] [][] [][] Social Security No. [][][] [][][] [][][]

FOR OFFICE USE ONLY

Approved for EXAMINATION _____ Area No. _____ Date of Exam _____

Applicants for Examination Only: Temporary Permit Fee: \$5.00 Expiration _____

Approved for Endorsement _____ State _____

NOTE: APPLICANTS WHO MUST TAKE THE EXAMINATION, AND FAIL TO APPEAR ON THE DESIGNATED DATE, WILL BE REQUIRED TO PAY AN ADDITIONAL RESCHEDULING FEE.

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED. ALL FEES ARE NONREFUNDABLE.

EXAMINATION RESULTS

DATE	PRACTICAL GRADE	WRITTEN GRADE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

CENTRAL FEE PROCESSING SECTION ONLY

Section II

Complete one of the following:

1. Schools

I, the undersigned, Director, Owner of Virginia Public School Instructor of _____

(Name of school or training institution)

(Address)

From: _____ To: _____

do hereby certify that _____ is a graduate of a licensed

(Name of Student)

Cosmetology School or a Virginia Public School Program in Cosmetology and has successfully completed a course of instruction in Cosmetology as approved by the Board to be _____ Competency Based or

_____ hours of instruction. (Number of Clock Hours)

(Signature of Director, Owner of Virginia Public School Instructor)

(Signature of Student)

2. Apprenticeship Training:

Name and address of cosmetology salon in which you served 3,000 hours of apprenticeship.

Attach "Change of Status" form.

3. Endorsement

Attach copy of current Cosmetology License.

4. Training or Experience Outside United States

Applicants with two years of cosmetology training or experience outside the territorial limits of the United States, must provide documentary evidence of training or experience. (In English)

Section III

(To Be Executed By all Applicants) Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Signature of Applicant

Signature of Notary Public

Subscribed and sworn to before me this _____ day of _____, 19 _____

My commission expires: _____

REVISED 03-87

Revised 04-87

Certificate No. _____
Date _____
For office use only

FEE: \$35.00
(Make check or money
order payable to The
Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Virginia Board of Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066

FEE: \$35.00

APPLICATION FOR LICENSE TO OPERATE A COSMETOLOGY SALON

NAME OF SALON: _____ PHONE NO. _____

ADDRESS OF SALON: _____
Street and Number City County Zip Code

OWNER'S NAME: _____
Last Name First Name Middle

OWNER'S MAILING ADDRESS: _____
Street and Number City County Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
(If required by Local Ordinance)

This is to certify _____ cosmetology salon

(Address)

has been inspected and found to comply with the regulations of the Local and/or State
Health Department(s).

State and/or Local Health Department _____ Signature of Inspector _____

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the
best of my knowledge and belief.

Signature of Applicant _____ Signature of Notary Public _____

Subscribed and sworn to before me this _____ day of _____, 19____

My commission expires: _____

Proposed Regulations

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-003. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: November 30, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes the minimum requirements necessary to protect children in care of residential facilities for children and assure that children receive at least a minimal level of care. The proposed revision amends and clarifies the requirements governing management of children's behavior in §§ 1.1 and 5.94 of the Core Standards. The proposed revision is designed to more clearly articulate the requirements governing behavior management.

NOTICE: Please refer to the Department of Social Services in the Proposed Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: VR 380-03-01. College Scholarship Assistance Program Regulations.

Statutory Authority: §§ 23-38.45 through 23-38.50 of the Code of Virginia.

Public Hearing Date: October 6, 1988 - 1 p.m.
(See Calendar of Events section for additional information)

Summary:

The new provisions of the need-based College Scholarship Program, as set forth in the proposed regulations, make part-time students eligible for assistance, increase the maximum individual award from \$1,000 to \$2,000 per year, and revise the criteria for determining an applicant's eligibility for assistance under the program.

VR 380-03-01. College Scholarship Assistance Program Regulations.

§ 1. Definitions.

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

"Academic year" means the enrollment period which normally extends from late August to May or June.

"Accredited" means an undergraduate institution which holds either candidacy status or full membership in an accrediting association recognized by the United States Department of Education.

"Applicant" means any student who completed an approved application for need based aid and filed the application by the closing date established by the participating institution at which the student will enroll as an undergraduate degree-seeking student.

"Cost of attendance" means the sum of tuition, fees, room, board, books and supplies, and other education related expenses, as determined by an institution for purposes of calculating a student's financial need and awarding federal campus-based student aid funds.

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

"Domiciliary resident" means a student who is determined by the council, or by a participating state-supported institution, to meet the definition of a domiciliary resident of Virginia as specified under § 23-7.4 of the Code of Virginia.

"Eligible applicant" means any applicant who qualifies as a domiciliary resident of Virginia, who is enrolled or plans to enroll at least half-time in an eligible course of study at the undergraduate level, who has not previously earned a baccalaureate degree, and who demonstrates exceptional financial need, as determined by a participating institution in accordance with program regulations.

"Eligible course of study" means a curriculum of courses at or below the baccalaureate degree level which requires at least one academic year (30 semester hours or its equivalent) to complete. Courses of study which provide religious training or theological education are not eligible courses of study under the program.

"Eligible institution" means any accredited, public or private nonprofit degree-granting institution of higher education whose principal campuses are located in Virginia. Institutions whose primary purpose is to provide religious training or theological education are not eligible to participate in the program.

Proposed Regulations

“Exceptional financial need” means that a student’s total family contribution (TFC) is less than one-half of the student’s total cost of attendance, as determined by the institution. Only students meeting this definition may be considered for an award under the program.

“Full-time study” means enrollment for at least 12 semester hours of course work or its equivalent in any term in which CSAP award funds are to be received, as determined by the institution at the time of disbursement in each term of the academic year. The total hours counted will not include courses taken for audit but may include required developmental or remedial courses and other elective credit courses which normally are not counted toward a degree at an institution.

“Need” means any positive difference between the student’s cost of attendance and the amount determined by the institution to be available from the student’s total family contribution (TFC), including any available financial aid.

“Part-time study” means enrollment for six to eleven semester hours of course work or its equivalent in any term in which CSAP award funds are to be received, as determined by the institution at the time of disbursement in each term of the academic year. The total hours counted will not include courses taken for audit but may include required developmental or remedial courses and other elective credit courses which normally are not counted toward a degree at the institution.

“Participating institution” means any eligible institution which has been approved by the council to participate in the program.

“Program” means the College Scholarship Assistance Program (CSAP).

“Recipient” means an eligible applicant whose award nomination was approved by the council based on the institution’s recommendation and certification that, at the time of disbursement, the student met satisfactory progress standards, was enrolled for at least half-time study in an eligible course of study, and demonstrated exceptional financial need.

“Satisfactory progress” means a student who, for purposes of student financial aid eligibility, is making sufficient progress toward completion of an eligible course of study to continue to be eligible to receive federal student financial aid.

“Student” means an individual who is enrolled or is accepted for admission at a participating institution.

“Time of disbursement” means the date established by the institution for distributing award funds in each term, but not earlier than the first day the student incurs a tuition obligation that cannot be cancelled in full should the student withdraw from the institution. The institution

may distribute the award funds to a student either directly by check or by crediting the student’s account at the institution. If payment is by check and made directly to the student, it cannot be disbursed until the student has incurred a tuition obligation. An institution which credits student accounts may make a bookkeeping transaction to credit CSAP payments to the student’s account for billing purposes upon initial registration. However, it cannot deposit funds to a student’s account until the tuition obligation has been incurred.

“Total family contribution” (TFC) means the amount the student and his family is expected to contribute toward the cost of college attendance. A student’s TFC will be determined by the institution using a nationally accepted method of needs analysis approved by the council. The institution may adjust the student’s TFC, as permitted under federal law, based on factors which affect the family’s ability to pay.

“Undergraduate” means a student seeking to complete a course of study which terminates with the award of an associate’s degree (two-year), a baccalaureate degree (four-year), or a certificate or diploma at less than the baccalaureate degree level.

§ 2. Application procedures; supplemental application for students enrolling part-time at participating private colleges; student eligibility.

A. Student application procedures.

In order to apply for assistance under the program, the student shall complete an approved application for federal need-based aid. Applications may be obtained from high schools or participating institutions. The student shall mail the completed application, with fees if any, to the appropriate application processing organization on or before the date established by the participating institution at which the student plans to enroll, or by March 15 of the academic year for which the student is seeking financial assistance, whichever is earlier.

It is the sole responsibility of the student to ensure that information provided on the application is complete and accurate, that the application is filed by the established due date and that total application processing fees, if any, are enclosed with the application at the same time of filing. A student’s failure to resolve any pending problems with the processing of an application may preclude the student from being considered for assistance under the program.

B. Supplemental application requirements for students enrolling part-time at participating private nonprofit institutions.

In addition to filing an approved application for need-based aid, a part-time student at a private college who is being considered by the institution for a first-time award under the program shall also complete an

information form which will be used by the council to determine the student's domiciliary residence. (Full-time students at participating private colleges provide this information as part of their application for assistance under Virginia's Tuition Assistance Grant Program and therefore do not need to complete a separate form.)

The completed information form shall be filed by the institution with the council not later than 30 days before the institution recommends the student to the council for an award.

C. Student eligibility criteria: Who is eligible?

Once having filed a completed application with a participating institution, a student applicant shall meet all of the eligibility criteria listed below in order to be considered for an award.

1. The applicant shall be a bonafide domiciliary resident of Virginia who has resided in Virginia continuously for a period of at least 12 months immediately preceding the first day of classes of the first term of the award year in which assistance under the program will be received. Residence criteria are specified in § 23-7.4 of the Code of Virginia.

2. The applicant shall not have previously earned a baccalaureate degree and, if attending a two-year college, will, in addition, not have previously received assistance under the program for more than three academic years of full-time study or its part-time equivalent in credit enrollment. If a student is in a dual degree program at a four-year college or university that results in the awarding of both an undergraduate and a graduate or professional degree, the student normally will be considered eligible for CSAP only for the first four years of full-time study or its part-time equivalent in credit hour enrollment. As permitted under federal law, the institution a student is attending may extend the four-year limit by one additional year if the institution determines that an undue hardship prevented the student from completing the requirements for the degree within the four years normally allowed. Such hardships include the death of a member of the student's immediate family, a disabling injury or illness of the student or other special circumstances. Any determination of undue hardship shall be supported with appropriate documentation.

3. The applicant will not be in default on a federal student loan, owe a refund on a federal grant, or be ineligible on any other legal grounds to receive federal student aid funds which comprise a portion of the individual awards made under the program.

4. The applicant will meet the criterion of exceptional need (see § 1) and demonstrate a positive need for grant aid, as determined by the institution.

5. The applicant shall meet the institution's Satisfactory Progress Standards and be enrolled or plan to enroll at least half-time in the next term in an eligible undergraduate course of study.

§ 3. Award criteria, selection of recipients, criteria for award renewal.

A. Award criteria: selection of recipients.

Because the number of eligible applicants will normally exceed the number that can be assisted with the CSAP funds allocated to an institution, the institutional aid officer's professional recommendation will determine which candidates receive CSAP awards as well as the specific amount of each individual's award.

In determining each student's need for additional grant aid, the institutional aid officer may consider the individual student's educational needs, family financial circumstances, the amount of other types of aid (loans, work-study) available to the student, and any unique circumstances affecting the student's ability to enroll and complete his studies.

B. Criteria for award renewal.

An institution shall ensure that only those financially needy eligible applicants who continue to meet the institution's Satisfactory Academic Progress Standards are recommended for renewal awards.

§ 4. Individual awards.

A. Minimum and maximum awards.

The maximum individual award for the academic year shall be \$2,000. The minimum individual award for the academic year shall be \$400.

Normally, individual awards under the program will cover an entire academic year, but prorated awards may be made for shorter periods to accommodate the needs of mid-year entrants, transfer students, students completing degree requirements early in the year, or students whose financial circumstances have changed significantly. Individual awards providing assistance for a single term of the academic year shall range from a minimum of \$200 to a maximum of \$1,000.

B. Determination of individual award amounts.

Individual awards are to be made for the academic year or a portion thereof and not for the summer term. Institutions shall ensure that the total amount recommended for an individual need-based award covering more than one term of the academic year may be divided into even dollar amounts for each term.

Institutions on a quarter system are exempted from this requirement where the individual award being

Proposed Regulations

recommended covers the entire academic year and is for either the minimum award of \$400 or the maximum award of \$2,000. Minimum and maximum awards for all three terms of the academic year at quarter institutions shall be disbursed according to the schedule below:

Individual Award	Amount	Amount	Amount
	Disbursed Term 1	Disbursed Term 2	Disbursed Term 3
\$400	\$133	\$133	\$134
\$2,000	\$666	\$666	\$667

C. Transfer of awards to other institutions.

Awards are not transferable among participating institutions. Upon transfer, recipients forfeit their awards. The amount to be returned to the council is determined according to the institution's tuition refund policy.

D. Use of funds.

Funds received by students may be used only for payment of charges which are approved by the council in the academic year during which funds are received. These charges include tuition, fees, room, board and other educational expenses which an enrolled student is obligated to pay for that academic year, as determined by the institution for purposes of calculating need and making awards under the federal campus-based student aid programs.

E. Preventing overawards.

Should additional aid or reports of income changes be received after the initial CSAP award has been included in a student's aid package, the student's package should be reviewed to ensure that total aid does not exceed need. Procedures followed will be identical to those required for adjusting awards under the federal campus-based financial aid programs. The institution shall be responsible for the recovery of any amount overawarded.

§ 5. Institutional participation: procedures for applying, conditions of participation.

A. Application to participate.

In order for students at an institution to receive assistance under the program, the institution shall be approved to participate. Eligible institutions not yet participating in the program may apply in writing to the council on or before January 31 of the calendar year which precedes the calendar year in which fall term grants would first be made available to students. For instance, in order to assist students beginning in fall 1990, an institution would have to apply for participation by January 31, 1989. Applications from Virginia institutions will be addressed to the Council's Financial Aid Coordinator and will include:

1. Estimates of the number of students who would be eligible to receive grants under CSAP in the first and second years of the institution's participation in the program;

2. A copy of the institution's "Fiscal Operations Report and Application to Participate in Federal Student Financial Aid Programs" (FISAP);

3. A copy of the most recent independent audit of financial aid programs; and

4. Certifications from the institution's chief executive officer:

a. That the institution meets basic eligibility requirements; namely, that it is an accredited, public or private nonprofit, degree-granting institution of higher education whose principal campus is located in Virginia and whose primary purpose is not to provide religious training or theological education; and

b. That the institution will furnish whatever additional information the council may request in order to verify its institutional eligibility claim to the satisfaction of both the council and the Attorney General's office.

B. Conditions of participation: the institutional agreement.

To receive program funds, each institution approved for participation in the program shall file with the council an agreement signed by the institution's chief executive officer. A revised agreement will be required when new program regulations are promulgated. The conditions of program participation will be set forth in the agreement. The council may suspend an institution's participation in the program if the institution repeatedly fails to satisfy the terms and conditions of participation.

The agreement certifies that the institution will:

1. Assist the council in the evaluation of student eligibility, the selection of award recipients and the determination of individual award amounts, in accordance with the criteria set forth in these regulations;

2. Provide information which the council may require to ensure that CSAP recipients do not receive grant funds in excess of their actual financial need;

3. Certify that the recipients are enrolled for at least half-time study, are making satisfactory progress in eligible courses of study and, to the extent that federal funds comprise a part of the awards, meet all applicable criteria prescribed by federal laws and regulations for recipients of federal funds;

4. Secure from students and forward to the council completed forms or other such information regarding student applicants and award recipients which the council deems necessary for administration of the program;

5. Act, with the student's authorization, as his agent to receive and hold funds for use as student assistance under the program; and

6. Maintain individual recipient records and furnish the records, periodic reports, and other information about need-based aid applicants to the council, as required.

As part of the agreement, the chief executive officer also shall designate an individual at the institution to act as the institution's representative in all matters pertaining to the administration of the program. The institutional representative shall be responsible for annually submitting to the council student budgets and a copy of the institution's "Fiscal Operations Report and Application to Participate in Federal Student Financial Aid Programs" (FISAP) for that year. If there is a change in the representative, the chief executive officer shall designate another individual and notify the council promptly in writing of the change.

§ 6. Distribution of funds among participating institutions.

A. Basis of allocations.

Participating institutions will receive from the council on or before April 15 preceding the opening of the first academic year of each biennium a notice of the amount of CSAP funds projected to be available in each year of the biennium. Adjustments to the allocations will be announced on or before April 1 of the second year of the biennium if the amount of federal or state funds provided for the second year should change. Separate allocations will be calculated for full-time and part-time students and the amounts then totaled to determine each institution's total allocation.

The institutional allocations will be based on the aggregate need for grant funds as demonstrated by eligible full-time and part-time applicants enrolled at each participating institution and reported by the institution in the fall of the academic year which precedes the first year of each biennium.

The allocations will be for the two years of the biennium. Adjustments for the second year of a biennium will occur only if the funding level for the program is changed or if additional institutions are approved for participation beginning in the second year.

1. Calculation of an institution's aggregate student need.

The aggregate need is the sum of the positive

financial need of all eligible applicants enrolled for at least half-time study at a participating institution. For purposes of this calculation, an individual student's financial need is calculated as follows:

Need - Cost		Total		Total
of	minus	Family	minus	Grant
Attendance		Contribution		Aid
See (a)		See (b)		See (c)

a. Cost of attendance includes a nine-month standardized living allowance derived from the college board's independent student allowance, an allowance for books and supplies set each year by the council, and the calculated tuition and fees. The latter amount is based on a student's credit hour enrollment, as reported for the individual student by the institution, and the in-state tuition and fee schedules for part-time and full-time in-state undergraduates that annually are reported to the council. The allowance for books is prorated based on the student's credit hour enrollment.

b. The total family contribution (TFC) amount used for purposes of determining allocations is an average calculated by the college board for all students in specific income ranges who applied for federal need-based aid at a Virginia college or university. The college board derives its average TFC figures using the same nationally accepted method of needs analysis as that participating institutions use to determine a student's need under the CSAP.

c. Total grant aid is the sum of all gift aid except merit-based scholarships, the reported portion of grants that was derived from endowment funds, and grants awarded under the CSAP.

2. Determining an institution's allocation.

The aggregate need of an individual institution, expressed as a percentage of the statewide aggregate need of all participating institutions, is used to determine the maximum amount of total available program funds that students at an individual institution may be awarded under the program in a specified year.

3. Funds for new participating institutions.

Eligible students at institutions approved to participate in the program beginning in a specific year will be assured equal access to the total available program funds based on their aggregate financial need. Equal access may result in the reduction of funds at other participating institutions if new funds are not provided for the additional students.

Proposed Regulations

B. Mid-year reallocations of unused funds.

On or before March 15 of each year, participating institutions shall report to the council the amount of any funds which will not be used by the end of the academic year or the amount of additional funds above the level of the allocation which could be used if additional funds were available.

The council's estimate of unused funds will be substituted for the institution's where the institution fails to file a fund usage report by April 2. Based on the council's records, any uncommitted funds for the institution will be withdrawn and the institution notified that its allocation has been reduced.

The council will notify institutions that request additional funds of the amount of any supplemental allocations on or before April 15 of the current academic year. Supplemental allocations will be based on the financial need of the students at institutions requesting additional funds, the amount of the funds requested and the amount of funds available for mid-year reallocation.

C. Reallocation of funds.

If, for lack of eligible students with sufficient need, an institution is unable to expand funds allocated to it in the current year, the council may reduce the institution's future allocation. The unused funds will be made available to eligible students at other participating institutions.

§ 7. The repayment of loans made prior to July 1, 1978.

Loans previously made under the program to eligible students attending participating public or private institutions will be repayable in money or by actions beneficial to or of service to the Commonwealth of Virginia.

A. General provisions.

1. Repayment schedule.

The repayment period extends over a period of years equal to twice the number of years for which College Scholarship Assistance loans were received. The repayment schedule normally will be a quarterly schedule.

2. Deferments.

The repayment period may be interrupted and deferred for a period not to exceed six years during which the borrower is pursuing a full-time course of undergraduate or graduate study in an accredited institution of higher education.

3. Interest charges.

Simple interest at 3.0% per annum will accrue on the

unpaid balance of each loan from the date on which the recipient ceases to be a full-time undergraduate student in the institution, provided that no interest will accrue during periods when the recipient is pursuing full-time undergraduate or graduate studies in a regionally accredited institution of higher education.

4. Costs of collection for defaulted loans.

All costs of collection, including attorney's fees resulting from a recipient's failure to repay, will be borne by the student borrower.

5. Cancellation provisions for death or disability.

In the event that a student borrower dies or becomes permanently and totally disabled, as certified to the satisfaction of the council, the council may, with the written approval of the Governor, cancel any remaining indebtedness from that student.

6. Prepayment options.

The student borrower may at his option and without penalty prepay all or any part of the principal plus accrued interest at any time.

B. Loan cancellation options.

The borrower may repay loans made under the program by service rather than cash if he meets one or more of the five criteria below:

1. If the borrower resides and is domiciled in Virginia and is employed by the Commonwealth of Virginia or any of its subdivisions, including all state and local agencies and authorities, he may cancel one year's loan plus the accrued interest on that loan for each year of such residence and employment. For teachers and those similarly situated, employment for an academic year constitutes a full year.

2. If the borrower resides and is domiciled in Virginia and is employed by an organization or activity organized exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or prevention of cruelty to children or animals, and if no part of the net earnings of the organization or activity to the benefit of any private shareholder or individual and no substantial part of its activity is carrying on propaganda or otherwise attempting to influence legislation, and it does not participate in any political campaign on behalf of any candidate for public office, he may cancel one year's loan plus the accrued interest on that loan for each year of such residence and employment. For teachers and those similarly situated, employment for an academic year constitutes a full year.

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3. If the borrower resides and is domiciled in Virginia and is gainfully employed in or out of state other than as enumerated in the preceding two criteria, he may cancel one year's loan plus the accrued interest on that loan for each 1-1/2 years of such residence and employment. For teachers and those similarly situated, employment for an academic year constitutes a full year.

4. If the borrower resides and is domiciled in Virginia, he may cancel one year's loan plus the accrued interest on that loan for each two years of such residence and domicile in Virginia.

5. If the borrower serves on active duty as a member of the armed services of the United States, he may cancel one year's loan plus the accrued interest on that loan for each year of such service.

When loans are cancelled by actions beneficial to, or of service to, the Commonwealth, the oldest unpaid loan (plus the interest which has accrued on the principal of that loan) will be cancelled first and the remaining loans will be cancelled in a like manner in the order in which they were received. Cancellation of more than one year's loan at one time by combining the cancellation provisions is not possible.

Loan cancellation options constitute a privilege afforded Virginia domiciliary residents. If the borrower leaves the Commonwealth of Virginia to reside elsewhere, except for the maximum period of six years of full-time undergraduate or graduate study as explained under § 7 A 2 of these regulations, the balance of the loan or loans will become due forthwith and repayable in money in accordance with the repayment schedule prepared by the council. Cancellation privileges will not be reinstated should the borrower subsequently return to reside in Virginia.

* * * * *

Title of Regulation: VR 380-03-02. Virginia Work-Study Program Regulations.

Statutory Authority: §§ 23-38.70 and 23-38.71 of the Code of Virginia.

Public Hearing Date: October 6, 1988 - 1 p.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Work-Study Program Regulations set forth the general policies and procedures for administering the new program. The key provisions prescribe student eligibility, institutional eligibility and participation, employer eligibility, student employment practices and compensation, and the basis for allocating funds to participating institutions.

VR 380-03-02. Virginia Work-Study Program Regulations.

§ 1. Definitions.

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

"Academic year" means the enrollment period which normally extends from late August to May or June.

"Accredited" means an institution which holds either candidacy status or full membership in an accrediting association recognized by the United States Department of Education.

"Applicant" means any student who completed an approved application for need-based aid and filed the application by the closing date established by the participating institution at which the student will enroll.

"Cost of attendance" means the sum of tuition, fees, room, board, books and supplies, and other education related expenses, as determined by an institution for purposes of calculating a student's financial need and awarding federal campus-based student aid funds.

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

"Domiciliary resident" means a student who is determined by the council or by a participating state-supported institution to meet the definition of a domiciliary resident of Virginia as specified under § 23-7.4 of the Code of Virginia.

"Eligible course of study" means a curriculum of courses at least one academic year (30 semester hours or 900 clock hours) or its equivalent to complete. Courses of study which provide religious training or theological education are not eligible courses of study under the program.

"Eligible employer" means any public, private, nonprofit or private, for profit organization, except an organization which is religious or political in nature, that is authorized to operate within the Commonwealth of Virginia. The council, in consultation with the Attorney General's office, will resolve questions regarding the eligibility of prospective private nonprofit public service employers that are affiliated with organizations which are religious or political in nature.

"Eligible postsecondary institution" means any accredited, degree-granting institution of higher education whose principal campuses are located in Virginia and any accredited business, trade, or technical school which is certified to operate in Virginia by the State Board of Education. Institutions whose primary purpose is to provide religious training or theological education and proprietary (for profit) postsecondary schools certified to

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operate in Virginia by agencies other than the Virginia State Board of Education are not eligible to participate in the program.

"Fiscal year" means the period extending from July 1 to June 30.

"Full-time study" means enrollment for at least 12 credit hours per semester or its equivalent at the undergraduate level or nine credit hours per semester or its equivalent at the graduate or first professional level. In a nondegree-granting private, for profit postsecondary school, a student shall be enrolled for at least 24 clock hours of instruction per week to be considered a full-time student. The total hours counted will not include courses taken for audit, but may include required developmental or remedial courses and other elective courses which normally are not counted toward a certificate, diploma or degree at the participating institution.

"Need" means any positive difference between a student's cost of attendance and the student's expected total family contribution (TFC), as determined by a participating institution using a nationally accepted method of needs analysis approved by the council.

"Off-campus student employment" means employment by a particular student with a public, private nonprofit, or private for profit organization other than the participating postsecondary education institution at which the student is enrolled. When an institution agrees under contract with an eligible employer to act as the official employer solely for payroll purposes and the institution receives total reimbursement of the nonstate share of student wages and fringe benefits from the off-campus organization which is party to the contract, the student will be deemed to be employed off-campus.

"Participating institution" means any eligible postsecondary institution which is approved to receive state funds to match student wages under the program.

"Program" means the Virginia Work-Study Program (VWSP).

"Public service" means the providing of assistance that directly benefits or meets the special needs of a particular group of citizens, such as children and youth, the illiterate, the educationally disadvantaged, the aged and dying, the sick and injured, the handicapped, the indigent and homeless, the mentally retarded, and any other group expressly identified by the council as having critical needs. For purposes of student employment under the program, public service jobs will be limited to the fields of education, health, recreation, social services and human services and such other fields as may be expressly authorized by the council.

"Public service employer" means a public or private, nonprofit organization whose principal mission is to provide assistance (see definition of "public service")

which principally benefits residents of Virginia. Religious or political organizations which otherwise meet this definition are not eligible employers under the program.

"Summer session" means the enrollment period or periods between academic years. A summer session normally extends from June through August.

"Total family contribution" (TFC) means the amount a student and his family is expected to contribute toward the cost of college attendance. A student's TFC will be determined by the institution using a method of needs analysis approved by the council. The institution may adjust the student's TFC, as permitted under federal law, based on factors which affect the family's ability to pay.

§ 2. Institutional participation in the program: application procedures.

In order to receive state matching funds for student wages to be paid under the program in the next fiscal year, an eligible institution shall submit to the council by January 15 preceding the start of that fiscal year a proposed plan for participation which describes the jobs to be developed for eligible students and the institution's plan for developing them in cooperation with eligible employers. Multiple campus institutions shall submit separate plans for each branch campus which is to be involved in the program. The council will establish a review panel to evaluate the institutions' proposals and to recommend the proposals to be funded.

A. Content of the proposed institutional plan for participation.

An institution's plan shall include the minimum information listed below. Certain information may be more relevant to some institutions than to others. The variety of information requested ensures that the diverse institutions expected to participate in the program are given ample opportunity to demonstrate the institutional strengths which may be important to the review panel in making funding recommendations.

1. A listing of jobs proposed for development in each of three possible job categories.

a. Priority I public service jobs.

This category of public service jobs will be limited to those which meet critical public service needs, as determined by the council and announced to the institutions no later than the date on which the council requests proposals from institutions for participation in the program in the following fiscal year. The tentative descriptions of proposed on-campus and off-campus jobs, identified through preliminary contacts with prospective employers, will be listed separately in an institution's proposal. The prospective off-campus employers also should be identified.

b. Priority II public service jobs.

This category of public service jobs will include all public service jobs not expressly identified by the council under Priority I. The tentative descriptions of proposed on-campus and off-campus jobs will be listed separately in the institution's proposal. The prospective off-campus employers also should be identified.

c. Priority III nonpublic service off-campus jobs.

This category is limited to off-campus jobs with eligible employers whose principal mission is not to provide a public service. The tentative job titles and the names of prospective employers should be listed for each position.

2. The projected total earned compensation to be awarded for proposed new jobs by job category, excluding required fringe benefits, the cost of which shall not be borne by state funds allocated under the program.

3. A narrative detailing the procedures by which the institution, in cooperation with the employer, will develop the proposed jobs. Job development includes (i) specifying the duties to be performed, (ii) setting minimum job qualifications, (iii) screening eligible students to identify qualified candidates, (iv) selecting recipients and (v) assessing a recipient's job performance and monitoring cumulative earnings throughout the period of employment. The narrative also shall identify the organizations and offices within those organizations which will bear primary responsibility for each of the above job development tasks and how the state funds for job development, if awarded to the institution, will be used.

4. A detailed showing how the jobs in each of the three job categories will be developed. The budget will identify separately the amounts requested from the council and those amounts that will be provided from other funding sources available to the institution, including federal job location and development funds and institutional funds.

5. Proposals for the third year of participating and beyond shall include, in addition, the following indicators of an institution's past performance under the program:

a. The number of employers that agreed to renew or expand the number of student jobs under the program (previous year to current year);

b. The number of off-campus public service-related jobs established in the current year compared with the number that was approved for funding by the council; and

c. The number of off-campus public service jobs established in the current year that were actually filled by students.

B. The evaluation of institutional proposals.

A major objective of the evaluation is to ensure that institutions whose proposals are recommended for funding will succeed in developing the proposed jobs. Institutions may address this objective in their proposals by presenting evidence of past success with off-campus student employment or by an exceptionally strong institutional plan that details the institution's planning efforts, expertness in administering previous work programs, and the staffing, funding and organizational procedures proposed for administering the Virginia Work-Study Program. The council will make an effort, whenever possible, to ensure the equitable distribution of student employment opportunities across the geographic regions of the Commonwealth and among the various types and levels of postsecondary educational institutions approved for participation.

1. The appointment of a proposal review panel.

A nine-member Virginia Work-Study Program review panel will be established to evaluate institutional proposals and make funding recommendations to the council. The panel will be comprised of two eligible public service employers, at least one of whom will represent a local school division; four institutional financial aid directors representing the public two-year colleges, the public four-year colleges, the private nonprofit colleges and the eligible proprietary (for profit) schools; an institutional director of Career Planning and Placement; and an institutional director of Cooperative Education. The panel will be chaired by a council staff member designated by the director. The director of the Virginia program may serve as a consultant to the review panel.

No member of the panel employed by an eligible institution will participate in the evaluation of a proposal from that institution or be involved in making funding recommendations regarding that proposal. Panel members normally will not serve more than three years in succession.

2. Criteria for the evaluation of institutional proposals.

The review panel's evaluation of institutional proposals for funds primarily will be based on the criteria below:

a. The proposal's emphasis on developing public service jobs, particularly those which meet the definition of Priority I Public Service Jobs.

b. The strength and clarity of the proposal as indicated, in part, by the extent of preplanning

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activities, including preliminary contacts with prospective employers, the inclusion of a realistic budget; and the provision for adequate professional and clerical level support.

c. When applicable, the past performance of the institution in meeting or exceeding student employment objectives set forth in previous proposals for participation. Beginning with an institution's proposal for a third year of participation in the program, the review panel's evaluation of the proposal increasingly will be based on the institution's performance in meeting its approved program objectives in the current year and in the preceding year. The performance criteria will include, but not be limited to:

(1) The number of employers that participated in the preceding year and agreed to renew or expand the number of student jobs for the current year;

(2) The number of off-campus public service-related jobs established in the current year compared with the number of such jobs that were approved by the council for development in the current year;

(3) The number of off-campus public service jobs actually filled in the current year compared with the number that were established.

§ 3. Distribution of funds among participating institutions.

A. Levels of funding; funding priorities.

Public service jobs under Priority I normally will receive higher priority for funding in awarding both job development and employer matching funds.

B. Determining institutional funding awards to match employer contributions.

Subject to the availability of funds:

1. The council will award state matching funds for off-campus Priority I and II jobs and on-campus Priority I jobs to meet 70% of the projected total earned compensation for those jobs that are approved for funding.

2. The council will award state matching funds for approved on-campus Priority II jobs to meet 50% of the projected total earned compensation for those jobs that are approved for funding.

3. The council will award state matching funds for approved Priority III jobs to meet 50% of the projected total earned compensation for those jobs that are approved for funding.

C. Use of funds.

1. Efficient use of state matching funds.

As long as a student's total earned compensation will not be reduced, a participating institution may negotiate with a prospective off-campus employer to pay a higher employer contribution than normally would result if state matching funds were provided at the maximum level permitted under the program. State funds conserved under this approach may be used by the institution to fund additional student employment opportunities, but the council will be informed immediately of any funds used in this way. In exercising this prerogative, the institution also will adhere, wherever possible, to the priority of placing students in public service jobs.

2. Transfer of funds between job categories.

Institutions are expected to meet approved job development objectives. Uncontrollable circumstances such as increased student attrition may prevent the use of all available funds at an institution. Accordingly, an institution may transfer up to 10% of its allocation for off-campus employment under any one category of jobs to another category of off-campus jobs where the funds can be used. Any transfer of funds which exceeds 10% of the funds for that category, or the transfer of any funds from off-campus to on-campus jobs, requires council approval.

D. Reallocation of unused funds; penalties for failure to release unused funds for mid-year reallocation.

1. Procedures for fall term reallocation of funds.

Unused funds which result from an institution's failure to develop approved jobs shall, after consultation with the institution, be refunded by the institution and reallocated to institutions that request additional funds.

a. Fall term status report on job development.

Each participating institution shall file a status report on current year job placements by October 1 of the fiscal year. In the report, the institution will provide descriptions of all jobs developed and will identify separately, for each job category, the number of council approved jobs which the institution will not be able to develop and the number which it will be unable to fill with qualified students. The institution will report separately the total amount of state and employer matching funds awarded to eligible students under each job category. Any projected unused funds, as determined by the institution, will be refunded to the council and made available to other institutions for reallocation.

b. Requests for additional funds.

Institutions which meet their approved job development objectives and have awarded all of their state matching funds may request additional funds, should such funds become available.

2. Procedures for the mid-year reallocation of funds.

By March 14 of each fiscal year, a participating institution shall file with the council a report on fund usage. The report will specify the amount of state funds, if any, which the institution will not use by year's end and will authorize the release of those funds for reallocation to participating institutions that indicated, on the same report, a need for additional funds.

The reallocation of unused funds will be based on the same criteria as an original allocation. Participating institutions requesting reallocated funds will be notified of the amount of such funds by April 1.

3. Penalty for failure to expand funds.

An institution which returns a significant amount of unused funds at the end of the fiscal year, as determined by the council, may receive a reduced allocation in the following year.

§ 4. Student eligibility and selection of award recipients.

A. Eligibility criteria.

In order to be eligible for employment under this program a student will:

- 1. Be enrolled as a full-time undergraduate, graduate, or first professional student in an eligible course of study at a participating institution;*
- 2. Be a Virginia domiciliary resident as defined in § 23-7.4 of the Code of Virginia, as determined by a participating state-supported institution, or by the council in the case of a participating private nonprofit or for profit institution;*
- 3. Be maintaining satisfactory academic progress, as determined by the institution prior to job placement;*
- 4. Be pursuing a degree in a field other than religious training or theological education;*
- 5. Meet the employer's job requirements; and*
- 6. Demonstrate sufficient financial need and be capable of benefitting from the work experience, as determined by the institution.*

B. Criteria for determining financial need and individual awards.

An institution shall determine a student's financial need

using a nationally accepted method of needs analysis approved by the council. An award under the program will be set by the institution so that the student's total financial aid, including the VWSP award, will not exceed the student's need.

C. Priorities in placing students.

1. Although this program assists financially needy students, the relative financial need of qualified students will be a secondary consideration when placing students in public service jobs under the program. Preference for the jobs may go to those students best qualified, as determined by the institutions and the prospective employers, to fill the public service jobs, especially when the jobs also complement the student's educational or career interests.

2. Students employed under the program may be placed in positions on-campus only:

a. If the on-campus job is determined by the institutional financial aid officer to meet the definition of a Priority I or Priority II public service job and if the job also provides student with tangible educational or career benefits; and

b. If state funds will not be used to supplant federal funds received under the College Work-Study Program funds.

§ 5. Restrictions on student placement and compensation.

A. Displacement of employees.

The employment of state work-study students shall not result in the displacement of employed workers or impair existing contracts for services. Accordingly, a student employed under the program will not be placed in a position which has been occupied by a permanent employee during the current or preceding fiscal year, as determined by the employer in consultation with the participating institution.

B. Rate of compensation.

Any work-study position established under the program normally will receive compensation equal to the salary of a comparable position at a comparable level, as determined by the participating institution after consultation with the employer and any other appropriate sources of information. However, under no circumstances will a work-study student be compensated at a rate higher than the rate paid to permanent employees with comparable experience.

C. Employer share of student compensation.

The employer shall pay the difference in the student's total earned compensation as specified in § 5 C, plus the

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costs of any employee benefits, including all payments due as an employer's contribution under the state Workman's Compensation laws, federal Social Security laws, and other applicable laws.

D. Academic credit.

A student may receive academic credit for experience gained through the state work-study program, as determined by a participating institution in consultation with the employer.

E. Maximum hours worked.

A student whose total employment under this program exceeds 20 hours per week over the period of enrollment for which the student has received an award, or 40 hours per week during vacation periods, will not be eligible to receive state matching funds for the hours which exceed these limits.

F. Concurrent employment.

A student employed under this program shall not be employed concurrently by the federal College Work-Study Program or any other institutional student employment program.

§ 6. Administration.

A. Responsibility of the council.

The council will establish funding priorities for public service jobs in fields where critical needs exist. The council is authorized to enter into agreements with eligible postsecondary institutions for the development of student jobs and the reimbursement of employers for the Commonwealth's share of student's compensation.

B. Responsibility of participating institutions.

Participating institutions, under agreement with the council, will be authorized:

1. To enter into contracts with eligible employers for employment of students under the program. Such agreements will be written to ensure employer compliance with the rules and regulations governing the program. The council will provide a model contract form containing the minimum provisions required by law.

2. To assist in the determination of student eligibility and, in cooperation with eligible employers, to arrange for placement of students, ensuring that priority is given to placement in public service-related jobs, that the placements are consistent with the educational and career interests of the students, whenever possible, and that the students are sufficiently prepared to succeed in the positions in which they are placed.

3. To arrange for payment of the state share of a student's compensation.

C. Employer responsibilities.

1. Before it may participate in the program, an eligible employer shall enter into contract with an eligible postsecondary institution, thereby certifying the employer's eligibility to participate and a willingness to comply with program requirements.

2. Certification of payment to students shall be made in accordance with accounting procedures established by the council and specified in the institutional agreement and the institution-employer contracts.

D. Advisory committee.

An advisory committee comprised of representatives of eligible postsecondary institutions and augmented by such other experts as the council deems necessary, will be designated by the council director to advise the council staff on matters pertaining to the administration of the program.

E. Reports.

The council will obtain from participating institutions reports which will include, but not be limited to, information describing the student and employer populations served, the awards received and the public services rendered through student employment under the program.

F. Agreement to participate.

As a requirement of participating in the state work-study program, each institution shall certify that it meets the definition of eligible institution and acknowledge responsibility to administer the program according to prescribed rules and regulations and guidelines.

G. Program reviews.

The council periodically will review institutional administrative practices to determine institutional compliance with regulations and program guidelines. If a review determines that an institution, or an off-campus employer participating in the program under contract with the institution, has failed to comply with program regulations and guidelines, the council may suspend or terminate its future participation in the program. In all instances, the council will require an institution to recover and refund to the council any state funds which were expended improperly.

H. Appeals.

The procedures governing appeals under the program will be those specified under Virginia's Administrative Process Act.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

Title of Regulation: VR 470-02-01. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: November 30, 1988 - 10 a.m. (See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes the minimum requirements necessary to protect children in care of residential facilities for children and assure that children receive at least a minimal level of care. The proposed revision amends and clarifies the requirements governing management of children's behavior in §§ 1.1 and 5.94 of the Core Standards. The proposed revision is designed to more clearly articulate the requirements governing behavior management.

NOTICE: Please refer to the Department of Social Services in the Proposed Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

Title of Regulation: VR 470-02-02. Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children.

Statutory Authority: §§ 37.1-10 and 37.1-179.1 of the Code of Virginia.

Public Hearing Date: November 30, 1988 - 10 a.m. (See Calendar of Events section for additional information)

Summary:

Sections 37.1-10 and 37.1-179.1 of the Code of Virginia provide the statutory basis for promulgation of this regulation. The Board of Mental Health, Mental Retardation and Substance Abuse Services, on August 24, 1988, approved the proposed revisions for a 60-day period of public comment.

Under the current definitions in the Code of Virginia, the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing children.

These regulations in conjunction with the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities For Children articulate the minimum requirements for licensure of residential facilities providing care or treatment to these groups. These are amendments to the present regulations and are designed to more clearly articulate the requirements governing behavior management and the use of intrusive aversive therapy in residential facilities for children licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

VR 470-02-02. Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children.

PART I. INTRODUCTION.

These Mandatory Program Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children were developed to work in conjunction with the Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children. These mandatory standards delineate the areas necessary for programs to become certified/ licensed as providing treatment or training for the mentally ill, mentally retarded, or substance abusing client in 24-hour residential care setting.

Article 1. Definitions.

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

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the Local Human Rights Committee who exercise the duties set forth in Part III A of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

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

“Case coordinator” means the person responsible for ensuring continuity of services. This may be a staff member designated to manage the service plan of a particular child and coordinate the delivery of services to meet the needs of the client. Case coordination service may be provided from outside the program if appropriate. The case coordinator shall serve as the liaison between the program and the client's family or legally authorized representative.

“Chemotherapy” means the use of psychotropic and seizure medication for controlling aberrant mental/emotional functioning. The goal of chemotherapy shall be to stabilize and maintain neurophysiological functioning with the intent of reduction as appropriate.

“Client” means a mentally retarded, emotionally ill or substance abusing youth from 0-17 years of age receiving services from a residential treatment facility for children and/or adolescents or group residence person receiving treatment or other services from a program, facility, institution or other entity licensed/certified under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient, or another term.

“Client data base” means the written information necessary for the initial and continued diagnosis or assessment of strengths and problems/needs in order to adequately justify and plan for services.

“Client goal” means expected results or conditions that usually involve a long period of time and which are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

“Client objective” means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

“Core Standards” mean Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

“Counseling/psychotherapy” means all formal treatment interventions such as individual, family and group modalities which provide for support and problem solving. Such interventions take place between program staff and

client(s) and are aimed at enhancing appropriate psychosocial functioning or personal sense of well-being and ameliorating psychological disorders.

“Crisis intervention” means activities aimed at the rapid intervention and management of psychosocial and social distress caused by acute mental illness or acute substance abuse related problems.

“Direct services” mean services that are provided directly by the program and are an integrated part of the overall service delivery system.

“Discipline” means systematic teaching and training that is designed to correct, mold, or perfect behavior according to a rule or system of rules governing conduct. The object of discipline is to encourage self-direction and self-control through teaching the client to accept information, beliefs and attitudes which underlie the required conduct or behavior. The methods of discipline include, besides such instruction, positive reinforcement for exhibiting desirable behavior as well as reasonable and age-appropriate consequences for exhibiting undesirable behavior, provided that these consequences are applied in a consistent and fair manner that gives the client an opportunity to explain his view of the misbehavior and to learn from the experience.

“Generic services” mean services that are not provided directly by the program but which are available in the community for any resident of that community. These services are also referred to as indirect services.

“Growth services” mean activities aimed at developing and maintaining personal, interpersonal and instrumental skills.

“Individual treatment plan” means a plan for the treatment and/or training, or both, for each client that specifies long term goals, objectives to achieve the goals, the strategies to reach these objectives, the individual responsible for carrying out these strategies and the time frames for the obtainment of these objectives. An individualized treatment plan shall be considered the same as individualized service plans as defined in the Core Standards.

“Intrusive aversive therapy” means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. The term shall not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are used for purposes other than intrusive aversive therapy.

“Local human rights committee” means a committee of at least five members broadly representative of

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

"On-site training" means activities provided in the natural environment aimed at increasing interpersonal and/or instrumental skills.

"Preplacement services" mean services aimed at the establishment of a service relationship between the youth, parent(s) or legal guardian, the referring agency and the facility where services will be provided.

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

"Seclusion" means the placing of a client in a room with the door secured in any manner that will not permit the client to open it.

"Social skill training" means activities aimed at developing and maintaining interpersonal skills.

"Stabilization service" mean activities aimed at the reduction of acute emotional disabilities and their physical and social manifestations.

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

"Task and skill training" means activities aimed at developing and maintaining knowledge, skills and actions related to community living.

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

Article 2. Allowable Variance.

§ 1.2. When, in the opinion of the department, the enforcement of one or more of the following regulations creates an undue hardship, the department shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of the following regulations, provided client care is not adversely affected.

PART II. SERVICE POLICIES AND PROCEDURES.

Article 1. Client Rights.

The following sections are additional requirements to the Core Standards, Part II, Article 9 and Part V, Articles 26 and 27.

§ 2.1. Each program operated, funded or licensed by the Department of Mental Health and , Mental Retardation and Substance Abuse Services shall guarantee client rights as outlined in the Code of Virginia, § 37.1-84.1 and the applicable regulations promulgated on the rights of clients in community programs.

§ 2.2. Each program shall have written policies and procedures regarding the photographing and audio or audio-video recordings of clients which shall ensure and provide for:

1. The written consent of the client or the client's legally authorized representative shall be obtained before the client is photographed or recorded for research or program publicity purposes.

2. No photographing or recording by program personnel shall take place without the client and/or the client's family or legally authorized representative being informed.

3. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the client.

§ 2.3. Each program shall have written policies and procedures for managing all inappropriate or dangerous client behavior. These policies shall include:

1. Seclusion or restraints shall only be used in accordance with § 37.1-84.1 of the Code of Virginia and the applicable regulations on the rights of clients in community programs.

2. Time-out, which shall only be used in accordance with § 37.1-84.1 of the Code of Virginia and the applicable regulations promulgated on the rights of clients in community programs.

- a. Time-out shall not exceed 15 minutes at any one

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time.

3. Program staff shall neither abuse a client verbally nor physically.

§ 2.4. Each client shall be placed in the least restrictive level of programming appropriate to their functioning and available services.

§ 2.5. Each program shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;
2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;
3. Specify the staff members who may authorize the use of each technique;
4. Specify the processes for implementing such policies and procedures;
5. Specify the mechanism for monitoring and controlling the use of behavior management techniques;
6. Specify the methods for documenting the use of behavior management techniques; and
7. Provide that aversive stimuli may be applied only as part of an intrusive aversive therapy plan approved pursuant to the requirements of these regulations and may be applied only in a manner that is controllable with respect to duration and intensity.

§ 2.6. In the list required by § 2.5 2 of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

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

1. That the resident or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;
2. That the proposed intrusive aversive therapy plan has been approved by a clinical psychologist who is licensed or license eligible by the Board of Medicine or the Board of Psychology;

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

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

5. That more appropriate and competing behaviors are being positively reinforced;

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

7. That the aversive therapy technique is measurable and that the proposed aversive stimuli can be uniformly applied with respect to intensity and duration;

8. That the proposed aversive stimuli do not involve striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client;

9. That the intrusive aversive therapy plan specifies the behavioral objective, the frequency and intensity of application of the aversive stimuli, the time limit for both application of the aversive stimuli and the overall length of the plan, and the collection of behavioral data to determine the plan's effectiveness; and

10. That the intrusive aversive therapy plan is developed, implemented and monitored by staff professionally trained in behavior management programming, and witnessed by an approved professionally trained staff person.

§ 2.8. The local human rights committee having made the determinations required by § 2.7 of these regulations may then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in § 2.7 and may then approve the proposed intrusive aversive therapy plan for an additional period not to exceed 90 days.

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

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

Article 2. Medication.

The following sections are additional requirements to the Core Standards, Part V, Article 19.

~~§ 2.5.~~ § 2.11. There shall be written policies and procedures regarding the delivery and administration of prescription and nonprescription medications used by clients.

~~§ 2.6.~~ § 2.12. In accordance with § 54-524.65 of the Code of Virginia, prescription medications can only be administered by physician, dentist, nurse, pharmacist, medication technician or a person authorized by a physician in writing under the supervision of the physician or pharmacist.

~~§ 2.7.~~ § 2.13. In accordance with § 54-524.65 of the Code of Virginia, prescription medication may be delivered by any designated employee for self-administration by the client, under the supervision of the program director, and only by the order of a physician. The designated employee shall have satisfactorily completed a medication assistance training program for this purpose approved by the Board of Nursing.

~~§ 2.8.~~ § 2.14. Only those clients judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication.

~~§ 2.9.~~ § 2.15. Controlled substances shall be stored in a safe, appropriate and secure place.

~~§ 2.10.~~ § 2.16. There shall be written policies and procedures for documenting the administration of medication, medication errors and drug reactions.

A. Drugs prescribed following admission which shall include:

1. The date prescribed;
2. Drug product name;
3. Dosage;
4. Strength;
5. Route;
6. Schedule; *and*
7. Dates medication discontinued or changed.

~~§ 2.11.~~ 2.17. There shall be written policies and procedures for informing clients, families, ~~and~~ or legally authorized representatives of the potential side effects of prescribed medications.

~~§ 2.12.~~ § 2.18. Each program shall have written policies

and procedures regarding the quarterly review of chemotherapy by a physician (in conjunction with program staff if needed) to include:

1. Documentation of the need for continued use of chemotherapy with evidence that alternative treatment strategies other than chemotherapy are under consideration;
2. Documentation of all counter-indications and unusual effects of medication as they relate to a particular client; *and*
3. Documentation of multiple drug usage and effects for specific clients (when appropriate).

PART III. CLIENT INFORMATION, CLIENT RECORDS AND CONFIDENTIALITY.

Article 1. Client Records.

The following sections are additional requirements to the Core Standards, Part V, Article 4.

§ 3.1. The facility shall have written policies and procedures that provide that a record be maintained for each client which shall include:

1. Completed admissions and screening procedures and forms and an admissions client data base which shall include:
 - a. Psychological functioning;
 - b. Family history/relationships;
 - c. Social/development history;
 - d. Current behavioral functioning/social competence;
 - e. Current emotional status;
 - f. Educational/vocational skills;
 - g. Medical history, including past or present significant medical problems and use of psychotropic or anti-convulsant medication; *and*
 - h. History of previous treatment for mental health, mental retardation, substance abuse and behavior problems.
2. Necessary release forms.
3. Drug use profile which shall include:
 - a. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months;

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b. Drug allergies, idiosyncratic and other adverse drug reactions; *and*

c. Ineffective chemotherapy.

Article 2.

Client Information and Confidentiality.

The following sections are additional requirements to the Core Standards, Part II, Articles 10 through 13.

§ 3.2. Each program shall have a complete set of written policies and procedures with respect to protecting, disseminating, and acquiring client information which shall be in compliance with § 37.1-84.1 of the Code of Virginia, and the applicable regulations promulgated on the rights of clients in community programs which shall include:

1. Procedures for securing information about clients from other agencies and for the subsequent confidentiality of that information;

2. A sample of each type of release of information form used by the program. These forms shall specify to whom the information will be released and the conditions or time at which the release form shall become ineffective;

3. A provision that originals or all approved release of information forms received shall be stored in administrative files and copies of forms will be stored in individual case folders;

4. A provision regarding the length of time that records of terminated clients shall be retained and how those records will be destroyed; *and*

5. A provision that clients shall be informed about privileged communications, including the types of information to be released and the condition under which that information must be released and to whom it will be released.

Article 3.

Treatment Planning.

The following sections are additional requirements to the Core Standards, Part V, Articles 12 through 14.

§ 3.3. There shall be a complete, written description of policies and procedures the program staff uses in treatment planning. These policies shall include:

1. A description of the procedures staff use in treatment planning, which includes provisions for written client assessments, identification of goals, planning of intervention programs by multi-disciplinary teams (if appropriate), and involving the client and family ~~and~~ or legally authorized representative in developing service intervention plans.

§ 3.4. The individualized treatment plans shall include:

1. Individual client objectives which are congruent with and justified by the client data base;

2. Individual client objectives which include the degree of competency or standards of achievement which the client must attain;

3. Individual client objectives that are time related;

4. Prescribed strategies which are appropriate for achieving client objectives;

5. Resources to accomplish client objectives which are readily available to staff;

6. Appropriate service providers are specified for each part of the program plan;

7. Documentation that the client receives program services congruent with those prescribed under the individual treatment plan; *and*

8. Modification of client objectives when appropriate.

§ 3.5. The initial treatment plan shall be developed within two weeks after admission and shall reflect criteria for determining client's acceptability into the program on a permanent basis.

§ 3.6. An ongoing individualized treatment plan shall be developed and completed within 30 days from the date of admission.

§ 3.7. For services provided in a hospital setting where the intended length of stay is seven days or less a stabilization plan shall be developed within 24 hours after admission.

§ 3.8. Complete, written policies and procedures for case review shall be developed and implemented which shall include provisions for:

1. Ongoing review to determine whether records contain all the service documentation and release of information documents required by the program;

2. Review and update of the appropriateness of the treatment goals; *and*

3. Review and update of contact with parent(s) or legally authorized representative.

§ 3.9. There shall be documentation of treatment plan reviews which shall include:

1. Identification of person responsible for case coordination;

2. Documentation of client needs being addressed by services procured from outside the program network

including resources utilized, times, places, and duration of treatment intervention being provided; *and*

3. Documentation of both services being rendered from within the program boundary and of services being offered elsewhere in the system *direct services and generic services*.

PART IV. SERVICES.

Article 1. Preplacement Services.

The following sections are additional requirements to the Core Standards, Part V, Article 5.

§ 4.1. There shall be preplacement services which shall include:

1. Establishing formal, ongoing arrangements with referring agencies or people to provide for continuity and coordination of referrals; *and*
2. Dissemination of information regarding the program and required participation by client, referral service, parent(s) or legally authorized representative.

Article 2. Stabilization Services.

§ 4.2. The facility shall have written policies and procedures for stabilization services. Stabilization services shall include:

1. Crisis intervention activities which shall include:
 - a. Telephone counseling;
 - b. Face-to-face counseling;
 - c. Referral and transfer to other agencies, as appropriate; *and*
 - d. Follow-up, as appropriate;
2. Program policies and procedures which shall be designed to permit rapid response to client crises;
3. Services which shall be available 24-hours a day, seven days a week; *and*
4. Arrangements for referring or receiving clients with:
 - a. Hospitals;
 - b. Law-enforcement officials;
 - c. Physicians, clergy and schools; *and*

d. Mental health facilities.

5. Emergency medical services which shall only be provided within a hospital setting; *and*

6. Stabilization programs in nonhospital settings which shall have the capability for arranging transportation to a local hospital or other emergency service.

Article 3. Growth Services.

§ 4.3. There shall be written policies and procedures for the provision of growth services which shall include:

1. Social skill training;
2. Task and skill training including on-site training;
3. The content of social skills, and task and skill training shall provide for, but not be limited to:
 - a. Self-care skills;
 - b. Educational function skills;
 - c. Family and interpersonal skills;
 - d. Decision-making and problem-solving skills; *and*
 - e. Independent living skills.

Article 4. Counseling/Psychotherapy.

The following sections are additional requirements to the Core Standards, Part V, Article 15.

§ 4.4. There shall be written policies and procedures for the delivery of counseling and psychotherapeutic services.

A. The provision of counseling and psychotherapeutic services shall be in compliance with all state statutes regarding these services.

B. The use of these services shall be based on an assessment of the intensity and frequency of the problem behavior, *and* or the severity of the emotional problem experienced by the youth.

C. Each program shall have formal arrangements for the evaluation, assessment, and treatment of the mental health needs of their clients.

Article 5. Case Coordination.

§ 4.5. Each program shall have written policies and procedures for the provision of activities aimed at linking the service system to the client and coordinating the various system components in order to achieve a

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successful outcome. These activities shall include:

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1. The assignment of a case coordinator to each client prior to treatment planning;
2. The ongoing process of assessing client's general needs through the use of program reports and evaluation information provided by each service;
3. Overseeing the continuity and range of services delivered to ensure systematic and individualized treatment plans;
4. Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;
5. Coordination and referral linkage at the time of discharge to all direct and generic services; *and*
6. Identification of individual or agency responsible for follow-up and aftercare.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: November 30, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes the minimum requirements necessary to protect children in care of residential facilities for children and assure that children receive at least a minimal level of care. The proposed revision amends and clarifies the requirements governing management of children's behavior in §§ 1.1 and 5.94 of the Core Standards. The proposed revision is designed to more clearly articulate the requirements governing behavior management.

VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

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PART I. INTRODUCTION.

Article 1. Definitions.

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

"*Allegation*" means an accusation that a facility is operating without a license and/or receiving public funds for services it is not certified to provide.

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

"*Approval*" means the process of recognizing that a

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public facility or an out-of-state facility has complied with standards for licensure or certification. (In this document the words "license" or "licensure" will include approval of public and out-of-state facilities except when describing enforcement and other negative sanctions which are described separately for these facilities.)

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

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

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

"Certificate to operate" means documentation of licensure or permission granted by the Department of Education to operate a school for the handicapped that is conveyed on a single license/certificate.

"Certification" means the process of recognizing that a facility has complied with those standards required for it to receive funding from one of the four departments for the provision of residential program services to children. (Under the Code of Virginia, the Board of Corrections is given authority to "approve" certain public and private facilities for the placement of juveniles. Similarly, school boards are authorized to pay, under certain conditions, for special education and related services in nonsectarian private residential schools for the handicapped that are "approved" by the Board of Education. Therefore, in this context the word "approval" is synonymous with the word "certification" and will be termed certification for purposes of this process.)

"Child" means any person legally defined as a child under state law.

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity licensed/certified under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient, or another term.

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

"Confinement procedure" means a disciplinary technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to his bedroom or other normally furnished room. The room in which the child is confined shall not be locked nor the door secured in any manner that will prohibit the child from opening it. See also the definitions of "Timeout Procedure," "Seclusion," "Behavior Management," "Discipline" and other standards related to Behavior Management.

"Coordinator" means the person designated by the Coordinating Committee to provide coordination and monitoring of the interdepartmental licensure/certification process.

"Core standards" means those standards for residential care which are common to all four departments and which shall be met by all subject residential facilities for children in order to qualify for licensure, certification or approval.

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

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

"Department of Corrections standards for youth facilities" means those additional standards which must be met in order for a facility to receive funding from the Department of Corrections for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community

group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Corrections except that Core Standards will be the Department of Corrections Standards for Youth Facilities for residential facilities receiving public funds pursuant to §§ 16.1-286 or 53.1-239 of the Code of Virginia for the provision of residential care to children in the custody of or subject to the jurisdiction of a juvenile court or of the Department of Corrections.

"Discipline" means systematic teaching and training that is designed to correct, mold, or perfect behavior according to a rule or system of rules governing conduct. The object of discipline is to encourage self-direction and self-control through teaching the child client to accept information, beliefs and attitudes which underlie the required conduct or behavior. The methods of discipline include, besides such instruction, positive reinforcement for exhibiting desirable behavior, as well as reasonable and age-appropriate consequences for exhibiting undesirable behavior, provided that these consequences are applied in a consistent and fair manner that gives the child client an opportunity to explain his view of the misbehavior and to learn from the experience. (See also, "Behavior Management" and "Punishment.")

"Education standards" means those additional standards which shall be met in order for a facility to (i) receive a certificate to operate an educational program that constitutes a private school for the handicapped; or (ii) be approved to receive public funding for the provision of special education and related services to eligible children.

"Group home" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves up to 12 children.

"Group residence" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves from 13 to 24 children.

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

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

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

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

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. The term shall not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are used for purposes other than intrusive aversive therapy.

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

"Licensing/certification authority" means the department and/or state board that is responsible under the Code of Virginia for the licensure, certification, or approval of a particular residential facility for children.

"Licensure" means the process of granting legal permission to operate a residential facility for children and to deliver program services. (Under the Code of Virginia, no person shall open, operate or conduct a residential school for the handicapped without a "certificate to operate" such school issued by the Board of Education. The issuance of such a "certificate to operate" grants legal permission to operate a school for the handicapped. Therefore, in this context, the term "certificate to operate" is synonymous with the word "licensure" and will be termed licensure for purposes of this process.)

"Living unit" means the space in which a particular group of children in care of a residential facility reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the children who reside in the unit. Depending upon its design, a building may contain only one living unit or several separate living units.

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

Proposed Regulations

"Mental disabilities certification standards" means those standards in addition to Core Standards which shall be met in order for a facility to receive funding from the Department of Mental Health , and Mental Retardation and Substance Abuse Services for the provision of residential treatment services to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

"Mental disabilities licensure standards" means, for those facilities that do not receive funding from the Department of Mental Health , and Mental Retardation and Substance Abuse Services , those standards in addition to Core Standards which must be met in order for a facility to be licensed to provide care or treatment to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

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

"Parent" means a parent, guardian, or an individual acting as a parent in the absence of a parental guardian. The parent means either parent unless the facility has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody, which provides to the contrary. The term "parent" may include the natural mother or father, the adoptive mother or father, or the legally appointed guardian or committee who has custody of the child. The term "parent" also includes a surrogate parent appointed pursuant to provisions set forth in § II D of the Department of Education's "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia." A child 18 years or older may assert any rights under these regulations in his own name.

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

"Placement" means an activity by any person which provides assistance to a parent or guardian in locating and effecting the movement of a child to a foster home, adoptive home or to a residential facility for children.

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

"Professional child and family service worker" means an individual providing social services to a child residing in a residential facility and his family. Such services are defined in Part V, Article 16.

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

objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Corrections; Education; Mental Health and , Mental Retardation and Substance Abuse Services; and/or Social Services.

"Punishment" means retributive, retaliatory and sometimes harsh or abusive reactions to children's misbehavior. Punishment is defined as a reaction that primarily relieves adult frustration without being rationally designed to teach or to correct children's behavior.

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

"Residential facility for children" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their parents; that is subject to licensure, certification or approval pursuant to the provisions of the Code of Virginia cited in the Legal Base; and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities and respite care facilities, except:

1. Facilities which do not accept public funds and are required to be licensed as specified in §§ 63.1-195 through 63.1-219 of the Code of Virginia may be licensed under "Child Caring Institution Standards";
2. Private psychiatric hospitals serving children will be licensed by the Department of Mental Health and , Mental Retardation and Substance Abuse Services under its "Rules and Regulations for the Licensure of Private Psychiatric Hospitals"; and
3. Residential facilities serving children which successfully meet the requirements of nationally recognized standards setting agencies whose standards and approval process are determined by the coordinating committee to be substantially equivalent to Core Standards and the interdepartmental process shall be considered as having met the requirements of the Interdepartmental Licensing/Certification process.

"Respite care facility" means a facility that is specifically approved to provide short term, periodic residential care to children accepted into its program in order to give the parents/guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority to make decisions and to take actions necessary to assume responsibility for the safety and well-being of children assigned to his care. The term implies that the facility has

reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

"*Right*" is something to which one has a natural, legal or moral claim.

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

"*Seclusion*" means placing a child in a room with the door secured in any manner that will prohibit the child from opening it.

"*Secure custody facility*" means a facility designed to provide, in addition to the appropriate treatment and/or service programs, secure environmental restrictions for children who must be detained and controlled on a 24-hour basis.

"*Self-contained residential facility*" means a residential setting for 13 or more children in which program activities are systematically planned and implemented as an integral part of the facility's staff functions (e.g. services are self-contained rather than provided primarily through community resources). The type of program may vary in intensity according to the needs of the residents. Such settings include nonmedical as well as state-operated hospital based care.

"*Severe weather*" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"*Shall*" means an obligation to act is imposed.

"*Shall not*" means an obligation not to act is imposed.

"*Single license/certificate*" means a document which grants approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable certification standards.

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

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

"*Team*" means one or more representatives of the licensing certification authority(ies) designated to visit a residential facility for children to review its compliance

with applicable standards.

"*Temporary care facility*" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days except that this term does not include secure detention facilities.

"*Timeout procedure*" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to a special timeout room that is unfurnished or sparsely furnished and, which contains few reinforcing environmental stimuli. The timeout room shall not be locked nor the door secured in any manner that will prohibit the child from opening it. (See the definitions of "Confinement Procedure," "Seclusion," "Behavior Management," and "Discipline.")

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

"*Visually impaired child*" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"*Wilderness camp*" means a facility which provides a primitive camping program with a nonpunitive environment and an experience curriculum for children nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing children, primitive campsites are used to integrate learning and therapy with real living needs and problems from which the child can develop a sense of social responsibility and self worth.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several departments to operate or reimburse certain public facilities. In addition, P. L. 94-63 and Title XX of the Social Security Act require the establishment of quality assurance systems.

§ 1.3. The State Board of Corrections and/or the Department of Corrections are (is) responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 16.1-286 and §§ 53.1-237 and 53.1-239 of the Code of Virginia, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such facilities pursuant to §§ 16.1-310 through 16.1-314 of the Code of Virginia; and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 53.1-249 of the Code of Virginia.

Proposed Regulations

§ 1.4. The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for the handicapped in the Commonwealth of Virginia, as specified in Chapter 16 of Title 22.1 (§§ 22.1-319 through 22.1-335) of the Code of Virginia. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for handicapped children, ages 2-21) and for approval of private nonsectarian education programs for the handicapped, as specified by § 22.1-218 of the Code of Virginia.

§ 1.5. The Department of Mental Health and , Mental Retardation and Substance Abuse Services is responsible for licensure of facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§§ 37.1-179 through 37.1-189) of the Code of Virginia. It is also responsible for the certification of group homes as specified in § 37.1-199 of the Code of Virginia.

§ 1.6. The Department of Social Services is responsible for licensure of certain child welfare agencies and facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§§ 63.1-195 through 63.1-219) of the Code of Virginia. It is also responsible for the certification of local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the Code of Virginia.

Article 3.

Interdepartmental Agreement.

§ 1.7. An "Agreement for Interdepartmental Licensure and Certification of Children's Residential Facilities" was approved by the Director of the Department of Corrections; the Commissioners of the Department of Mental Health and , Mental Retardation and Substance Abuse Services and the Department of Social Services ; and the Superintendent of Public Instruction and was initially signed on January 8-9, 1979. The agreement was updated effective September 30, 1984.

This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of licensure and certification standards;
2. A single coordinated licensure, certification and approval process that includes:
 - a. A single application for appropriate licensure, certification and/or approval;
 - b. A system for review of compliance with applicable standards;
 - c. A single license/certificate issued under the authority of the appropriate department(s) or

board(s); and

d. Clear lines of responsibility for the enforcement of standards.

3. An Office of the Coordinator to provide central coordination and monitoring of the administration of the interdepartmental licensure/certification program.

Article 4.

General Licensure/Certification Requirements.

§ 1.8. All residential facilities for children must demonstrate an acceptable level of compliance with Core Standards and other applicable licensure requirements (e.g. Mental Disabilities Licensure Standards) and shall submit a plan of corrective action acceptable to the licensing authority for remedying within a specified time any noncompliance in order to be licensed to operate or be certified to receive children in Virginia. Facilities also shall demonstrate an acceptable level of compliance with other applicable standards, such as Education Standards, Mental Disabilities Certification Standards and Department of Corrections Standards for Youth Facilities, and submit a plan of corrective action acceptable to the certification authority for remedying within a specified time any noncompliance in order to be certified or approved.

§ 1.9. Investigations of applications for licensure/certification will be carried out by representatives of the licensure/certification authority with each representative participating in the evaluation of compliance with applicable standards. The decision to license or certify will be based primarily on the findings and recommendations of these representatives of the licensing/certification authority.

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

Article 5.

The License/Certificate.

§ 1.11. The interdepartmental program will utilize a single licensure/certification process encompassing Core Standards and certification standards. A single document will be issued to each qualified facility which will, under appropriate statutory authority(ies), grant permission to operate a residential facility for children or certify approval for the placement of children using public funds and which will indicate the status of each facility with respect to compliance with applicable certification standards.

§ 1.12. The terms of any license/certificate issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or

corporation or public agency to whom the license/certificate is issued; (iii) the physical location of the facility; (iv) the nature of the population; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the standards.

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

§ 1.14. Separate licenses/certificates are required for facilities maintained on separate pieces of property which do not have a common boundary, even though these may be operated under the same management and may share services and/or facilities.

§ 1.15. The current license/certificate shall be posted at all times in a place conspicuous to the public.

Article 6.

Types of Licenses/Certificates.

§ 1.16. An annual license/certificate may be issued to a residential facility for children that is subject to the licensure authority of the Departments of Education; Mental Health and , Mental Retardation and Substance Abuse Services , or Social Services when its activities, services and requirements substantially meet the minimum standards and requirements set forth in Core Standards, applicable certification standards and any additional requirements that may be specified in relevant statutes. An annual license/certificate is effective for 12 consecutive months, unless it is revoked or surrendered sooner.

§ 1.17. A provisional license/certificate may be issued whenever an applicant is temporarily unable to comply with all of the requirements set forth in Core Standards or applicable certification standards and under the condition that the requirements will be met within a specified period of time. A facility with provisional licensure/certification is required to demonstrate that it is progressing toward compliance. A provisional license/certificate shall not be issued where the noncompliance poses an immediate and direct danger to the health and safety of the residents.

A. For those facilities for which the Department of Mental Health and , Mental Retardation and Substance Abuse Services is the licensing authority as specified in Chapter 8 of Title 37.1 of the Code of Virginia , at the discretion of the licensing authority a provisional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a provisional license may be renewed, but such provisional licensure and any renewals thereof shall not exceed a period of six successive months. A

provisional license also may be issued to a facility which has previously been fully licensed when such facility is temporarily unable to comply with all licensing standards. However, pursuant to § 37.1-183.2 of the Code of Virginia, such a provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

B. For those facilities for which the Department of Social Services is the licensing authority as specified in Chapter 10 of Title 63.1 of the Code of Virginia, a provisional license may be issued following the expiration of an annual license. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months. At the discretion of the licensing authority, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements.

Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months.

§ 1.18. An extended license/certificate may be issued following the expiration of an annual or an extended license/certificate provided the applicant qualifies for an annual license/certificate and, additionally, it is determined by the licensing/certification authority that (i) the facility has a satisfactory compliance history; and (ii) the facility has had no significant changes in its program, population, sponsorship, staffing and management, or financial status during the term of the previous annual or extended license. In determining whether a facility has a satisfactory compliance history, the licensing/certification authority shall consider the facility's maintenance of compliance as evidenced by licensing complaints; monitoring visits by staff of the licensing authority; reports of health, fire and building officials; and other sources of information reflecting on the facility's continued compliance with applicable standards. An extended license is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.19. A residential facility for children operating under certification by the Department of Corrections may be issued a certificate indicating the status of the facility with respect to compliance with applicable certification standards. Such a certificate is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.20. The term of any certification(s) issued on an annual, provisional or extended license/certificate shall be coincident with the effective dates of the license.

§ 1.21. There shall be no fee to the licensee for licensure, certification or approval.

Article 7.

Preapplication Consultation Services.

Proposed Regulations

§ 1.22. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating departments.

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

1. To explain standards and statutes;
2. To help the potential applicant explore the operational demands of a licensed/certified/approved residential facility for children;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies; such as, the Department of Health, the State Fire Marshal, local fire department, and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed. Such comments shall be limited to advice on basic space considerations.

Article 8. The Initial Application.

§ 1.24. The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

§ 1.25. All application forms and related information requests shall be designed to assure compliance with the provision of standards and relevant statutes.

§ 1.26. Completed applications along with other information required for licensure, certification or approval shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

Article 9. The Investigation.

§ 1.27. Following receipt and evaluation of each completed application, a team will be organized made up of representatives from the departments which will be participating in the review of that particular facility.

§ 1.28. The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.

Article 10. Allowable Variance.

§ 1.29. The licensing/certification authority has the sole authority to waive a standard either temporarily or permanently when in its opinion:

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

§ 1.30. Any request for an allowable variance shall be submitted in writing to the licensing/certification authority.

§ 1.31. The denial of a request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of licensure/certification.

Article 11. Decision Regarding Licensure/Certification.

§ 1.32. Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

Article 12. Issuance of a License, Certificate or Approval.

§ 1.33. Private facilities.

If licensure/certification (either annual, provisional or extended) is granted, the facility will be issued a license/certificate with an accompanying letter citing any areas of noncompliance with standards. This letter will also include any specifications of the license and may contain recommendations.

§ 1.34. Public and out-of-state facilities.

If approval is granted, the facility will be issued a certificate of approval indicating that it has met standards required for it to operate and receive public funds.

Article 13. Intent to Deny a License, Certificate or Approval.

§ 1.35. If denial of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.36. Private facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to deny;

2. A list of noncompliances and circumstances leading to the denial; and

3. Notice of the facility's rights to a hearing.

§ 1.37. Locally-operated facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.38. State-operated public facilities.

The notification of intent to deny an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the Secretary stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.39. Out-of-state facilities.

The notification of denial of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.40. The hearing.

An interdepartmental hearing will be arranged when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6.14:1 et seq., of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.41. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of denial, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

Article 14.
Renewal of License/Certificate.

§ 1.42. Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the license.

§ 1.43. The process for review of the facility and issuance or denial of the license/certificate will be the same as for an initial application (See Part I, Articles 8, 9, 12, 13).

Article 15.
Early Compliance.

§ 1.44. A provisional or conditional license/certificate may be replaced with an annual license/certificate when all of the following conditions exist:

1. The facility complies with all standards as listed on the face of the provisional or conditional license/certificate well in advance of its expiration date and the facility is in substantial compliance with all other standards;

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

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

§ 1.45. A request to replace a provisional license/certificate and to issue an annual license/certificate shall be made in writing by the licensee.

§ 1.46. If the request is approved, the effective date of the new annual license/certificate will be the same as the beginning date of the provisional license/certificate.

Article 16.
Situations Requiring a New Application.

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

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

Article 17.

Proposed Regulations

Modification of License/Certificate.

§ 1.48. The conditions of a license/certificate may be modified during the term of the license with respect to the number of children, the age range or other conditions which do not constitute substantial changes in the services or target population.

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

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

Article 18. Visitation of Facilities.

§ 1.49. Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

Article 19. Investigation of Complaints and Allegations.

§ 1.50. The four departments are responsible for complete and prompt investigation of all complaints and allegations, and for notification of the appropriate persons or agencies when removal of children may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article 20. Revocation of License/Certificate.

§ 1.51. Grounds for revocation.

The license, certificate or approval may be revoked when the licensee:

1. Violates any provision of the applicable licensing laws or any applicable standards made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in such facility;
3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children; or
4. Deviates significantly from the program or services for which a license was issued without obtaining prior written approval from the licensing/certification authority and/or fails to correct such deviations within

the time specified.

§ 1.52. Notification of intent to revoke.

If revocation of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.53. Private facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to revoke;
2. A list of noncompliances and circumstances leading to the revocation; and
3. Notice of the facility's rights to a hearing.

§ 1.54. Locally-operated facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.55. State-operated public facilities.

The notification of intent to revoke an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the appropriate Secretary in the Governor's Cabinet, stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.56. Out-of-state facilities.

The notification of revocation of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.57. The hearing.

An interdepartmental hearing will be arranged, when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator

will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.58. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of revocation, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

§ 1.59. Suppression of unlicensed operations.

The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the licensing/certification authority against illegally operating facilities by means of civil action, by injunction or by criminal action.

§ 1.60. Appeals.

A. Following receipt of the final order transmitting the decision of the licensing/certification authority(ies) after an administrative hearing, the applicant/licensee has the right to appeal pursuant to the applicable sections of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia.

B. Continued operation of a facility during the appeal process shall conform to applicable sections of the Code of Virginia.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

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

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

Article 2. Responsibilities of the Licensee.

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

of the facility.

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

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

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

§ 2.5. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the population to be served and the program to be offered.

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

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

Article 3. Fiscal Accountability.

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

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

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

1. A working budget showing projected revenue and expenses for the first year of operation; and

2. A balance sheet showing assets and liabilities.

§ 2.11. Facilities having an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. A copy of the facility's most recently completed financial audit;

2. A report on any changes in income, expenses,

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assets, and liabilities that significantly change the fiscal condition of the facility as reflected in the financial audit submitted or a statement that no such changes have occurred; and

3. A working budget showing projected revenue and expenses for the coming year.

§ 2.12. Facilities operated by state or local government agencies, boards and commissions that do not have an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.13. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships that do not have a rate set in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

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

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

Article 4. Internal Operating Procedures.

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

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

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

Article 5. Insurance.

§ 2.18. A facility shall maintain liability insurance covering the premises and the facility's operations.

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

Article 6. Bonding.

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

Article 7. Fund-Raising.

§ 2.21. The facility shall not use children in its fund-raising activities without written permission of parent, guardian or agency holding custody.

Article 8. Relationship to Licensing Authority.

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

§ 2.23. The governing body or its official representative shall notify the licensing authority(ies) within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program.

§ 2.24. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the children in care, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children in care;
2. Take appropriate actions to remedy such conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the licensing authority(ies) of the conditions at the facility and the status of the children in care as soon as possible.

Article 9. Participation of Children in Research.

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

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

Article 10. Children's Records.

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

§ 2.27. Each case record shall be kept up to date and in a uniform manner.

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

Article 11. Confidentiality of Children's Records.

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

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

Article 12. Storage of Confidential Records.

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

§ 2.32. Records shall be stored in a metal file cabinet or other metal compartment.

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

Article 13. Disposition of Children's Records.

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

§ 2.35. Permanent information shall be kept on each child even after the disposition of the child's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Child's name;
2. Date and place of child's birth;

3. Dates of admission and discharge;

4. Names and addresses of parents and siblings; and

5. Name and address of legal guardian.

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

Article 14. Residential Facilities for Children Serving Persons Over the Age of 17 Years.

§ 2.37. Residential facilities for children subject to Interdepartmental licensure/certification which are also approved to maintain in care persons over 17 years of age, shall comply with the requirements of Core Standards for the care of all residents, regardless of age, except that residential programs serving persons over 17 years of age, shall be exempt from this requirement when it is determined by the licensing/certification authority(ies) that the housing, staff and programming for such persons is maintained separately from the housing, staff and programming for the children in care.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these standards shall be maintained for the chief administrative officer, for all staff members who come in contact with children or handle food, and for any individual who resides in a building occupied by children including any such persons who are neither staff members nor children in care of the facility.

Article 2. Initial Tuberculosis Examination and Report.

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

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

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

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

Article 3. Subsequent Evaluations for Tuberculosis.

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

Article 4. Physical or Mental Health of Personnel.

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

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

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

Article 5. Qualifications.

§ 3.9. Standards in Part III, Articles 12-14 establishing minimum position qualifications shall be applicable to all facilities. In lieu of these minimum position qualifications, (i) facilities subject to the rules and regulations of the Virginia Department of Personnel and Training, or (ii) facilities subject to the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

§ 3.10. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions described in these standards shall meet the qualifications of that position(s) and shall fully comply with all applicable standards for each function.

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

Article 6. Job Descriptions.

§ 3.12. For each staff position there shall be a written job description which, at a minimum, shall include:

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

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

Article 7. Written Personnel Policies and Procedures.

§ 3.14. The licensee shall approve written personnel policies.

§ 3.15. The licensee shall make its written personnel policies readily accessible to each staff member.

§ 3.16. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each staff position possess the knowledge, skills and abilities specified in the job description for that staff position.

§ 3.17. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for discipline and behavior management of children;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of child abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation. (See § 5.143)

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

Article 8. Personnel Records.

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

1. A completed employment application form or other

written material providing:

- a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written references or notations of oral references;
 3. Reports of required health examinations;
 4. Annual performance evaluations; and
 5. Documentation of staff development activities.

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

§ 3.21. Information sufficient to respond to reference requests on separated employees shall be permanently maintained. Information shall minimally include name, social security number, dates of employment, and position(s) held.

Article 9. Staff Development.

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

§ 3.23. Provision shall be made for staff development activities, designed to update staff on items in § 3.22 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.24. Regular supervision of staff shall be provided.

§ 3.25. Regular supervision of staff shall not be the only method of staff development.

§ 3.26. Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 10. Staff Supervision of Children.

§ 3.27. No person shall be scheduled to work more than six consecutive days between rest days.

§ 3.28. Child care staff who have at least one 24

consecutive hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

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

§ 3.30. Child care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

§ 3.31. There shall be at least one responsible adult on the premises and on duty at all times that one or more children are present.

§ 3.32. There shall be at least one child care staff member on duty in each living unit when one or more children are present.

§ 3.33. During the hours that children normally are awake there shall be no less than one child care staff awake, on duty and responsible for supervision of every 10 children present who are two years of age or older.

§ 3.34. During the hours that children normally are awake there shall be no less than one child care staff member awake, on duty, and responsible for supervision of every three children present under two years of age.

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

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

§ 3.37. When children are away from the facility they and the adults responsible for their care during that absence shall be furnished with telephone number where a responsible facility staff member or other responsible adult may be reached at all times except that this requirement shall not apply to secure detention facilities.

Article 11. The Chief Administrative Officer.

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

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

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4. Fiscal management of the residential facility for children.

§ 3.39. Duties of the chief administrative officer may be delegated to qualified subordinate staff.

§ 3.40. Duties delegated by the chief administrative officer shall be reflected in the job description of the position assigned each delegated function.

§ 3.41. A qualified staff member shall be designated to assume responsibility for the operation of the facility in the absence of the chief administrative officer.

Article 12. The Program Director.

§ 3.42. The program director shall be responsible for the development and implementation of the programs and services (See Part V) offered by the residential facility for children.

§ 3.43. A program director appointed after July 1, 1981, shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession; or

2. A graduate degree from an accredited college or university in a profession related to child care and development; or

3. A license or certification in the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

§ 3.44. Any qualified staff member, including the chief administrative officer, may serve as the program director.

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

Article 13. Child and Family Service Worker(s).

§ 3.46. If not provided by external resources in accord with § 5.45, counseling and social services (see § 5.43), shall be provided by a staff member(s) qualified to provide such services.

§ 3.47. If employment begins after July 1, 1981, the Child and Family Service Worker shall have:

1. A graduate degree in social work, psychology, counseling or a field related to family services or child care and development; or

2. A baccalaureate degree and two years of successful experience in social work, psychology, counseling or a field related to family services or child care and development (In lieu of two years of experience, the person may work under the direct supervision of a qualified supervisor for a period of two years); or

3. A license or certificate in the Commonwealth of Virginia to render services as a drug abuse or alcoholism counselor/worker only in facilities which are certified to provide drug abuse or alcoholism counseling; or

4. A license or certificate when required by law issued in the Commonwealth of Virginia to render services in the field of:

- a. Social Work, or
- b. Psychology, or
- c. Counseling (individual, group or family).

Article 14. Child Care Staff.

§ 3.48. In each child care unit a designated staff member shall have responsibility for the development of the daily living program within the child care unit.

§ 3.49. A designated staff member shall be responsible for the coordination of all services offered to each child.

§ 3.50. A designated staff member(s) shall have responsibility for the orientation, training and supervision of child care workers.

§ 3.51. An individual employed after July 1, 1981, to supervise child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

§ 3.52. The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned. This shall include:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Discipline; and
4. Helping to meet the goals and objectives of any

required service plan.

§ 3.53. A child care worker shall be no less than 18 years of age.

§ 3.54. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.) except that individuals employed prior to the effective date of these standards shall meet this requirement by July 1, 1986; and

2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

Article 15. Relief Staff.

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

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

Article 16. Medical Staff.

§ 3.56. Services of a licensed physician shall be available for treatment of children as needed.

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

§ 3.58. At all times that youth are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first-aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse is present at the facility.

§ 3.59. At all times that youth are present there shall be at least one responsible adult on the premises who has received a certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

Article 17. Recreation Staff.

§ 3.60. There shall be designated staff responsible for organized recreation who shall have:

1. Experience in working with and providing

supervision to groups of children with varied recreational needs and interests;

2. A variety of skills in group activities;

3. A knowledge of community recreational facilities; and

4. An ability to motivate children to participate in constructive activities.

Article 18. Volunteers and Students Receiving Professional Training.

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

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

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

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

§ 3.65. All volunteers/students shall have qualifications appropriate to the services they render based on experience and/or orientation.

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

§ 3.67. Volunteers/students shall be informed regarding liability and protection.

Article 19. Support Functions.

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

§ 3.69. All food handlers shall comply with applicable State Health Department regulations and with any locally adopted health ordinances.

§ 3.70. Child care workers and other staff may assume the duties of service personnel only when these duties do not interfere with their responsibilities for child care.

§ 3.71. Children shall not be solely responsible for support functions.

PART IV.

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RESIDENTIAL ENVIRONMENT.

Article 1. Location.

§ 4.1. A residential facility for children shall be located so that it is reasonably accessible to schools, transportation, medical and psychiatric resources, churches, and recreational and cultural facilities.

Article 2. Buildings, Inspections and Building Plans.

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

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

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

§ 4.4. The buildings shall be suitable to house the programs and services provided.

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

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

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

3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.6. Documentation of the approvals required by § 4.5 shall be submitted to the licensing authority(ies).

Article 4. Heating Systems, Ventilation and Cooling Systems.

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

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

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

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

Article 5. Lighting.

§ 4.11. Artificial lighting shall be by electricity.

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

§ 4.13. Night lights shall be provided in halls and bathrooms.

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

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

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

Article 6. Plumbing and Toilet Facilities.

§ 4.17. All plumbing shall be maintained in good operational condition.

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

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed or renovated

facilities mixing faucets shall be installed.

§ 4.20. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit, and there shall be at least one bathroom equipped with a bathtub in each facility.

§ 4.21. There shall be at least one toilet, one hand basin and one shower or tub for every eight children in care.

§ 4.22. In any facility constructed or reconstructed after July 1, 1981, except secure detention facilities there shall be one toilet, one hand basin and one shower or tub for every four children in care.

§ 4.23. When a separate bathroom is not provided for staff on duty less than 24 hours, the maximum number of staff members on duty in the living unit at any one time shall be counted in the determination of the number of toilets and hand basins.

§ 4.24. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals, secure detention facilities and learning centers.

§ 4.25. At all times an adequate supply of personal necessities shall be available to the children for purposes of personal hygiene and grooming; such as, but not limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

§ 4.26. Clean, individual washclothes and towels shall be available once each week or more often if needed.

Article 7.

Facilities and Equipment for Residents with Special Toileting Needs.

§ 4.27. When residents are in care who are not toilet trained:

1. Provision shall be made for sponging, diapering and other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned with warm soapy water immediately after each use.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting an individual resident or themselves with toileting.

Article 8.

Sleeping Areas.

§ 4.28. When children are four years of age or older, boys shall have separate sleeping areas from girls.

§ 4.29. No more than four children may share a bedroom or sleeping area.

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

§ 4.31. There shall be sufficient space for beds to be at least three feet apart at the head, foot and sides and five feet apart at the head, foot and sides for double-decker beds.

§ 4.32. In facilities previously licensed by the Department of Social Services and in facilities established, constructed or reconstructed after July 1, 1981, sleeping quarters shall meet the following space requirements:

1. There shall be not less than 450 cubic feet of air space per person;

2. There shall be not less than 80 square feet of floor area in a bedroom accommodating only one person;

3. There shall be not less than 60 square feet of floor area per person in rooms accommodating two or more persons; and

4. All ceilings shall be at least 7-1/2 feet in height.

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

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

§ 4.35. Mattresses and pillows shall be clean and those placed in service after July 1, 1981, shall also be fire retardant as evidenced by documentation from the manufacturer.

§ 4.36. Cribs shall be provided for children under two years of age.

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

§ 4.38. The sleeping area environment shall be conducive to sleep and rest.

§ 4.39. Smoking by any person shall be prohibited in

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sleeping areas.

Article 9. Privacy for Children.

§ 4.40. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy except in secure detention facilities.

§ 4.41. Where bathrooms are not designated for individual use, bathtubs and showers, except in secure detention facilities, shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.42. Windows in bathrooms shall provide for privacy.

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

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

Article 10. Living Rooms/Indoor Recreation Space.

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

§ 4.46. In facilities licensed to care for more than 12 children there shall be indoor recreational space that contains recreational equipment appropriate to the ages and interests of the children in residence. Such indoor recreational space shall be distinct from the living room in each living unit required by § 4.45, but such space shall not be required in every living unit.

Article 11. Study Space.

§ 4.47. Study space shall be provided in facilities serving a school age population and may be assigned in areas used interchangeably for other purposes.

§ 4.48. Study space shall be well lighted, quiet, and equipped with at least tables or desks and chairs.

Article 12. Kitchen and Dining Areas.

§ 4.49. Meals shall be served in areas equipped with sturdy tables and benches or chairs of a size appropriate for the sizes and ages of the residents.

§ 4.50. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

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

Article 13. Laundry Areas.

§ 4.52. If laundry is done at the facility, appropriate space and equipment in good repair shall be provided.

Article 14. Storage.

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

Article 15. Staff Quarters.

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

§ 4.55. Off duty staff and members of their families shall not share bedrooms with children in care.

§ 4.56. When 13 or more children reside in one living unit a separate (private) living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more.

§ 4.57. When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless such staff member is required to remain awake.

Article 16. Office Space.

§ 4.58. Space shall be provided for administrative activities including provision for storage of records and materials (See Part II, Article 12).

Article 17. Buildings and Grounds.

§ 4.59. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas, shall be safe, properly maintained and free of clutter and rubbish.

§ 4.60. There shall be outdoor recreational space appropriately equipped for the children to be served.

Article 18. Equipment and Furnishings.

§ 4.61. All furnishings and equipment shall be safe, easy to clean, and suitable to the ages and number of residents.

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§ 4.62. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

§ 4.63. The facility shall have a written policy governing the possession and use of firearms, pellet guns, air rifles and other weapons on the premises of the facility that shall provide that no firearms, pellet guns, air rifles, or other weapons, shall be permitted on the premises of the facility unless they are:

1. In the possession of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use.

Article 19. Housekeeping and Maintenance.

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

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

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

§ 4.67. Adequate provisions shall be made for the collection and legal disposal of garbage and waste materials.

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

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

§ 4.70. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

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

Article 20. Farm and Domestic Animals.

§ 4.72. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating, and food preparation areas.

§ 4.73. Stables and corrals shall be located so as to prevent contamination of any water supply.

§ 4.74. Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

§ 4.75. All animals maintained on the premises shall be tested, inoculated and licensed as required by law.

§ 4.76. The premises shall be kept free of stray domestic animals.

§ 4.77. Dogs and other small animal pets and their quarters shall be kept clean.

Article 21. Primitive Campsites.

§ 4.78. The standards in Article 21 through Article 28 are applicable exclusively to the residential environment and equipment at primitive campsites. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with the remaining standards in Part IV.

§ 4.79. All campsites shall be well drained and free from depressions in which water may stand.

§ 4.80. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

§ 4.81. Campsites shall not be in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

§ 4.82. The campsite shall be free from debris, noxious plants, and uncontrolled weeds or brush.

Article 22. Water in Primitive Campsites.

§ 4.83. Drinking water used at primitive campsites and on hikes away from permanent campsites shall be from a source known to be safe (free of coliform organisms) or shall be rendered safe before use in a manner approved by the Virginia Department of Health.

§ 4.84. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for handwashing, dishwashing, food preparation and drinking.

Article 23. Food Service Sanitation in Primitive Campsites.

§ 4.85. Food shall be obtained from approved sources and shall be properly identified.

§ 4.86. Milk products shall be pasteurized.

§ 4.87. Food and drink shall be maintained and stored so as to prevent contamination and spoilage.

§ 4.88. The handling of food shall be minimized through the use of utensils.

§ 4.89. Fruits and vegetables shall be properly washed

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prior to use.

§ 4.90. Food and food containers shall be covered and stored off the ground and on clean surfaces. Refrigerated food shall also be covered.

§ 4.91. Sugar and other condiments shall be packaged or served in closed dispensers.

§ 4.92. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

§ 4.93. Persons with wounds or communicable diseases shall be prohibited from handling food.

§ 4.94. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, shall keep hands clean at all times, and shall thoroughly wash their hands with soap and water after each visit to the toilet.

§ 4.95. Food contact surfaces shall be kept clean.

§ 4.96. All eating utensils and cookware shall be properly stored.

§ 4.97. Disposable or single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

§ 4.98. Eating utensils shall not be stored with food or other materials and substances.

§ 4.99. The use of a common drinking cup shall not be permitted.

§ 4.100. Only food which can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.

§ 4.101. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled, and dispensed in a sanitary manner and be free from contamination.

§ 4.102. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24-hours.

§ 4.103. Eating utensils and cookware shall be washed and sanitized after each use.

§ 4.104. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in such a manner as to prevent proper cleaning and sanitizing.

§ 4.105. Solid wastes which are generated in primitive camps shall be disposed of at an approved sanitary landfill or similar disposal facility. Where such facilities are not available, solid wastes shall be disposed of daily by burial

under at least two feet of compacted earth cover in a location which is not subject to inundation by flooding.

Article 24.

Toilet Facilities in Primitive Campsites.

§ 4.106. Where a water supply is not available sanitary type privies or portable toilets shall be provided. All such facilities shall be constructed as required by the Virginia Department of Health.

§ 4.107. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent flybreeding.

§ 4.108. Privies shall be located at least 150 feet from a stream, lake or well and at least 75 feet from a sleeping or housing facility.

§ 4.109. Primitive campsites which are not provided with approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

§ 4.110. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

Article 25.

Heating in Primitive Campsites.

§ 4.111. All living quarters and service structures at primitive campsites shall be provided with properly installed, operable, heating equipment.

§ 4.112. No portable heaters other than those operated by electricity shall be used.

§ 4.113. Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases.

§ 4.114. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, installed metal sheet, or other fireproof materials on the floor under each stove and extending at least 18 inches beyond the perimeter of the base of the stove.

§ 4.115. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove-pipe shall be of fireproof material.

§ 4.116. A vented metal collar or other insulating device shall be installed around a stove pipe or vent passing through a wall, ceiling, floor or roof to prevent melting or combustion.

§ 4.117. A vented collar, insulating device, or chimney shall extend above the peak of the roof or otherwise be constructed in a manner which allows full draft of smoke.

§ 4.118. When a heating system has automatic controls the controls shall be of the type which will cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

§ 4.119. All heating equipment shall be maintained and operated in a safe manner to prevent the possibility of fire.

Article 26.

Sleeping Areas and Equipment in Primitive Campsites.

§ 4.120. Bedding shall be clean, dry, and sanitary.

§ 4.121. Bedding shall be adequate to ensure protection and comfort in cold weather.

§ 4.122. If used, sleeping bags shall be fiberfill and rated for O°F.

§ 4.123. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

§ 4.124. Bedwetters shall have their bedding changed or dried as often as it is wet.

§ 4.125. If mattresses are used they shall be clean.

§ 4.126. Mattresses placed in service after July 1, 1981, shall be fire retardant as evidenced by documentation from the manufacturer.

§ 4.127. A mattress cover shall be provided for each mattress.

§ 4.128. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

§ 4.129. A separate bed, bunk, or cot shall be made available for each person.

Article 27.

Clothing in Primitive Campsites.

§ 4.130. Each child shall be provided with an adequate supply of clean clothing suitable for outdoor living appropriate to the geographic location and season.

§ 4.131. Sturdy, water-resistant, outdoor shoes or boots shall be provided for each child.

§ 4.132. An adequate personal storage area shall be available for each resident.

Article 28.

Fire Prevention in Primitive Campsites.

§ 4.133. With the consultation and approval of the local fire authority a written fire plan shall be established indicating the campsite's fire detection system, fire alarm and evacuation procedures.

§ 4.134. The fire plan shall be implemented through the conduct of fire drills at the campsite at least once each month.

§ 4.135. A record of all fire drills shall be maintained.

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

§ 4.137. An approved 2A 10BC fire extinguisher in operable condition shall be maintained immediately adjacent to the kitchen or food preparation area.

§ 4.138. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other combustion at the primitive campsite.

PART V.

PROGRAMS AND SERVICES.

Article I.

Criteria for Admission.

§ 5.1. Each residential facility for children except secure detention facilities shall have written criteria for admission that shall be made available to all parties when placement for a child is being considered. Such criteria shall include:

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

§ 5.2. No child with special needs shall be accepted for placement by a facility unless that facility has a program appropriate to meet those needs or arrangements are made for meeting those needs through community resources unless the child's admission is required by court order.

§ 5.3. The facility shall accept and maintain only those children whose needs are compatible with those services provided through the facility unless a child's admission is required by court order.

§ 5.4. A facility shall not knowingly accept into care a child whose health or behavior shall present a clear and present danger to the child or others residing in the facility unless the facility is licensed or certified to provide such care or a child's admission is required by

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court order. (See requirements for certification or special licensure.)

Article 2.

Admission of Blind or Visually Impaired Children.

§ 5.5. When a blind or visually impaired child is admitted to a residential facility for children, the facility shall obtain the services of the staff of the Virginia Department for the Visually Handicapped as consultants for assessment, program planning and prescribed teaching (if not previously obtained).

§ 5.6. Provision of the services of the Department for the Visually Handicapped shall be documented in the child's record.

§ 5.7. If the services of the Department for the Visually Handicapped are not obtained the child's placement shall be considered inappropriate.

Article 3.

Interstate Compact on the Placement of Children.

§ 5.8. No child shall be accepted for placement from outside of the Commonwealth of Virginia without the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, except that this section shall not apply when the Interstate Compact Relating to Juveniles applies.

§ 5.9. Documentation of approval of the compact administrator shall be retained in the child's record.

Article 4.

Documented Study of the Child.

§ 5.10. Acceptance for care, other than emergency or diagnostic care, shall be based on an evaluation of a documented study of the child except that the requirements of this article shall not apply (i) to temporary care facilities, or (ii) to secure detention facilities.

§ 5.11. If a facility is specifically approved to provide residential respite care, the acceptance by the facility of a child as eligible for respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

§ 5.12. In facilities required to base their acceptance for care on a documented study of the child, at the time of a routine admission or 30 days after an emergency admission each child's record shall contain all of the elements of the documented study.

§ 5.13. The documented study of the child shall include all of the following elements (When information on the child is not available, the reason shall be documented in the child's record):

1. A formal request or written application for admission;

2. Identifying information documented on a face sheet (see § 5.14);

3. Physical examination as specified in § 5.59;

4. Medical history (see § 5.15);

5. A statement, such as a report card, concerning the child's recent scholastic performance, including a current Individual Education Plan (IEP), if applicable;

6. Results of any psychiatric or psychological evaluations of the child, if applicable;

7. Social and developmental summary (see § 5.16);

8. Reason for referral; and

9. Rationale for acceptance.

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

1. Full name of resident;

2. Last known residence;

3. Birthdate;

4. Birthplace;

5. Sex of child;

6. Racial and national background;

7. Child's Social Security number;

8. Religious preference of child and/or parents;

9. Custody status indicating name and address of legal guardian, if any;

10. Names, addresses and telephone numbers for emergency contacts, parents, guardians or representative of the child-placing agency, as applicable; and

11. Date of admission.

§ 5.15. A medical history shall include:

1. Serious illnesses and chronic conditions of the child's parents and siblings, if known;

2. Past serious illnesses, infectious diseases, serious injuries, and hospitalizations of the child;

3. Psychological, psychiatric and neurological

examinations, if applicable;

4. Name, address and telephone number of child's former physician(s), when information is available; and

5. Name, address and telephone number of child's former dentist(s), when information is available.

§ 5.16. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous placement history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for care apart from the family setting;
5. Names, address(es), Social Security numbers, and marital status of parents; and
6. Names, ages, and sex of siblings.

Article 5. Preplacement Activities Documentation.

§ 5.17. At the time of the admission, except emergency admissions, involuntary admissions to security settings or admissions by court order the facility shall provide evidence of its cooperation with the placing agency in preparing the child and the family for the child's admission by documenting the following:

1. A preplacement visit by the child accompanied by a family member, an agency representative or other responsible adult;
2. Preparation through sharing information with the child, the family and the placing agency about the facility, the staff, the children and activities; and
3. Written confirmation of the admission decision to the family or legal guardian and to the placing agency.

Article 6. Authority to Accept Children.

§ 5.18. Children shall be accepted only by court order or by written placement agreement with parents, legal guardians or other individuals or agencies having legal authority to make such an agreement except that this requirement shall not apply to temporary care facilities when a voluntary admission is made according to Virginia law. (See Part V, Article 9)

Article 7. Written Placement Agreement.

§ 5.19. At the time of admission the child's record shall contain the written placement agreement from the individual or agency having custody and/or a copy of the court order authorizing the child's placement.

§ 5.20. The written placement agreement shall:

1. Give consent for the child's placement in the facility designating the name and physical location of the facility and the name of the child;
2. Recognize the rights of each of the parties involved in the placement clearly defining areas of joint responsibility in order to support positive placement goals;
3. Include financial responsibility, where applicable;
4. Specify the arrangements and procedures for obtaining consent for necessary medical, dental and surgical treatment or hospitalization;
5. Address the matter of all absences from the facility and shall specify the requirements for notifying and/or obtaining approval of the party having legal responsibility for the child. If there are to be regular and routine overnight visits away from the facility without staff supervision the agreement must state that advance approval of the individual(s) or agency legally responsible for the child is required.

Article 8. Emergency Admissions.

§ 5.21. Facilities other than temporary care facilities or secure detention facilities receiving children under emergency circumstances shall meet the following requirements:

1. Have written policies and procedures governing such admissions; and
2. Place in each child's record a written request for care or documentation of an oral request for care.

Article 9. Temporary Care Facility.

§ 5.22. At the time of admission to a temporary care facility the following shall be documented in the child's record:

1. A written request for admission or documentation of an oral request for care;
2. A court order or a written placement agreement (see § 5.18), if the facility is licensed pursuant to Chapter 10 of Title 63.1 of the Code of Virginia as a Child Caring Institution;
3. Identifying information documented on a face sheet

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which shall include:

- a. Full name of child,
 - b. Birthdate,
 - c. Sex of child,
 - d. Racial/ethnic background,
 - e. Last known address,
 - f. Names and addresses of persons or agencies to contact in case of emergency,
 - g. Date of admission, and
 - h. Child's social security number;
4. The child's health status including:
- a. A statement of known and/or obvious illnesses and handicapping conditions;
 - b. A statement of medications currently being taken;
 - c. A statement of the child's general health status; and
 - d. Name, address and telephone number of the child's physician, if known; and
5. A statement describing the child's need for immediate temporary care.

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

Article 10. Discharge.

§ 5.24. If a facility is specifically approved to provide residential respite care a child will be discharged when the child and his parents/guardians no longer intend to use the facility's services.

§ 5.25. All facilities, except for secure detention facilities, shall have written criteria for termination of care that shall include:

1. Criteria for a child's completion of the program as described for compliance with § 2.5; and
2. Conditions under which a child may be discharged before completing the program.

§ 5.26. Except when discharge is ordered by a court of competent jurisdiction prior to the planned discharge date each child's record shall contain the following:

1. Documentation that the termination of care has

been planned with the parent/guardian/child-placing agency and with the child; and

2. A written discharge plan and documentation that it was prepared and discussed with the child, when appropriate, prior to the child's discharge. The plan shall contain at least:

- a. An assessment of the child's continuing needs; and
- b. A recommended plan for services in the youth's new environment.

§ 5.27. No later than 10 days after any discharge, except those from secure detention, the child's record shall contain the following information:

1. Date of discharge;
2. Reason for discharge;
3. Documentation that the reason for discharge was discussed with the parent/guardian/child-placing agency and, when appropriate, with the child, except that this requirement does not apply to court ordered discharges;
4. Forwarding address of the child, if known;
5. Name and address of legally responsible party to whom discharge was made; and
6. In cases of interstate placement documentation that the Administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

§ 5.28. A comprehensive discharge summary shall be placed in the child's record no later than 30 days after discharge except in a secure detention facility.

§ 5.29. A comprehensive discharge summary shall include:

1. Length of a child's residence at the time of discharge;
2. The name of the child's designated case coordinator, if assigned;
3. Information concerning new or currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
4. Summary of the child's overall progress during placement;
5. Summary of family contracts during placement, if any; and
6. Reasons for discharge.

§ 5.30. Except in secure detention, children shall be discharged only to the legally responsible party from whom they were accepted except (i) in cases where legal responsibility has been transferred to another person or agency during the period of the child's stay in the facility or (ii) in cases where a child committed pursuant to a court order is given a direct discharge by the agents of the appropriate State Board in accordance with law and policy.

Article 11. Placement of Children Outside the Facility.

§ 5.31. Except in a secure detention facility the facility shall not place a child away from the facility, including in staff residences regardless of location, without first having obtained a Child Placing Agency license from the Department of Social Services. Temporary absences for the purposes of medical care, attendance at day school, or vacations shall not be deemed to be placements.

Article 12. Service Plan.

§ 5.32. A written individualized service plan, based on information derived from the documented study of the child and other assessments made by the facility, shall be developed for each child, within 30 days of admission and placed in the child's master file except that the requirements of this article do not apply (i) to secure detention facilities or (ii) to temporary care facilities.

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

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

§ 5.34. The degree of participation, or lack thereof, of each of the parties listed in § 5.33 in developing the service plan shall be documented in the child's record.

§ 5.35. The individualized service plan shall include, but not necessarily be limited to, the following:

1. A statement of the resident's current level of functioning including strengths and weaknesses, and corresponding educational, residential and treatment/training needs;
2. A statement of goals and objectives meeting the above identified needs;
3. A statement of services to be rendered and

frequency of services to accomplish the above goals and objectives;

4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;

5. A statement identifying the individual(s) delegated the responsibility for the overall coordination and integration of the services specified in the plan;

6. A statement of the timetable for the accomplishment of the resident's goals and objectives; and

7. The estimated length of the resident's stay.

Article 13. Quarterly Progress Reports.

§ 5.36. For all facilities except secure detention facilities written progress summary reports completed at least every 90 days shall be included in each child's record and shall include:

1. Reports of significant incidents, both positive and negative;
2. Reports of visits with the family;
3. Changes in the child's family situation;
4. Progress made toward the goals and objectives described in the Service Plan required by § 5.32;
5. School reports;
6. Discipline problems in the facility and the community;
7. Summary of the child's social, emotional, and physical development during the previous three months including a listing of any specialized services and on-going medications prescribed;
8. Reevaluation of the placement including tentative discharge plans.

Article 14. Annual Service Plan Review.

§ 5.37. For all facilities except secure detention facilities at least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the service plan based on the child's current level of functioning and needs:

1. The resident;
2. The resident's family or legally authorized representative;

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3. The placing agency; and

4. Facility staff.

§ 5.38. The degree of participation, or lack thereof, of each of the parties listed in § 5.37 in reviewing and rewriting the service plan shall be documented in the child's record except that this section does not apply to secure detention facilities.

§ 5.39. Staff responsible for the daily implementation of the child's individual service plan shall be represented on the staff team that evaluates adjustment and progress and makes plans for individual children except that this section does not apply to secure detention facilities.

§ 5.40. Staff responsible for daily implementation of the child's individualized service plan shall be able to describe resident behavior in terms of the objectives in the service plan except that this section does not apply to secure detention facilities.

Article 15.

Service Plan for Temporary Care Facilities.

§ 5.41. An individualized service plan including the elements required by § 5.42 shall be developed for each child admitted to a temporary care facility and placed in the child's master file within 72 hours of admission.

§ 5.42. The individualized service plan shall include:

1. The child's description of his situation/problem;
2. Documentation of contact with the child's parent or guardian to obtain his description of the child's situation/problem;
3. The facility staff's assessment of the child's situation/problem;
4. A plan of action including:
 - a. Services to be provided,
 - b. Activities to be provided,
 - c. Who is to provide services and activities, and
 - d. When services and activities are to be provided;
5. The anticipated date of discharge, and
6. An assessment of the child's continuing need for services.

Article 16.

Counseling and Social Services.

§ 5.43. For all facilities except secure detention facilities the program of the facility shall be designed to provide

counseling and social services which address needs in the following areas:

1. Helping the child and the parents or guardian to understand the effects on the child of separation from the family and the effect of group living;
2. Assisting the child and the family in maintaining their relationships and planning for the future care of the child;
3. Utilizing appropriate community resources in providing services and maintaining contacts with such resources;
4. Helping the child with problems affecting the ability to have satisfying personal relationships and use of the capacity for growth;
5. Conferring with the child care staff to help them understand the child's needs in order to promote adjustment to group living; and
6. Working with the child and with the family or any placing agency that may be involved in planning for the child's future and in preparing the child for return home, for independent living, or for other residential care.

§ 5.44. The provision of counseling and social services shall be documented in each child's record except that this section does not apply to secure detention facilities.

§ 5.45. For all facilities, except secure detention facilities, counseling and/or other social services consistent with the goals of the Service Plan shall be provided to meet the specific needs of each child in one of the following ways:

1. By a qualified staff member;
2. By service staff of the agency that placed the child provided such staff is available on an as needed basis rather than on a limited basis (e.g. quarterly or semiannually);
3. On a contract basis by a professional child and family service worker licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia; or
4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community based group.

Article 17.

Residential Services.

§ 5.46. There shall be evidence of a structured program of care that is designed to:

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

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

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

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

§ 5.50. Routines shall be planned to assure that each child shall have the amount of sleep and rest appropriate for his age and physical condition.

§ 5.51. Staff shall provide daily monitoring and supervision, and instruction, as needed, to promote the personal hygiene of the children.

Article 18. Health Care Procedures.

§ 5.52. Facilities shall have written procedures for the prompt provision of:

1. Medical and dental services for health problems identified at admission;
2. Routine ongoing and follow-up medical and dental services after admission; and
3. Emergency services for each child as provided by statute or by agreement with the child's parent(s) and/or legal guardian.

§ 5.53. For all facilities except temporary care facilities written information concerning each child shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and/or dentist to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;
4. Information concerning:

- a. Use of medication,
- b. Medication allergies,
- c. Any history of substance abuse except that this requirement does not apply to secure detention, and
- d. significant medical problems; and

5. Written permission for emergency medical or dental care or a procedure and contacts for obtaining consent for emergency medical or dental care except that this section does not apply to secure detention facilities.

§ 5.54. Facilities specifically approved to provide respite care shall update the information required by § 5.53 at the time of each individual stay at the facility.

Article 19. Physical Examinations.

§ 5.55. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility, except that (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days after admission if a child is admitted on an emergency basis and a report of physical examination is not available, and (iii) this section does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

§ 5.56. Following the initial examination, each child shall have a physical examination annually except that this section does not apply to (i) security detention facilities, or (ii) temporary care facilities.

§ 5.57. In all facilities except (i) secure detention facilities, and (ii) temporary care facilities additional or follow-up examination and treatment shall be required when:

1. Prescribed by the examining physician; or
2. Symptoms indicate the need for an examination or treatment by a physician.

§ 5.58. Each physical examination report shall be included in the child's record.

§ 5.59. For all facilities except (i) secure detention facilities and (ii) temporary care facilities each physical examination report shall include:

1. Immunizations administered;
2. Visual acuity;
3. Auditory acuity;

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4. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;

5. Allergies, chronic conditions, and handicaps, if any;

6. Nutritional requirements, including special diets, if any;

7. Restriction of physical activities, if any;

8. Recommendations for further treatment, immunizations, and other examinations indicated;

9. The date of the physical examination; and

10. The signature of a licensed physician, the physician's designee, or an official of a local health department.

§ 5.60. In all facilities except (i) secure detention facilities and (ii) temporary care facilities a child with a communicable disease, whose best interests would not be served by prohibiting admission, may be admitted only after a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing other children in care and staff; and

2. The facility is aware of the required treatment for the child and procedures to protect other children in care and staff.

§ 5.61. Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals except that this section does not apply to (i) secure detention facilities or (ii) temporary care facilities.

§ 5.62. Except for (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities, each facility shall provide written evidence of:

1. Annual examinations by a licensed dentist; and

2. Follow-up dental care as recommended by the dentist or as indicated by the needs of each child.

§ 5.63. Each child's record shall include notations of health and dental complaints and injuries showing symptoms and treatment given.

§ 5.64. Each child's record shall include a current record of ongoing psychiatric or other mental health treatment and reports, if applicable.

§ 5.65. Provision shall be made for suitable isolation of any child suspected of having a communicable disease.

§ 5.66. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical

emergencies.

Article 20. Medication.

§ 5.67. All medication shall be securely locked and properly labeled.

§ 5.68. Medication shall be delivered only by staff authorized by the director to do so.

§ 5.69. Staff authorized to deliver medication shall be informed of any known side effects of the medication and the symptoms of the effect.

§ 5.70. A program of medication shall be instituted for a specific child only when prescribed in writing by a licensed physician.

§ 5.71. Medications that are classified as "controlled substances" as defined in § 54-524.2 of the Code of Virginia shall only be obtained from a licensed physician or from a licensed pharmacist upon individual prescription of a licensed physician.

§ 5.72. A daily log shall be maintained of all medicines received by the individual child.

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

§ 5.74. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

§ 5.75. At least one 30cc bottle of syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 21. Nutrition.

§ 5.76. Provisions shall be made for each child to have three nutritionally balanced meals daily.

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

§ 5.78. Any deviation(s) from the menu shall be noted.

§ 5.79. The menus including any deviations shall be kept on file for at least six months.

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

§ 5.81. The quantity of food served shall be adequate for the ages of the children in care.

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§ 5.82. Special diets shall be provided when prescribed by a physician.

§ 5.83. The established religious dietary practices of the child shall be observed.

§ 5.84. Staff who eat in the presence of the children shall be served the same meals.

§ 5.85. There shall be no more than 15 hours between the evening meal and breakfast the following day.

Article 22.

Discipline and Management of Resident Behavior.

§ 5.86. The facility shall have written disciplinary and behavior management policies, including written rules of conduct, appropriate to the age and developmental level of the children in care.

§ 5.87. Disciplinary and behavior management policies and rules of conduct shall be provided to children, families and referral agencies prior to admission except that for court ordered or emergency admissions this information shall be provided within 72 hours after admission.

§ 5.88. There shall be written procedures for documenting and monitoring use of the disciplinary and behavior management policies.

§ 5.89. Control, discipline and behavior management shall be the responsibility of the staff.

Article 23.

Confinement Procedures.

§ 5.90. When a child is confined to his own room as a means of discipline, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it, except that this section does not apply to secure custody facilities such as learning centers and secure detention facilities.

§ 5.91. Any child confined to his own room shall be able to communicate with staff.

§ 5.92. There shall be a staff check on the room at least every 30 minutes.

§ 5.93. The use of confinement procedures shall be documented.

Article 24.

Prohibited Means of Punishment. Prohibitions.

§ 5.94. The following methods of punishment shall be actions are prohibited:

1. Deprivation of nutritionally balanced meals, snacks, and drinking water or food necessary to meet a client's daily nutritional needs except as ordered by a

licensed physician for a legitimate medical purpose and documented in the client's record ;

2. ~~Prohibition Denial~~ of contacts and visits with family, legal guardian, attorney, probation officer, or placing agency representative;

3. ~~Denial of contacts and visits with family or legal guardian except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;~~

~~4. 4. Limitation of receipt of mail; Delay or withholding of incoming or outgoing mail except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;~~

~~4. 5. Any action which is humiliating or , degrading practices including ridicule , or verbal abuse abusive ;~~

~~6. 6. Corporal punishment ; including any type of physical punishment inflicted upon the body except as permitted in a public school or a school maintained by the state pursuant to § 22.1-280 of the Code of Virginia ;~~

~~6. 7. Subjection to unclean and unsanitary living conditions;~~

~~7. 8. Deprivation of opportunities for bathing and or access to toilet facilities ; and except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record;~~

~~8. 9. Deprivation of health care including counseling;~~

~~10. Intrusive aversive therapy except as permitted by other applicable state regulations;~~

~~11. Application of aversive stimuli except as part of an intrusive aversive therapy plan approved pursuant to other applicable state regulations;~~

~~12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record; and~~

~~13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record.~~

Article 25.

Chemical or Mechanical Restraints.

§ 5.95. The use of mechanical and/or chemical restraints is prohibited unless use is specifically permitted by a special license or certification module.

Article 26.

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Physical Restraint.

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

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

§ 5.98. If the use of physical restraint or the use of other measures permitted by a certification module is unsuccessful in calming and moderating the child's behavior the child's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

§ 5.99. Any application of physical restraint shall be fully documented in the child's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, and extent of physical restraint used.

Article 27. Seclusion.

§ 5.100. Secluding a child in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited unless it is specifically permitted by a special license or certification module.

Article 28. Timeout Procedures.

§ 5.101. Timeout procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.102. When a child is placed in a timeout room, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it.

§ 5.103. Any child in a timeout room shall be able to communicate with staff.

§ 5.104. The use of timeout procedures shall not be used for periods longer than 30 consecutive minutes.

§ 5.105. Written documentation shall be maintained verifying that each child placed in a timeout room has been checked by staff at least every 15 minutes.

§ 5.106. A child placed in a timeout room shall have bathroom privileges according to need.

§ 5.107. If a meal is scheduled while a child is in timeout, the meal shall be provided to the child at the end of the timeout procedure.

Article 29. Education.

§ 5.108. Each child of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

§ 5.109. The facility shall provide educational guidance and counseling for each child in selection of courses and shall ensure that education is an integral part of the child's total program.

§ 5.110. Facilities operating educational programs for handicapped children shall operate those programs in compliance with applicable state and federal regulations.

§ 5.111. When a handicapped child has been placed in a residential facility without the knowledge of school division personnel in the child's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of handicapped children.

§ 5.112. When a facility has an academic or vocational program that is not certified or approved by the Department of Education, teachers in the program shall provide evidence that they meet the qualifications that are required in order to teach those specific subjects in the public schools.

Article 30. Religion.

§ 5.113. The facility shall have written policies regarding the opportunities for the children to participate in religious activities.

§ 5.114. The facility's policies on religious participation shall be available to the child and any individual or agency considering the placement of a child in the facility.

§ 5.115. Children shall not be coerced to participate in religious activities.

Article 31. Recreation.

§ 5.116. There shall be a written description of the recreation program for the facility showing activities which are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the children and which includes:

1. Opportunities for individual and group activities;
2. Free time for children to pursue personal interests which shall be in addition to a formal recreation program;
3. Except in secure detention facilities, use of available community recreational resources and facilities;

4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and

5. Regularly scheduled indoor and outdoor recreational activities that are specifically structured to develop skills and attitudes (e.g., cooperation, acceptance of losing, etc.).

§ 5.117. The recreational program provided indoors, outdoors (both on and off the premises), and on field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the specific activities.

§ 5.118. Opportunities shall be provided for coeducational activities appropriate to the ages and developmental levels of the children.

Article 32. Community Relationships.

§ 5.119. Opportunities shall be provided for the children in a group living situation to participate in activities and to utilize resources in the community except that this section does not apply to secure detention facilities.

§ 5.120. Community interest in children and efforts on their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the children.

Article 33. Clothing.

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

§ 5.122. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities.

§ 5.123. Children shall have the opportunity to participate in the selection of their clothing except that this section does not apply to secure detention facilities.

§ 5.124. Each child's clothing shall be inventoried and reviewed at regular intervals to assure repair or replacement as needed.

§ 5.125. The child shall be allowed to take personal clothing when the child leaves the facility.

Article 34. Allowances and Spending Money.

§ 5.126. The facility shall provide opportunities appropriate to the ages and developmental levels of the children for learning the value and use of money through earning, budgeting, spending, giving and saving except that this

section does not apply to secure detention facilities.

§ 5.127. There shall be a written policy regarding allowances except that this section does not apply to secure detention facilities.

§ 5.128. The written policy regarding allowances shall be made available to parents and/or guardians at the time of admission except that this section does not apply to secure detention facilities.

§ 5.129. The facility shall provide for safekeeping and for record keeping of any money that belongs to children.

Article 35. Work and Employment.

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

§ 5.131. Chores shall not interfere with regular school programs, study periods, meals or sleep.

§ 5.132. Work assignments or employment outside the facility including reasonable rates of payment shall be approved by the program director with the knowledge and consent of the parent, guardian or placing agency except that this section does not apply to secure detention facilities.

§ 5.133. The facility shall ensure that any child employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment except that this section does not apply to secure detention facilities.

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

Article 36. Visitation at the Facility and to the Child's Home.

§ 5.135. The facility shall provide written visitation policies and procedures permitting reasonable visiting privileges and flexible visiting hours.

§ 5.136. Copies of the written visitation policies and procedures shall be made available to the parents, guardians, the child and other interested persons important to the child no later than the time of admission except that when parents or guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 12 hours after admission.

Article 37. Use of Vehicles and Power Equipment.

§ 5.137. Any transportation provided for and/or used by

Proposed Regulations

children shall be in compliance with state, federal and/or international laws relating to:

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

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

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

Article 38. Reports to Court.

§ 5.140. When the facility has received legal custody of a child pursuant to §§ 16.1-279 A or 16.1-279 B of the Code of Virginia copies of any foster care plans (required by §§ 16.1-281 and 16.1-282 of the Code of Virginia) submitted to the court shall be filed in the child's record except that this section does not apply to secure detention facilities.

Article 39. Emergency Reports.

§ 5.141. Any serious incident, accident or injury to the child; any overnight absence from the facility without permission; any runaway; and/or any other unexplained absence shall be reported to the parent/guardian/placing agency within 24 hours.

§ 5.142. The child's record shall contain:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the parent/guardian or placing agency; and
6. The name of the person to whom the report was made.

Article 40. Suspected Child Abuse or Neglect.

§ 5.143. Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare/social services as required by § 63.1-248.3 of the Code of Virginia.

§ 5.144. The child's record shall include:

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

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Procedures for Meeting Emergencies.

§ 6.1. Established written procedures shall be made known to all staff and residents, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation including alternate housing.

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

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

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

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

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

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

Article 3.

Posting of Fire Emergency Phone Number.

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

Article 4.

Portable Fire Extinguishers.

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

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

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

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

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

Article 5.

Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

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

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

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

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

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by children.

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

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

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

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

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

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

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

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

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

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

and fire safety.

Article 7.

Staff Training in Fire Procedures.

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

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

Article 8.

"Sighted Guide" Training for Emergency Use.

§ 6.27. When a blind or visually impaired child is admitted the facility shall obtain the services of an orientation and mobility specialist from the Department of Visually Handicapped to provide "sighted guide" training for use in emergencies except that this requirement shall not apply to secure detention facilities.

§ 6.28. "Sighted guide" training for use in emergencies shall be required of all personnel having responsibility for supervision of a blind or visually handicapped child except that this requirement shall not apply to secure detention facilities.

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 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.

Effective Date: October 1, 1988

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.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes from Article 2 regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The State Council of Higher Education for Virginia will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 380-03-03. Virginia Scholars Program Regulations.

Statutory Authority: §§ 23-38.53:1 through 23-38.53:3 of the Code of Virginia.

Effective Date: October 26, 1988

Summary:

The regulations amend the existing regulations to clarify definitions and make minor technical changes to program administration. The first change moves the application due date from January 15 to December 15 to provide additional time for the review and evaluation of applications. The second change reduces the number of finalists from 150 to 100 to conform with the usual number reviewed by the selection committee. The definition of a student's "class," for purposes of determining the student's rank in college class, is clarified to bring the regulations in conformity with actual practice over the past three years of the program's operation.

Final Regulations

VR 380-03-03. Virginia Scholars Program Regulations.

§ 1. Definitions.

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

"Accredited" means an institution approved to confer degrees pursuant to the provisions of § 23-9.5 or §§ 23-265 through 23-276 of the Code of Virginia.

"Class" means the group of students at the same level (e.g., freshmen) at the university, college or school within the university or major field of study as defined by the institution where the student earned academic credits.

"Council" means the State Council of Higher Education for Virginia which is the administering agency for the Virginia Scholars Program.

"Full-time study" normally means enrollment for at least 12 semester or 12 quarter hours of baccalaureate degree credit courses in each term. The total hours counted shall not include courses audited or taken as remedial work.

"High school student" means any student not yet enrolled at a Virginia college who has attended high school within two years of the date the scholarship funds would be disbursed (opening day of the fall term of the award year).

"Nonprofit," as applied to an institution, means one operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of a private shareholder or individual.

"Program" means the Virginia Scholars Program.

"Private institution" means an institution which derives its support primarily from private sources and is not under the control of publicly elected or appointed officials.

"Public institution" means an institution which derives its support primarily from the state and is under the control of publicly elected or appointed officials.

"Religious training or theological education" means a program or programs of an indoctrinating nature in divinity or theology.

"Scholarship" means the grant to the student specified in these regulations.

§ 2. Student eligibility.

To be considered for an award under the program, a student must be enrolled or be accepted for full-time study in a baccalaureate degree program in an accredited, degree-granting, public or private, nonprofit four-year

institution of higher education in Virginia. Students enrolled or accepted to enroll in programs of religious training or theological education, or students enrolled in any institution whose primary purpose is to provide religious training or theological education, are not eligible to apply for assistance under the program.

Up to 10% of the initial scholarships awarded each year shall be set aside for qualified sophomores at accredited public two-year degree-granting colleges who have been accepted for transfer to an eligible four-year institution in Virginia and who will complete the A.A. or A.S. degree by the close of the spring term which precedes the academic year for which the award is made. At least 90% of the initial awards shall be made to qualified high school students.

In order to be considered, a college sophomore or a high school student must:

A. 1. Be a domiciliary resident of Virginia. The final domicile determination will be made by the council in accordance with the provisions of § 23-7.4 of the Code of Virginia.

B. 2. Demonstrate scholarship and achievement in a secondary or postsecondary institution, as defined in these regulations, and

C. 3. Be enrolled or accepted to enroll for full-time study as a regular student in the fall term of the award year in a baccalaureate degree program at an eligible four-year institution in Virginia.

§ 3. Application procedures.

A. Minimum qualifications to enter competition.

To enter the competition, high school students must:

1. Achieve semifinalist or finalist standing in either the National Merit Scholarship Program or the National Achievement Scholarship Program for Outstanding Negro Students or

2. Be nominated by the high school principal based primarily on the student's rank in high school class and ~~effective beginning with the competition for 1985-86 awards,~~ the strength of the student's high school program (i.e., college preparedness). The principals of high schools accredited by the state Department of Education shall be requested by the Council of Higher Education to assist eligible students in the preparation and filing of applications for the awards.

B. Nominations from high schools.

The maximum number of school nominations based on the student's class rank and strength of the student's high school program shall be indexed to the number of seniors

from the preceding year's graduating class who enrolled in colleges and universities in the year following their graduation. Each fall, the council shall distribute to Virginia high schools, instructions indicating for each additional VSP nomination submitted, the minimum number of additional college bound students that a high school must have graduated in the previous year. All schools will be entitled to submit a minimum of one nomination each year.

Nominations from high schools shall be in addition to the number of students who qualify to file applications (through the high school) based on their placement as semifinalists or finalists in the two annual national merit competitions.

In the case of ties among prospective nominees, the high school principal may take into account other academic and personal achievements of the prospective nominees. Only students who have filed an application for admission to at least one Virginia four-year college or university for the next academic year should be nominated, however.

C. Nominations from public two year colleges.

In April of the year preceding the award year, public two-year college presidents will also be invited by the State Council of Higher Education to nominate eligible college sophomores for the competition. Nominations from public two-year colleges shall be based primarily on the strength of the student's academic program (i.e., preparedness for transfer to a senior institution) and his cumulative grade point average. The student with the strongest academic credentials should receive preference for the nomination. In the case of a tie in student grade point averages, the college may consider other academic and personal achievement of the candidates.

The maximum number of nominees from each public two-year college shall be based on the number of A.A. and A.S. graduates for the preceding year, where:

Number of Graduates	Maximum Number of Nominees
1-50	2
51-100	3
100 +	4

D. Additional nominations.

In addition to being nominated by a high school principal or a public two-year college president, eligible high school students or graduates who have not yet enrolled at a two- or four-year college and who, in addition, are either currently attending high school or have graduated with one of the preceding two high school graduating classes, may enter the award competition directly if they meet one of the following criteria:

1. The student achieved semifinalist or finalist rank in

one of the two National Merit competitions, but has not be nominated by the school; or

2. The student has been ranked academically as one of the top two resident Virginians in his high school graduating class, and has not been nominated by the school. Examples of high school students and graduates of the preceding two high school classes who meet these criteria are:
 - a. Virginia residents attending out-of-state schools or schools in Virginia which fail to submit nominations and
 - b. Virginia residents who elected not to pursue a college education in the year immediately following their high school graduation. Students currently enrolled in college are not eligible to apply directly under this provision.

E. Responsibilities of parties involved in the nomination process.

The State Council of Higher Education will provide information about the program and an adequate number of student application/nomination forms to the high schools and colleges. Each high school or college will ensure that prospective nominees understand the conditions of the award and wish to be nominated before having each of them complete the student portion of the application/nomination form. The school or college will then complete the institutional section of the student application/nomination form before submitting it with an official transcript to the State Council of Higher Education.

High school students or graduates applying through their high school to the council under this provision shall be responsible for securing and completing the student part of the application form, submitting the application to their high school with the student part completed, and ensuring that the high school completes the institutional part and mails the form, together with all required supporting information (e.g., high school transcript, record of ACT and SAT test scores) to the State Council of Higher Education before the closing date specified below .

F. Closing dates.

~~For the 1984-85 awards, All high school nominations of or applications from high school students or recent graduates must be received by the State Council of Higher Education, with all required transcripts and test results, not later than April 5, 1984. The closing date for receipt of applications beginning with the 1985-86 award competition, the published deadline. Normally, the closing date for receipt of applications shall be January December 15 preceding the opening of the fall term in which the scholarship funds would be disbursed.~~

Nominations of sophomores from Virginia's public two-year colleges must be received by the State Council of

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Higher Education not later than ~~May 15~~, the published deadline. Normally, the closing date for receipt of public two-year college nominations shall be May 15 preceding the opening of the fall term for those sophomores to be considered for one of the scholarships set aside for outstanding public two-year college students transferring in the next fall term to an eligible senior institution to complete their undergraduate education.

Nominations, applications and supporting materials received after closing dates shall not be considered unless they are postmarked no fewer than five days before the appropriate date. Incomplete applications will not be considered. If an individual's application or supporting materials are not received and a claim is entered that they were lost in the mail, a completed certificate of mailing will be required by the State Council of Higher Education before any substitute application materials will be accepted. No late application shall be considered for any cause once award recipients have been chosen by the selection committee.

§ 4. Award selection criteria.

All awards made pursuant to this chapter shall be based on the criteria heretofore specified in these regulations. These criteria include standards for assessing scholastic and creative ability and recommendations from secondary schools and public two-year colleges.

A. Award recipients from high schools will be selected based on:

1. An evaluation of the applicant's high school transcript and ACT and SAT test results; and
2. An evaluation of the applicant's personal achievement (including, but not limited to, honors and work experience) and of the school principal's recommendation.

B. Award recipients from public two-year colleges will be selected based on:

1. An evaluation of all college transcripts and high school transcripts and
2. An evaluation of personal achievement (including, but not limited to, honors and work experience) and of the college president's recommendation.

C. Selection of finalists and award recipients shall be based solely on an applicant's academic record and personal achievement as specified above. To the extent possible, all identifying data, including information about the applicant's college plans, sex and race, shall be removed from the applicants' files before the prescreening and award selection committees evaluate the applicants. Each applicant's evaluation will be scored as noted below.

High School

College

	Nominees	Nominees
1. Academic Record	1-75 Points (including ACT or SAT test results)	1-75 Points (transcripts only)
2. Personal Achievement (including student essay and school recommendation)	1-25 Points	1-25 Points

§ 5. Appointment of a prescreening committee.

An application prescreening committee of up to no less than five experienced institutional admissions officers representative of the public and private nonprofit institutions of higher education in Virginia will be appointed by the Director of the State Council of Higher Education to select award finalists. From all the eligible applicants, approximately ~~150~~ 100 award finalists will be selected. Finalists who are not selected for an award will receive a special "certificate of recognition."

§ 6. Appointment of an award selection committee.

The 50 recipients of awards shall be selected from the approximately ~~150~~ 100 finalists by an award selection committee whose members shall be appointed by the State Council of Higher Education. The committee shall consist of no more than 10 members, at least eight of whom will be outstanding faculty in Virginia's public and private nonprofit four-year colleges and universities. The faculty members of the committee will represent the major academic disciplines and the diversity of institutions of higher education in Virginia. To ensure continuity from year to year, nine committee members shall be appointed for a one-year term, three for a two-year term and three for a three-year term. Each year thereafter, three additional members may be appointed. No appointee may serve more than two consecutive terms on the committee.

§ 7. Duration and renewability of award.

All scholarships shall be awarded for one year and may be renewed annually for no more than three additional years of full-time study except for transfer recipients who may be renewed for only one additional year. Renewal decisions shall be made by the State Council of Higher Education in June of the academic year preceding the year in which the renewal award is to be received. The standard for renewal shall be either the student's maintenance of a "B" average or rank in the upper quartile of his class as of the close of the academic year.

§ 8. Institutional eligibility and procedures for establishing eligibility.

A. Institutional eligibility.

For a senior institution to be considered eligible to accept funds on behalf of students assisted under the provision of this Act, a public institution of higher

education must be an accredited, degree-granting, senior institution of higher education in Virginia and a private institution must be an accredited, degree-granting, nonprofit senior institution of higher education in Virginia. Those private institutions whose primary purpose is to provide religious training or theological education are not eligible to participate. Students attending institutions which operate in Virginia but which issue degrees from a main campus located outside the Commonwealth are not eligible to receive assistance under the program.

B. Procedures for establishing eligibility.

In order to be a participating institution in the Virginia Scholars Program, an agreement must be filed with the State Council of Higher Education by the institution's chief executive officer. The agreement will be binding until such time as revisions are made in the regulations. At that time a new agreement must be filed in order to continue participation.

The agreement shall certify that the institution will:

1. Act, with the student's authorization, as his agent to receive and hold funds for use under the program and
2. Maintain individual recipient records and furnish periodic reports and other pertinent information as may be required by the State Council of Higher Education.

The agreement will confirm that the contact person for the program on campus will be the official currently designated by the chief executive officer as primary representative for one or both of the other statewide grant programs, the College Scholarship Assistance Program (CSAP) and the Tuition Assistance Grant Program (TAGP). If the institution does not participate in the CSAP or the TAGP, the executive officer shall designate a primary representative.

The primary institutional representative shall be responsible for securing institutional certifications of each recipient's continuous full-time enrollment, satisfactory progress, and end-of-year grade point average (for purposes of determining eligibility for award renewal). The institutional representative shall also be responsible for funds received by the institution in its capacity as the student's fiscal agent.

§ 9. Amount of scholarships.

No scholarship awarded under this program shall exceed \$3,000 per academic year. A scholarship shall be awarded for the full academic year. The maximum cumulative amount which may be received by one recipient shall be \$12,000 for four years of continuous full-time baccalaureate degree study. The maximum cumulative amount which may be received by transfer student recipients shall be limited to a total of \$6,000 to two years of continuous full-time baccalaureate degree study. The maximum

number of scholarships and the amount of individual scholarships awarded under the program shall be in accordance with funds appropriated by the General Assembly in the Appropriations Act.

After the last day for adding classes in each term of the academic year, the institution will verify which recipients are enrolled as full-time undergraduate students. Funds for any term in which recipients do not enroll for full-time study shall not be disbursed. Funds for these students, if already received by the institution in its capacity as the student's fiscal agent, shall be reported to the State Council of Higher Education as unused funds. Unused funds shall be refunded at the close of the academic year or at the request of the State Council of Higher Education, whichever occurs earlier.

§ 10. Terms and conditions of scholarships.

In order to receive funds, recipients must maintain full-time enrollment on a continuous basis. Normally, students who fail to do so will forfeit their eligibility to be considered for award renewal at the close of the academic year. Exceptions will be made for students who demonstrate that a hardship condition existed which required a temporary reduction in their course load and that that condition will not exist by the opening of the next academic year. It is the student's responsibility to advise the council of any hardship condition not later than May 1 of the academic year preceding the year for which award renewal is sought. Discontinuing full-time enrollment during the year (e.g., dropping to part-time enrollment or leaving voluntarily) may result also in a full or partial cancellation of the award for the current year, in accordance with the tuition refund policy of the institution.

If a student recipient has continuously enrolled full-time at an institution (excluding summer sessions) but is enrolled for less than full-time study in the term immediately preceding graduation, the student may be certified as full-time by the institution and be eligible to receive that term's portion of his award, but only if the course credits needed to complete degree requirements total less than a full-time course load and the maximum cumulative award totals prescribed in § 9 will not be exceeded.

Students who are suspended, placed on academic probation or otherwise fail to meet the institution's standard for satisfactory progress as determined by the institution, during any term of the academic year shall be required to repay disbursed scholarship funds for that term in proportion to the amount of tuition refund, if any, which is made by the institution to the student. If no tuition refund is owed to the student, no repayment of the scholarship funds is required. The institution shall assist the council in recovering from the student any unauthorized disbursements. Students forfeiting scholarships for nonmeritorious reasons also forfeit eligibility for renewal awards.

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§ 11. Use of scholarships.

Scholarships shall be used only for payment for the costs of attendance for the academic year for which the award is made. Awards are transferable among participating senior institutions, if the student notifies the State Council of Higher Education of the transfer prior to April 15 of the award year. Recipients who attend classes full-time at another institution as part of an exchange program with an eligible Virginia institution may receive scholarship funds if all the credits earned at the other institution are credited towards the baccalaureate degree of the Virginia institution.

§ 12. Authority of administering agency.

Section 23-38.53:1 names the State Council of Higher Education for Virginia as the administering agency and § 23-38.53:2 directs the council to develop regulations it deems necessary and appropriate to administer the program.

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: Due to its length, the regulation entitled Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed filed by the State Water Control Board is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of the full text. The amendment as adopted is set out below. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the State Water Control Board.

Title of Regulation: VR 680-11-04. Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed.

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

Effective Date: October 26, 1988

Background:

Section 62.1-44.15(3) of the Code of Virginia authorizes the State Water Control Board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of the state water control law, and to modify, amend or cancel any such standards or policies established.

The Dulles Area Watershed Policy was adopted by the State Water Control Board in January, 1975, for the purpose of protecting several major public water supply intakes on the Potomac River downstream of the watershed.

The existing policy allows two sewage treatment plants in the watershed (one already exists), and specifies

effluent limits and reliability standards for each. In addition, the policy requires a minimum separation distance of 15 stream miles between the wastewater discharges and the water intakes located downstream.

Summary:

The proposed amendment would have reduced the minimum separation distance between wastewater discharges in the Dulles Area Watershed and downstream public water supply intakes from 15 stream miles to five stream miles. Based on comments received during the public comment period, the final amendment revises the separation distance to 10 stream miles.

VR 680-11-04. Policy for Waste Treatment and Water Quality Management in the Dulles Area Watershed.

The State Water Control Board proposes to amend its "Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed" (adopted January 23, 1975, Minute 13) as follows:

E. The regional plant's discharge shall be into Broad Run and preferably located about 20 stream miles above existing and proposed domestic water supply intakes on the Potomac River. In no case shall the plant's discharge be located less than 15 [five 10] stream miles above an existing or presently proposed domestic water-supply intake.

* * * * *

REGISTRAR'S NOTICE: The Toxics Management Regulation (VR 680-14-02) filed by the State Water Control Board was previously printed as a final regulation in 4:16 V.A.R. 1707-1718 May 9, 1987. The Governor subsequently suspended the regulatory process in accordance with subsection D of § 9-6.14:9.1 and subdivision 2 of § 9-6.14:9.3 of the Code of Virginia, and requested the board to solicit additional public comment on the regulation. As a result of additional public comment received, certain changes for clarification were made to the regulation published May 9, 1987.

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

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

Effective Date: November 1, 1988

Summary:

The Toxics Management Regulation will control the discharge of toxic pollutants to surface waters to ensure that no toxics are released in toxic amounts. Certain holders of National Pollutant Discharge Elimination System (NPDES) permits will be required

to conduct chemical and biological monitoring to evaluate effluent toxicity. Those discharges which fail to pass established toxicity screening criteria will be required to conduct toxicity reduction evaluations and implement some action to bring the effluent into compliance with the screening criteria.

This final regulation has been modified in response to concerns raised during the public comment period. Some of the major changes to the regulation are (i) the exclusion of certain categories of discharges from the regulation (§ 2.A), (ii) the deletion of requirements for high performance liquid chromatography (HPLC) analysis and control of bioaccumulation (§§ 3.B and 4), (iii) the revision of the chemical and biological testing requirements (§ 3.B), and (iv) the addition of a compliance monitoring section which provides for monitoring to verify compliance with the regulation (§ 5). Further, as a result of additional public comments received during June and July 1988, certain changes for clarification were made to the version of the regulation adopted in March 1988.

Scope and Purpose:

This regulation is established for the purpose of controlling the levels of toxic pollutants in surface waters discharged from all sources holding NPDES (VPDES) permits issued pursuant to applicable State Water Control Board regulations. The goal of this regulation is to assure that toxic pollutants are not present in surface waters at levels which are causing or may cause toxicity. This regulation is designed to provide standards and procedures by which the permittee shall minimize, correct or prevent any discharge of toxic pollutants in amounts which have a reasonable likelihood of adversely affecting human health or the environment.

VR 680-14-02. Toxics Management Regulation.

§ 1. Definitions.

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

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

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

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

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

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

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

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

["Contaminated nonprocess wastewater" means any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct, or waste product by means of rainfall runoff, accidental spills, leaks caused by failure of process equipment or discharges from safety showers and related personal safety equipment.]

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

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

["Groundwater" means any water beneath the land surface in the zone of saturation.]

"Instream waste concentration (IWC)" means the [percentage concentration] of [an] effluent [, expressed as a percentage] which occurs in the receiving waterbody after mixing.

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

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

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

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

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

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

"National Pollutant Discharge Elimination System (NPDES) [(VPDES)] Permit" means a permit issued by the board, pursuant to Board Regulation No. 6, [(VR 680-14-01,) authorizing, under prescribed conditions the potential or actual discharge of pollutants from a point source to state waters.

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

["Noncontact cooling water" means water which is used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat), byproduct or finished product.]

"No observed effect concentration (NOEC)" means the highest concentration of toxic pollutant or the highest percentage, by volume, of an effluent to which organisms are exposed in a full life cycle or partial life cycle test, which causes no statistically significant adverse effect on the observed parameters (usually survival and growth or reproduction).

"Permit" means a [No-Discharge Certificate or] NPDES [(VPDES)] permit issued by the board pursuant to

applicable board regulations, the Law and the Act.

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

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

["Privately Owned Treatment Works (PVOTW)" means any sewage treatment works not publicly owned.]

["Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. This definition does not include noncontact cooling waters.

"Publicly Owned Treatment Works (POTW)" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.]

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

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

["Stormwater" means flows which are from conveyances or systems of conveyances used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with any raw material, intermediate products, finished products, byproduct, or waste products located on the site of such operations.

"Surface waters" means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

2. All interstate waters, including interstate "wetlands";

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

a. Which are or could be used by interstate or

foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. Which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as surface waters under this definition;

5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

6. The territorial sea; and

7. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.]

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

"Toxicity" means [the inherent potential or capacity of a material to cause adverse effects in a living organism, including] acute or chronic effects to aquatic life, [bioaccumulation of pollutants in the tissues of aquatic organisms at levels which result in potential harm to the organism or pose a risk to organisms in the food chain, or] detrimental effects on human health [or other adverse environmental effects].

§ 2. General provisions.

Whenever NPDES [(VPDES)] permits [or No-Discharge Certificates] for discharges to surface waters are issued, reissued or modified, a determination of the need for toxics management shall be made. [This regulation does not apply to discharges to wells or to groundwater.] The initial step of toxics management shall be a program of biological and chemical monitoring for toxic pollutants. The purpose of this monitoring program shall be to develop [the] data [required for to aid in] establishing water quality based effluent limitations and assessing the extent of effluent toxicity. Further toxics management activities, to include toxicity reduction if needed, shall be required in the permit [for discharges that fail to meet the criteria of § 4. whenever the results of this monitoring program indicate that toxicity does or may exist. Following the initial data generation, biological monitoring may be required of certain categories of discharges to assure continued compliance with the goals of this regulation. This regulation does not apply to:

1. Discharges to wells or groundwater,
2. Discharges of stormwater, and
3. Discharges of noncontact cooling waters with

instream waste concentrations of less than 1.0% and which are not treated with chemical additives.]

A. Applicability.

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

1. A discharge which [is known to be toxic has demonstrated actual or potential toxicity], as defined in § 4 below, or contains toxic pollutants.

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

3. Any industry with [a daily maximum] wastewater flow greater than [or equal to] 50,000 [gpd gallons per day].

4. Publicly Owned Treatment Works (POTW's) with flow greater than [or equal to] 1 MGD one million gallons per day].

5. Any POTW with a pretreatment program.

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

[B. Exemptions to toxics management.

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

[C. B.] Permit reopening.

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

§ 3. Toxics monitoring program.

A. Testing requirements.

Each permitted outfall [to surface waters which falls under the applicability criteria in § 2 A] shall be tested in the prescribed manner. [Modifications to or exemptions from these requirements may be allowed on a case-by-case basis where the specific conditions of the discharge or receiving stream indicate that a full scale toxics

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monitoring program is not necessary to establish the toxicity of an effluent. Data submitted under any previous toxics monitoring program may be used to satisfy these data requirements if it is indicative of current process and effluent conditions.] [Technical assistance in determining appropriate procedures for these tests may be provided by the board staff.] Test protocol, including sampling requirements, shall be approved by the board staff prior to initiation of testing. All data shall be generated within the quality assurance/quality control specifications of the test protocol.

B. Data requirements.

All dischargers identified under § 2 shall be required to obtain and report the following monitoring data [except as modified in § 3.A].

[1. Chemical analyses conducted on 24 independent effluent samples collected monthly or semi-monthly over a period not to exceed two years. Compounds to be analyzed shall be ammonia and chlorine residual (if used in treatment process) and those identified as believed present by municipal applicants in Section II Form A Item 16, or those required to be tested by industrial applicants on Form 2C Item V Part C of the NPDES permit application. Chemical analyses shall be conducted with approved methods.

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

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

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

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

above.

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

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

2. Chronic effluent toxicity tests conducted quarterly in conjunction with the acute toxicity tests on the same species of aquatic organisms or other species approved by the board staff. The tests shall be designed to determine the no observed effect concentration of the effluent on survival and growth or reproduction of the test organism. All discharges with an IWC of less than 1.0% shall be exempted from the requirement for chronic toxicity testing.

3. Chemical analysis for compounds referenced under § 307 (a) of the Act on four independent effluent samples collected in conjunction with the toxicity tests specified in subdivisions 1 and 2 above. In addition, for each sample, the permittee shall tentatively identify a maximum of 30 organic substances which are detected but are not listed pursuant to § 307 (a) of the Act. Tentative identifications shall be based upon the EPA accepted mass spectral library associated with the detection device and do not require the use of an internal standard. All of the substances of greatest apparent concentration not listed pursuant to § 307 (a) of the Act for each volatile organic fraction, to a maximum of 10, and all of the substances of greatest apparent concentration not listed pursuant to § 307 (a) of the Act for the combined base/neutral/acid fraction, to a maximum of 20, shall be tentatively identified. Discharges from facilities within the SIC code 4953 shall identify all organic substances detected in the volatile and combined base/neutral/acid fractions.

The permittee may provide additional samples to address data variability during the one-year period of initial data generation. These data may be included in the evaluation of effluent toxicity. The results of all such additional analyses shall be reported.

C. The following shall be considered when determining effluent mixing:

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

mixing is more appropriate.

2. The critical stream flows to be used shall be the 7 day-10 year low flow value when considering protection of aquatic life and the 30 day-5 year low flow when consideration is for protection of human health effects. Stream flows other than these critical flow values may be applied on a case-by-case basis when mixing is considered for noncontinuous discharges.

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

4. Toxic pollutants are considered to be conservative when calculating instream waste concentration. A conservative substance is one which enters the water column and persists in downstream segments of the water column unaffected by reactive or mechanical forces. The assumption of conservatism may be waived based on pollutant-specific and site-specific information provided by the permittee.]

§ 4. Effluent toxicity decision criteria.

If the following screen is passed, the effluent shall be considered to [~~be nontoxic~~ have demonstrated no actual or potential toxicity and the permittee shall conduct compliance monitoring according the requirements of § 5]. If the effluent fails to meet any one of these criteria, [~~it shall be deemed toxic~~ for the purposes of this regulation, it shall have demonstrated actual or potential toxicity,] and the permittee shall be required to proceed to the toxicity reduction evaluation as described in § [5 6]. [The decision to require a toxicity reduction evaluation may be made whenever the data indicate the following decision criteria have not been met.]

1. LC50 greater than [or equal to] 100% [in six of the total of eight acute toxicity tests, or in at least 75% of the tests conducted if more than eight tests are conducted].

2. NOEC greater than [or equal to] instream waste concentration (IWC) [in six of the total of eight chronic toxicity tests, or in at least 75% of the tests conducted if more than eight tests are conducted].

[~~3. No compounds with a log octanol/water partition coefficient greater than 3.5 discharged.~~

[4. 3.] No instream exceedence of water quality standards or criteria for protection of aquatic life or

human health, where applicable [pursuant to the Virginia Water Quality Standards (VR 680-21-00), based on any of the four samples required under § 3 B 3].

[§ 5. Compliance monitoring.

This monitoring shall be conducted on every discharge of process wastewater, contaminated nonprocess wastewater, POTW effluent or PVOTW effluent which has not exhibited actual or potential toxicity as determined in § 4. These monitoring requirements shall also apply to all discharges which have completed toxicity reduction evaluations. The purpose of this monitoring shall be to demonstrate continued compliance with the decision criteria of § 4. Where a satisfactory demonstration of no impairment of reasonable and beneficial uses has been made, case specific decision criteria will be established in the permit for evaluating the results of compliance monitoring. The species to be used in the following toxicity tests shall be the one most sensitive species as determined by the testing required in § 3.B or an alternative species approved by the board staff. Test protocols, including sampling requirements, shall be approved by the board staff prior to the initiation of testing.

1. Annual acute toxicity tests shall be conducted on all process wastewater, contaminated nonprocess wastewater, POTW and PVOTW discharges.

2. Annual chronic toxicity tests shall be conducted in conjunction with the annual acute toxicity tests on process wastewater, contaminated nonprocess wastewater, POTW and PVOTW discharges with an IWC of 1.0% or greater.

If the acute toxicity tests result in an LC50 of less than 100% effluent or the chronic toxicity tests result in an NOEC less than the IWC, the test shall be repeated within three months.

If the results of the retest are also indicative of a toxic or potentially toxic effluent, the permittee shall begin the data generation requirements of § 3.B within three months. The discharge shall be subject to the toxicity reduction or elimination requirements of § 5 if the results of this data generation effort indicate actual or potential effluent toxicity according to the criteria in § 4.A.

If the results of the retest do not confirm the first indication of actual or potential effluent toxicity, the permittee may resume annual toxicity testing.]

§ [5. 6.] Toxicity reduction or elimination measures.

A. Imposition.

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

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B. Procedures.

Upon notification by the staff (executive director) that a discharge is determined to be [actually or potentially] toxic by the criteria set forth in § 4 above, the permittee shall begin to develop a toxicity reduction evaluation plan. The [goal requirement] of the plan shall be to bring the effluent into compliance with the decision criteria set forth in § 4. [or to demonstrate no adverse impact on all reasonable and beneficial uses of state waters per § 6.D]

1. A comprehensive toxicity reduction plan shall be submitted to the board for approval within [90 120] days of notification that a discharge is determined to be [actually or potentially] toxic.

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

3. Upon approval of the plan by the staff (executive director), the [permit may be modified to include the plan and schedule and the] permittee shall conduct the evaluation [according to the plan and schedule].

4. Upon completion of the evaluation, the permittee shall submit a final report to the board which provides detailed descriptions and results of all work done during the evaluation as well as a recommendation for implementing the preferred reduction/elimination alternative. The final report shall also contain a proposed schedule for implementation of the selected alternative. If the report is inadequate, it shall be returned to the permittee with a written explanation of deficiencies which must be corrected within 45 days. If at the end of that time the permittee has not submitted an acceptable toxicity reduction evaluation report, the board shall find the permittee in violation of the NPDES [(VPDES)] permit [or No-Discharge Certificate] and [shall may] impose a toxicity reduction schedule either through an enforcement action or as a modification of the NPDES [(VPDES)] permit [or No-Discharge Certificate].

5. Upon approval of the final report and the implementation schedule, the NPDES [(VPDES)] permit [or No-Discharge Certificate] shall be modified to include any applicable water quality based

limitations [and ,] a compliance schedule if needed [or monitoring to assure continued compliance with these regulations as specified in § 5]. The permittee shall then conduct the necessary work to bring the discharge into compliance with the [goals requirements] established for the toxicity reduction evaluation.

C. Required plan contents.

The toxicity reduction evaluation plan submitted under [§ 5-B.1 § 6.B.1] shall contain, at a minimum, the methods the permittee shall use to [attempt to] identify the sources of effluent toxicity, the tests to be used to confirm that these are the [toxic pollutants sources of toxicity] in the effluent, a discussion of alternatives to reduce or eliminate the presence of these [compounds sources] in the effluent, and [a an expeditious] schedule for conducting the evaluation. The plan may [also include], at the permittee's option, [provisions provide] for [the] conduct of instream studies as outlined in [§ 5-D § 6.D].

D. Instream impact studies.

As an initial step in the toxicity reduction evaluation, a permittee may conduct field studies to [further] define the [extent of toxicity and bioaccumulation impact that actually occurs to aquatic life in the receiving stream actual impact of the discharge on aquatic life and human health]. These studies shall be conducted at stream flows which are as close as practicable to the critical flow of the receiving stream. [If instream studies are not conducted at or near critical flow conditions, the results of the studies must be predictive of the impacts of the effluent at critical flows. The predictability of the study must be demonstrated prior to its initiation. These studies may not extend the time schedule for conducting a toxicity reduction evaluation beyond two years.] Protocols for these studies shall be approved by the board staff prior to their initiation.

Where the results of these studies [or other information available to the staff] demonstrate [conclusively to the satisfaction of the staff (executive director)] that there is, or would be, no impact [on aquatic life or human health from the discharge from the discharge on all reasonable and beneficial uses of the state's waters], the [requirement for chronic toxicity or bioaccumulation reduction or elimination shall be dropped permit may be modified to remove the requirement for toxicity reduction or elimination].

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

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

Standards:]

[E. Exemptions to the requirement for toxicity reduction or elimination.

Exemptions to toxics management which would result in the loss of a designated use of a waterbody may be granted on a case-by-case basis upon a successful demonstration by the permittee pursuant to 40 CFR § 131.10(g) (1986), except in cases of acute toxicity.]

[§ 6. § 7.] Effluent limitation determinations.

A. Purpose.

Water quality based effluent limitations for toxic pollutants shall be established whenever necessary to assure that effluents meet the decision criteria of § 4 [or to protect all reasonable and beneficial uses of the state's waters].

[B. Basis of limitations.

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

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

[C. B.] Limitations development.

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

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

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

[C. Exemptions.

A permittee may conduct studies for a site-specific

standards/criteria modification to demonstrate that standards or criteria adopted in VR 680-21-00 do not apply to the receiving waters in question due to local water quality peculiarities or other site-specific factors. These studies shall be conducted in accordance with guidelines set-forth in the U.S. EPA Water Quality Standards Handbook (1983 or its successor).]

[§ 7. § 8.] Public comment and hearings.

Any modifications of NPDES [(VPDES)] permits [or No-Discharge Certificates] resulting from the toxics management program shall not be deemed "minor" modifications and shall conform to the requirements contained in the board's Regulation No. 6 [(VR 680-14-01)] section entitled "Public Comment and Hearings."

[Appendix A

SIC 1011 - Iron ores

SIC 1021 - Copper ores

SIC 1031 - Lead and zinc ores

SIC 1041 - Gold ores

SIC 1044 - Silver ores

SIC 1061 - Ferroalloy ores, except vanadium

SIC 1094 - Uranium-radium-vanadium ores

SIC 1099 - Metal ores, not elsewhere classified

SIC 22 - Textile mill products

SIC 23 - Apparel and other finished products made from fabrics and similar materials

SIC 2411 - Logging camps and logging contractors (camps only)

SIC 2421 - Sawmills and planing mills, general

SIC 2426 - Hardwood dimension and flooring mills

SIC 2429 - Special product sawmills, not elsewhere classified

SIC 2431 - Millwork

SIC 2434 - Wood kitchen cabinets

SIC 2435 - Hardwood veneer and plywood

SIC 2436 - Softwood veneer and plywood

SIC 2439 - Structural wood members, not elsewhere classified

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- SIC 2491 - Wood preserving*
- SIC 2493 - Reconstituted wood products*
- SIC 2499 - Wood products, not elsewhere classified*
- SIC 2611 - Pulp mills*
- SIC 2621 - Paper mills*
- SIC 2631 - Paperboard mills*
- SIC 2652 - Set-up paperboard boxes*
- SIC 2653 - Corrugated and solid fiber boxes*
- SIC 2655 - Fiber cans, tubes, drums, and similar products*
- SIC 2656 - Sanitary food containers*
- SIC 2657 - Folding paperboard boxes*
- SIC 2671 - Paper coated and laminated, packaging*
- SIC 2672 - Paper coated and laminated, not elsewhere classified*
- SIC 2673 - Bags; plastics, laminated and coated*
- SIC 2674 - Bags; uncoated paper and multiwall*
- SIC 2675 - Die-cut paper and paperboard and cardboard*
- SIC 2676 - Sanitary paper products*
- SIC 2677 - Envelopes*
- SIC 2678 - Stationery, tablets, and related products*
- SIC 2679 - Converted paper and paperboard products, not elsewhere classified*
- SIC 2711 - Newspapers: publishing or publishing and printing*
- SIC 2721 - Periodicals: publishing or publishing and printing*
- SIC 2731 - Books: publishing or publishing and printing*
- SIC 2732 - Book printing*
- SIC 2741 - Miscellaneous publishing*
- SIC 2752 - Commercial printing, lithographic*
- SIC 2754 - Commercial printing gravure*
- SIC 2759 - Commercial printing*
- SIC 2761 - Manifold business forms*
- SIC 2771 - Greeting card publishing*
- SIC 2782 - Blankbooks, looseleaf binders and devices*
- SIC 2796 - Platemaking and related services*
- SIC 2812 - Alkalies and chlorine*
- SIC 2813 - Industrial gases*
- SIC 2816 - Inorganic pigments*
- SIC 2819 - Industrial inorganic chemicals not elsewhere classified*
- SIC 282 - Plastic materials and synthetic resins, synthetic and other manmade fibers, except glass*
- SIC 2822 - Synthetic rubber (vulcanizable)*
- SIC 2833 - Medicinal chemicals and botanical products*
- SIC 2834 - Pharmaceutical preparations*
- SIC 2835 - Diagnostic substances*
- SIC 2836 - Biological products, except diagnostic*
- SIC 2841 - Soap and other detergents, except specialty cleaners*
- SIC 2851 - Paints, varnishes, lacquers, enamels, and allied products*
- SIC 2861 - Gum and wood chemicals*
- SIC 2865 - Cyclic (coal tar) crudes, and cyclic intermediates, dyes and organic pigments (lakes and toners)*
- SIC 2869 - Industrial organic chemicals, not elsewhere classified*
- SIC 2879 - Pesticides and agricultural chemicals, not elsewhere classified*
- SIC 2891 - Adhesive and sealants*
- SIC 2892 - Explosives*
- SIC 2893 - Printing ink*
- SIC 2895 - Carbon black*
- SIC 2899 - Chemicals and chemical preparation, not elsewhere classified*
- SIC 2911 - Petroleum refining (including (1) topping plant; (2) topping and cracking plants; (3) topping, cracking and petroleum plants; (4) integrated plants; and (5) integrated and petrochemical*

- plants)
- SIC 2951 - Paving mixtures and blocks
- SIC 2952 - Asphalt felts and coatings
- SIC 3011 - Tires and inner tubes
- SIC 3021 - Rubber and plastics footwear (rubber only)
- SIC 3052 - Rubber and plastics hose and belting (rubber only)
- SIC 3053 - Gaskets, packing, and sealing devices (rubber packing only)
- SIC 3069 - Fabricated rubber products, not elsewhere classified
- SIC 308 - Miscellaneous plastics products
- SIC 31 - Leather and leather products
- SIC 3312 - Steel works, blast furnaces (including coke ovens) and rolling mills
- SIC 3313 - Electrometallurgical products
- SIC 3315 - Steel wire drawing and steel nails and spikes
- SIC 3316 - Cold rolled steel sheet, strip and bars
- SIC 3317 - Steel pipe and tubes
- SIC 3321 - Gray iron foundries
- SIC 3322 - Malleable iron foundries
- SIC 3324 - Steel investment foundries
- SIC 3325 - Steel foundries, not elsewhere classified
- SIC 3331 - Primary smelting and refining of copper
- SIC 3334 - Primary production of aluminum
- SIC 3339 - Primary smelting and refining of nonferrous metals, not elsewhere classified
- SIC 3341 - Secondary smelting and refining of nonferrous metals
- SIC 3351 - Rolling, drawing, and extruding of copper
- SIC 3353 - Aluminum sheet, plate, and foil
- SIC 3354 - Aluminum extruded products
- SIC 3355 - Aluminum rolling and drawing, not elsewhere classified
- SIC 3356 - Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum
- SIC 3357 - Drawing and insulating of nonferrous wire
- SIC 3363 - Aluminum die-castings
- SIC 3364 - Nonferrous die-castings, except aluminum
- SIC 3365 - Aluminum foundries
- SIC 3366 - Copper foundries
- SIC 3369 - Nonferrous foundries, except aluminum and copper
- SIC 3398 - Metal heat treating
- SIC 3399 - Primary metal products, not elsewhere classified
- SIC 3411 - Metal cans
- SIC 3412 - Metal shipping barrels, drums, kegs and pails
- SIC 3421 - Cutlery
- SIC 3423 - Hand and edge tools, except machine tools and handsaws
- SIC 3425 - Handsaws and saw blades
- SIC 3429 - Hardware, not elsewhere classified
- SIC 3431 - Enameled iron and metal sanitary ware
- SIC 3432 - Plumbing fixture fittings and trims (brass goods)
- SIC 3433 - Heating equipment, except electric and warm air furnaces
- SIC 3441 - Fabricated structural metal
- SIC 3442 - Metal doors, sash, frames, molding, and trim
- SIC 3443 - Fabricated platework (boiler shops)
- SIC 3444 - Sheet metal work
- SIC 3446 - Architectural and ornamental metal work
- SIC 3448 - Prefabricated metal buildings and components
- SIC 3449 - Miscellaneous metal work
- SIC 3451 - Screw machine products
- SIC 3452 - Bolts, nuts, screws, rivets, and washers
- SIC 3462 - Iron and steel forgings

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- SIC 3463 - Nonferrous forgings*
- SIC 3465 - Automotive stampings*
- SIC 3466 - Crowns and closures*
- SIC 3469 - Metal stampings, not elsewhere classified*
- SIC 347 - Coating, engraving, and allied services*
- SIC 3482 - Small arms ammunition*
- SIC 3483 - Ammunition, except for small arms, not elsewhere classified*
- SIC 3484 - Small arms*
- SIC 3489 - Ordnance and accessories, not elsewhere classified*
- SIC 3493 - Steel springs, except wire*
- SIC 3494 - Valves and pipe fittings, except plumber's brass goods*
- SIC 3495 - Wire springs*
- SIC 3496 - Miscellaneous fabricated wire products*
- SIC 3497 - Metal foil and leaf*
- SIC 3498 - Fabricated pipe and pipe fittings*
- SIC 3499 - Fabricated metal products, not elsewhere classified*
- SIC 3511 - Steam, gas, and hydraulic turbines and turbine generator set units*
- SIC 3519 - Internal combustion engines, not elsewhere classified*
- SIC 3523 - Farm machinery and equipment*
- SIC 3524 - Garden tractors and law and garden equipment*
- SIC 3531 - Construction machinery and equipment*
- SIC 3532 - Mining machinery and equipment, except oil field machinery and equipment*
- SIC 3533 - Oil field machinery and equipment*
- SIC 3534 - Elevators and moving stairways*
- SIC 3535 - Conveyors and conveying equipment*
- SIC 3536 - Hoists, industrial cranes, and monorail systems*
- SIC 3537 - Industrial trucks, tractors, trailers, and stackers*
- SIC 3541 - Machine tools, metal cutting types*
- SIC 3542 - Machine tools, metal forming types*
- SIC 3544 - Special dies and tools, die sets, jigs and fixture and industrial molds*
- SIC 3545 - Maching tool accessories and measuring devices*
- SIC 3546 - Power driven hand tools*
- SIC 3547 - Rolling mill machinery and equipment*
- SIC 3548 - Welding apparatus*
- SIC 3549 - Metal working machinery, not elsewhere classified*
- SIC 3552 - Textile machinery*
- SIC 3553 - Woodworking machinery*
- SIC 3554 - Paper industries machinery*
- SIC 3555 - Printing trades machinery and equipment*
- SIC 3556 - Food products machinery*
- SIC 3559 - Special industry machinery, not elsewhere classified*
- SIC 3561 - Pumps and pumping equipment*
- SIC 3562 - Ball and roller bearings*
- SIC 3563 - Air and gas compressors*
- SIC 3564 - Blowers and exhaust and ventilation fans*
- SIC 3565 - Packaging machinery*
- SIC 3566 - Speed changers, industrial high speed drives, and gears*
- SIC 3567 - Industrial process furnaces and ovens*
- SIC 3568 - Mechanical power transmission equipment, not elsewhere classified*
- SIC 3569 - General industrial machinery and equipment, not elsewhere classified*
- SIC 3571 - Electronic computing equipment*
- SIC 3572 - Computer storage devices*
- SIC 3577 - Computer peripheral equipment, not elsewhere classified*
- SIC 3578 - Calculating and accounting machines, except electronic computing equipment*

- SIC 3579 - Office machines, not elsewhere classified*
- SIC 3581 - Automatic merchandising machines*
- SIC 3582 - Commercial laundry, dry cleaning and pressing machines*
- SIC 3585 - Air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment*
- SIC 3586 - Measuring and dispensing pumps*
- SIC 3589 - Service industry machines, not elsewhere classified*
- SIC 3592 - Carburetors, pistons, piston rings, and valves*
- SIC 3596 - Scales and balances, except laboratory*
- SIC 3599 - Industrial machinery, not elsewhere classified*
- SIC 3612 - Power distribution, and specialty transformers*
- SIC 3613 - Switchgear and switchboard apparatus*
- SIC 3621 - Motors and generators*
- SIC 3624 - Carbon and graphite products*
- SIC 3625 - Industrial controls*
- SIC 3629 - Electrical industrial apparatus, not elsewhere classified*
- SIC 3631 - Household cooking equipment*
- SIC 3632 - Household refrigerators and home and farm freezers*
- SIC 3633 - Household laundry equipment*
- SIC 3634 - Electric housewares and fans*
- SIC 3635 - Household vacuum cleaners*
- SIC 3639 - Household appliances, not elsewhere classified*
- SIC 3641 - Electric lamps*
- SIC 3643 - Current-carrying wiring devices*
- SIC 3644 - Noncurrent-carrying wiring devices*
- SIC 3645 - Residential electric lighting fixtures*
- SIC 3646 - Commercial, industrial, and institutional electric lighting fixtures*
- SIC 3647 - Vehicular lighting equipment*
- SIC 3648 - Lighting equipment, not elsewhere classified*
- SIC 3651 - Radio and television receiving sets, except communication types*
- SIC 3652 - Phonograph records and prerecorded magnetic tape*
- SIC 3661 - Telephone and telegraph apparatus*
- SIC 3663 - Radio and television transmitting and signaling equipment and apparatus*
- SIC 3671 - Electron tubes*
- SIC 3674 - Semiconductors and related devices*
- SIC 3675 - Electronic capacitors*
- SIC 3676 - Resistors for electronic applications*
- SIC 3677 - Electronic coils, transformers, and other inductors*
- SIC 3678 - Connectors for electronic applications*
- SIC 3679 - Electronic components, not elsewhere classified*
- SIC 3691 - Storage batteries*
- SIC 3692 - Primary batteries, dry and wet*
- SIC 3694 - Electrical equipment for internal combustion engines*
- SIC 3699 - Electrical machinery, equipment, and supplies, not elsewhere classified*
- SIC 3711 - Motor vehicles and passenger car bodies*
- SIC 3713 - Truck and bus bodies*
- SIC 3714 - Motor vehicle parts and accessories*
- SIC 3715 - Truck trailers*
- SIC 3721 - Aircraft*
- SIC 3724 - Aircraft engine and engine parts*
- SIC 3728 - Aircraft part and auxiliary equipment, not elsewhere classified*
- SIC 3731 - Ship building and repairing*
- SIC 3732 - Boat building and repairing*
- SIC 3743 - Railroad equipment*
- SIC 3751 - Motorcycles, bicycles, and parts*

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- SIC 3761 - Guided missiles and space vehicles*
- SIC 3764 - Guided missile and space vehicle propulsion units and propulsion unit parts*
- SIC 3769 - Guided missile and space vehicle parts and auxiliary equipment, not elsewhere classified*
- SIC 3792 - Travel trailers and campers*
- SIC 3795 - Tank and tank components*
- SIC 3799 - Transportation equipment, not elsewhere classified*
- SIC 3812 - Search, detection, navigation and guidance equipment*
- SIC 3821 - Laboratory apparatus and furniture*
- SIC 3822 - Automatic controls for regulating residential and commercial environments and appliances*
- SIC 3823 - Industrial instruments for measurement, display, and control of process variable; and related products*
- SIC 3824 - Totalizing fluid meters and counting devices*
- SIC 3825 - Instruments for measuring and testing of electricity and electrical signals*
- SIC 3826 - Laboratory analytical instruments*
- SIC 3827 - Optical instruments and lenses*
- SIC 3829 - Measuring and controlling devices, not elsewhere classified*
- SIC 3841 - Surgical and medical instruments and apparatus*
- SIC 3842 - Orthopedic, prosthetic, and surgical appliances and supplies*
- SIC 3843 - Dental equipment and supplies*
- SIC 3844 - X-ray apparatus and tubes and related irradiation apparatus*
- SIC 3845 - Electromedical and electrotherapeutic apparatus*
- SIC 3851 - Ophthalmic goods*
- SIC 3861 - Photographic equipment and supplies*
- SIC 3873 - Watches, clocks, clock-work operated devices and parts*
- SIC 3911 - Jewelry, precious metal*
- SIC 3914 - Silverware, plated ware, and stainless steel ware*
- SIC 3915 - Jeweler's findings and materials and lapidary work*
- SIC 3931 - Musical instruments*
- SIC 3942 - Dolls*
- SIC 3944 - Games, toys, and children's vehicles, except dolls and bicycles*
- SIC 3949 - Sporting and athletic goods, not elsewhere classified*
- SIC 3951 - Pens, mechanical pencils and parts*
- SIC 3952 - Lead pencils, crayons, and artists' materials*
- SIC 3955 - Carbon paper and inked ribbons*
- SIC 3961 - Costume jewelry and costume novelties, except precious metal*
- SIC 3991 - Brooms and brushes*
- SIC 3993 - Signs and advertising displays*
- SIC 3995 - Burial caskets*
- SIC 3996 - Linoleum asphalted-felt-base and other hard surface floor coverings, not elsewhere classified*
- SIC 4911 - Electric service (limited to steam electric power plants)*
- SIC 4953 - Refuse systems]*

EMERGENCY REGULATIONS

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

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

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

Effective Date: August 30, 1988 through July 1, 1989

Summary:

These emergency regulations establish the specifications for manufacture of vehicle emissions inspection equipment needed for the new emission control program to be operable by January 1, 1989, as provided by the Code.

Background and Emergency Justification:

Declining air quality and noncompliance with national standards necessitated enhancements to Virginia's auto inspection program. Amendments during the 1988 legislative session, among other things, transferred the emission testing program from the Department of State Police to the Air Pollution Control Board, increased the number of model years of cars required to be inspected, and altered the fee and inspection schedule from \$5 annually to \$12.50 every two years. The expanded program is effective January 1, 1989.

The Department intends to require that inspectors use automated analyzers, as most states do already, to overcome one of the major deficiencies in Virginia's current program: ineffective audits because of poor recordkeeping capability. Although the legislation does not require that automated analyzers be used, the equipment is essential in making the program effective and improving the state's ability to bring air quality in Northern Virginia within health-based limits for ozone.

All the regulatory changes necessary for the expanded program are being promulgated on a normal schedule in accordance with the APA, including the technical specifications for automatic analyzers. The Department anticipates an effective date of January 1, 1989.

By expediting the analyzer equipment specifications, the Department can provide manufacturers with the details needed for development of the equipment in time for use on January 1, 1989. If promulgation of the equipment specifications is postponed, the availability of suitable equipment will be delayed until approximately four to six months after the effective date of the regulation. During the interim, consumers will be paying for an inspection of less quality than intended in establishing the fee, which reflects the need to purchase new equipment. Perhaps more importantly is the delayed effectiveness of the program and improvements to air quality despite recurrent admonition for nonattainment of standards.

Although many states use automatic analyzers for emission inspections, their equipment is not suitable for use in the Virginia program. Variations in state law and emission conditions require that program-specific software be used.

Specifications for the software proposed for Virginia are based on an EPA model, modified for the Virginia situation, particularly the Northern Virginia vehicle count and the law's inclusion of vehicles up to 20 years old. The biennial inspection further distinguishes the Virginia program from other states and disallows unmodified adaptation of equipment used elsewhere.

In preparation for expediting promulgation, the Department met with members of the service station association in Northern Virginia to discuss changes in the law and emission inspection process. The Department relays that service station owners are eager to have a smoother transition, and fear that postponements to the readiness of equipment may prove costly.

Approval Sought:

The Governor's approval is desired for the emergency regulation, indicated by signing the regulation.

Implementation:

With the Governor's approval, the emergency regulation will be filed with the Registrar for publication in the Virginia Register. The effective period of the emergency regulation expires July 1, 1989.

Preamble:

Previously the Commonwealth's motor vehicle emissions control program was managed by the Department of State Police (DSP). The 1988 General Assembly took two significant actions with respect to that program: (i) responsibility for the program was shifted from DSP to the Board, effective July 1, 1988; and (ii) several of the program parameters were changed that will significantly alter the program applicability and improve its effectiveness. The Board will be able to enforce the DSP regulations through the end of 1988 but must develop new regulations for the new program which become effective on January 1, 1989.

A key provision of the new program is the mandated use of automated emissions analyzer systems. The automated analyzer system requirements are contained in the regulation which establishes equipment and data collection and emission standard specifications. The design used by each manufacturer may be changed and/or improved at the discretion of the manufacturer without regulatory changes. The standards, which are part of the regulations, are not likely to need to be

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changed for some time.

One of the major deficiencies in the ongoing program is its inherently poor recordkeeping capability, thus making effective audits and, consequently, effective regulation impossible. This is because the currently required analyzer system is a manual one in which the service station inspector writes the results for each emission test on a separate form. Dirty hands, illegible writing and incorrect recording often preclude the possibility of utilizing the data. Furthermore, individual hand written test report slips must then be recorded by other personnel in order to provide summary information for reporting and analysis. An automated analyzer system provides for rapid, accurate electronic data recording, collection and analysis. Perhaps more importantly, it provides an electronic record of how the test was done, which, in turn, provides an effective regulatory audit. Practically all of the other states which have similar programs have already included automated analyzers in their programs for these reasons.

The code mandates that the new program begin on January 1, 1989. All the regulatory changes necessary to make this happen are being processed on a normal schedule, as provided by the Administrative Process Act. This process includes the regulation for the automated analyzer specifications. However, in order to tailor the software which will record the inspections and serve as the heart of the recordkeeping system, the manufacturers must know the exhaust emission standards for the new program. Also, in order to design the equipment, the manufacturers must know what the data collection requirements will be. The manufacturers need this information now if they are going to be able to get the equipment designed, produced and on the market by January 1, 1989.

Although the code does not require that automated analyzers must be used starting January 1, 1989, it is important to provide the regulatory basis for allowing this to be required for several reasons. First, automated analyzers are a key element in making the program effective and this program is the only ongoing program which will make a major improvement in our ability to bring air quality in Northern Virginia within health based limits for ozone. Secondly, by specifying the equipment now, inspection stations, some of which must buy replacement equipment in the next several months, will be able to avoid having to purchase equipment which may become obsolete under the new program. All other features of the program will become effective January 1, 1989. If promulgation of this analyzer specification regulation is postponed until January 1, 1989, it will mean that manufacturers would not have the approved equipment available until approximately six months later, thus weakening the initial air quality effectiveness of the program.

Preface:

This specification provides the technical and performance standards for the exhaust emissions analyzer required by the State Air Pollution Control Board. Automatic features required by this specification include automatic gas spanning, automatic leak checking, automatic hydrocarbon (HC) hang-up check, automatic test averaging (i.e., automatic read system), automatic test sequencing and automatic data collection. Additionally, the specification requires that the analyzer possess a basic vehicle diagnostic/tune-up capability, a low-flow lockout capability, an anti-dilution capability, and an engine speed monitoring capability. The system is required to include a computer or microprocessor, a display, an operator prompt, and a printer.

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

PART I. GENERAL.

§ 1.1. Design goals.

The emissions analyzer 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 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.

§ 1.2. Useful life.

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

§ 1.3. 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

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stick-on type label to the analyzer which contains a telephone number for customer service.

§ 1.4. 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.

§ 1.5. Warranty coverage.

A. A written warranty coverage agreement must accompany the sale or lease of each approved emissions analyzer. 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 model for V.A.S. certification. The agreements shall be reviewed by the Virginia Department of Air Pollution Control (hereafter the department) for adequacy as part of the analyzer certification procedure. (See § 1.7)

C. Printers and other peripheral devices shall be included under the general warranty unless otherwise specified in § 1.6.

§ 1.6. Manufacturer provided services.

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

1. Delivery, installation, calibration, and verification of the proper operating condition of a vehicle emissions analyzer which has been approved in writing by the department.
2. Training of all inspectors employed by the station

at the time of installation in the proper use, maintenance, and operation of the analyzer, including the step-by-step procedure for performing a vehicle idle inspection.

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

- a. Changes to the emission standards (cutpoints) including additions up to 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 inspection stations maintain their analyzers 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 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 preset into the analyzer to ensure that all analyzers automatically convert to updated programs simultaneously.

§ 1.7. Certification of analyzers.

No analyzer may be installed, sold or represented as a VAS 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 inspection stations shall be regularly notified by the department of systems meeting certification requirements and of system performance.

PART II. CONSTRUCTION/MATERIALS.

§ 2.1. Materials.

All materials used in the fabrication of the analyzer and the appropriate housing assembly shall be new and of industrial quality and durability. Contact between non-ferrous and ferrous metals shall be avoided where

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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 automobile exhaust gases shall be used.

§ 2.2. Construction.

The analyzer 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 and/or adjustment of components and parts without requiring the modification of any parts or the basic equipment design. Where practical, components and/or subassemblies shall be modular. The analyzer cabinet finish shall be baked enamel or equivalent.

§ 2.3. Mobility.

The analyzer unit shall be designed for easy and safe movement over hard and/or graded surfaces. The center of gravity and wheel design shall be such that the analyzer 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.

§ 2.4. 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.

§ 2.5. Power supply.

The analyzer shall operate from unregulated 120 volt, 60 hertz (Hz) supply. An input variation (at the analyzer power plug) of from 103 to 126 volts and +/- 1 Hz frequency variation shall not change analyzer performance more than 1% 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.

§ 2.6. Fault protection.

Each analytical system and the entire emissions analyzer shall incorporate safety devices to prevent conditions hazardous to personnel or detrimental to equipment. The system shall be grounded to prevent electrical shock; adequate surge and circuit overload protection shall be

provided.

PART III. HARDWARE/DESIGN.

§ 3.1. Read-out display control panel.

A. The console shall contain numerical hydrocarbon (HC) (as hexane), a carbon monoxide (CO), and carbon dioxide (CO₂) displays and a pass/fail display. Oxygen (O₂) 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:

CO: X.XX%
HC: XXXX ppm (as hexane)
CO₂: XX.X%
O₂: XX.X% (Optional)

The display increments shall be 0.01% CO, 1 ppm HC, and 0.1% CO₂. The displays shall be capable of displaying at least 9.99% CO, 2000 ppm HC (as hexane), and 20% CO₂.

C. A cathode ray tube (CRT) or equivalent display shall be provided to indicate pass and fail for HC, CO, 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 CO + CO₂ emissions.

D. The analyzer shall be capable of selecting 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 cut point groups. The four vehicle types should appear in numeric order starting with one, and should contain no more than 13 alpha characters to describe any one type. Initially these vehicle types shall be represented by a one for vehicles under 6000 lbs. and two for vehicles 6000 to 8500 lbs. Once entered, the pass/fail values (cutpoints) for each test will be automatically selected by the unit as a result of operator input. Cutpoints shall be mandated by the State Air Pollution Control Board (hereafter the board). The frequency and associated costs of such mandated changes shall conform to the requirements of § 1.6. Initially, the unit shall have the following cutpoint groups:

Model Year	CO (%)	HC (ppm)
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1981-later	1.2	220
1980	2.0	220
1975-1979	4.0	400
1970-1974	6.0	600
1968-1969	8.0	800

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

§ 3.2. 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 HC hang-up procedures.

B. Analyzer 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 shall be equipped with an internal clock which operates independently from the power source and will provide accurate and automatic date and time information for the following functions:

1. Each test performed.
2. Automatic gas span check (every 180 hrs.).
3. Automatic leak check (every 180 hrs.).

§ 3.3. 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 3 inch radius 90 degree bend, 4 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 near the probe tip before the flexible portion of the probe 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, it is required that the sealing surface be 1/2 inch in outside diameter and 1/2 to 1 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 § 3.9.

H. The interconnecting hose shall be of such design and weight that it can easily be handled by the 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 must 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 positive displacement diaphragm type, with corrosion resistant internal surfaces. The pumps shall be designed for a mean time between failures of 2,000 hours or more.

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

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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.

§ 3.4. Analytical system.

The analytical system shall include CO, CO₂, and HC analyzers. These analyzers shall be the nondispersive infrared type.

§ 3.5. 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, Section 3.1.10 and/or 3.1.10.1 (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, Section 3.2.2.6 (see Appendix D).

§ 3.6. Automatic data collection.

The analyzer 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 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 preset station number, and the analyzer 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. 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 state inspectors only and shall not appear in the standard menu.

a. Inspector I.D.

b. VIN 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 CO and HC values (retest & state tests only)

j. Emission Repair Costs, (for retest & state tests only)

k. Repair Codes (retest and state tests only)

l. Vehicle With*/Without Air Injection

m. Single*/Dual Exhaust

n. Tampering 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 HC and CO limits for a pass/fail decision. Entering the number of cylinders shall key appropriate idle speed ranges described in § 3.16. Entering vehicles with or without air injection shall key an appropriate antidilution response described in § 3.15. 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 HC hang up check shall be performed. (See §§ 3.10 and 5.8) After the probe is inserted into the vehicle tail pipe, 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, Section 207(b), specified restart procedures for vehicles manufactured by Ford Motor Company [40 CFR 85.2201(b)] and the EPA recommended restart procedure for vehicles produced by the Honda Motor Car Company. Updates of analyzer programming and/or hardware 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 §§ 3.15 and 5.9.) If the vehicle passes or qualifies for a certificate, an appropriate certificate number will be entered. The first four elements of the certificate number will be automatically generated by the analyzer. 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 identification number. The remainder of the certificate shall be six numeric characters entered manually. This procedure shall also apply to the generation of the 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 HC and CO readings, a pass/fail determination, and other information indicated in §§ 3.6 B, 3.7 and 3.17 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 verify the entire record prior to printing a Certificate of 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 board 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; only state authorized personnel and manufacturer's representatives shall have access.

§ 3.7. Printing system.

A. The system shall have a printer which is capable of tractor feed and will provide for a Certificate of 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 fan-folded forms. The form supply shall be within a secured enclosure, and a receiving container for the station copy of the Certificate 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 Inspection specified above will be a preprinted serialized form with a space available for printing analyzer produced test results. The top 2 1/2 inches of the form will be preprinted by the department as well as the bottom 3 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 § 3.17. 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 CO or HC standards for vehicles which fail due to tampering or smoke. Printing on the form shall conform to the official Certificate of Inspection which will be available from the department within 60 days of the effective date of this regulation.

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

§ 3.8. Automatic gas span check.

A. The analyzer 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

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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 analyzers shall be 1.6% CO, 600 ppm HC (as hexane), 11% CO₂ in nitrogen, +/- 2% accurate, +/- 0 blend tolerance and satisfy the criteria included in the Federal Clean Air Act, Section 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 inspection station for use in the analyzer 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.

§ 3.9. 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, provided 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 will be unable to perform the next sequential function until the system is properly leak checked and passes. BAR 80, Section 3.2.2.7, leak check procedures are deemed to be acceptable.

§ 3.10. Automatic hang-up check.

A. The analyzer shall be designed for automatic HC hang-up check of the sampling system using room air. The analyzer 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 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 HC response is below the value specified in § 5.8 (20 ppm hexane). If after 300 seconds hang-up is not below 20 ppm 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 "HC hang-up in the sample system" will be displayed at the 300 second mark. When the level stabilizes below or at the 20 ppm value, an indication that testing may begin shall be displayed. The analyzer shall be precluded from operating until the HC level is met, or 300 seconds have elapsed.

B. The analyzer shall also be locked out unless a successful hang-up check has been performed since the last activation of the test sequence or the HC analyzer has not experienced an HC level greater than that specified in § 5.8.

§ 3.11. Vehicle diagnosis.

A. For the purpose of vehicle diagnosis and/or repairs, the analyzer shall have a selector switch, a button, or other equivalent CRT indicator labeled "Vehicle Diagnosis" or "Vehicle Repair". Activation of "Vehicle Diagnosis" shall allow the analyzer to continuously monitor the vehicle exhaust regardless of inspection status (e.g., system needs weekly span check, leak check, and warm-up condition). An analyzer which is in the "Vehicle Diagnosis" mode shall not activate the idle speed lockout function described in § 3.16 of this specification.

B. The automatic data collection system shall be prevented from operating anytime the analysis 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 providing that they are deactivated for official inspections.

§ 3.12. Analyzer tamper protection.

A. The analyzer 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, anti-dilution 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 must allow convenient access by authorized personnel under special state or service menu options. Attempts to open or to gain access when the system is not in a state or service mode shall result in a system lockout requiring state or service reset.

§ 3.13. Automatic read system.

A. The analyzer shall have a selector switch, equivalent prompter/command or button (with indicator light) labeled "starttest". Activation of "start-test" shall cause the analyzer system to begin the sequence outlined in § 3.14. The sample validation can occur prior to or simultaneously with the HC and CO 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 HC and CO 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 Hz. However, the digital sample rate may be as low as two Hz provided the manufacturer satisfactorily demonstrates equivalent response (accuracy). If the manufacturer identifies that the response time to 99 percent of a step change is less than 17 seconds, the manufacturer may select anytime between the 99 percent 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 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 § 3.14) may interact with the automatic read system to reset the display at appropriate times or within the test sequence.

§ 3.14. Automatic test sequence.

A. The analyzer systems must be capable of being programmed to provide a variety of automatic features relating to operator input, prompting on CRT, 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 HC hang-up procedures. "Invalid Test" shall be displayed, printed, and stored when CO + CO₂ limits or RPM 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. Inspector I.D.?
3. VIN 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 CO and HC values (Retest & State test only)

11. Emissions Repair Cost, (only on Retest & State tests) Display appropriate repairs message

12. Repair Codes (Retest & State test only) (see Standardized Repair Codes, Table 3.1)

13. Calculate Percent Emission Reduction-CO and HC (Retest & State test only)

14. Air Injection?

15. Single or Dual Exhaust?

16. Tampering Inspection List (P/F/N)

17. Based on the presence of an air pump and the number of cylinders, CO + CO₂ level, and RPM limit are automatically set.

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

- a. CO %
- b. HC ppm
- c. CO + CO₂ %

19. Emission Test (Valid/Invalid)

20. Emission Test (Pass/Fail)

21. Visible Smoke (P/F)

22. Certificate Number

23. City/Town Where Repaired ?

24. Name of Repair Garage ?

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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 displayed: "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 3.1 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 selected entries shall not be printed on the report.

TABLE 3.1
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 EGR Valve

O Air Injection System

P PCV 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

§ 3.15. Anti-dilution.

A. The analyzer shall be equipped with an anti-dilution feature to identify vehicle exhaust system leaks and sample dilution. The technique for identifying leaks shall be monitoring the CO + CO₂ levels in the exhaust.

B. Two lower-limit CO + CO₂ values shall be used:

1. Vehicle equipped with air injection: 4%

2. Vehicle without air injection: 6%

C. If the CO + CO₂ reading is less than the lower limit, the analyzer output shall display, print, and store "Invalid Test" indication.

§ 3.16. Engine tachometer/excessive idle lockout.

A. A digital tachometer shall be integrated with the console 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 an r.p.m. pick-up. The operator should be prompted to shut the engine off while connecting the r.p.m. probe. Appropriate connection in order to obtain r.p.m. from all current production on-road vehicles as of the release date of this specification shall be provided. A by-pass option shall be available for 1989 and later vehicle model years.

B. Idle speed ranges are as follows:

More than 4 cylinders 300 - 1200 RPM

4 or less cylinders 300 - 1600 RPM

§ 3.17. 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 the state test procedure, waivers may be issued for any vehicle. During a retest, other vehicles shall not be allowed a waiver until an appropriate repair

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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. Any vehicle failing a test that has not exceeded 50,000 miles on the odometer and is less than five model years old shall trigger a "Possible Warranty Repair Item-Contact Vehicle Manufacturer or Department of Air Pollution Control" message to be printed on the certification.

§ 3.18. Innovative technology.

The board recognizes that the VAS is 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 VAS certification. 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 state. The criteria for evaluation of innovative technologies is contained in Appendix C.

PART IV. ENVIRONMENTAL.

§ 4.1. Storage temperature.

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

§ 4.2. Operating temperature.

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

§ 4.3. Humidity conditions.

The analyzer shall be designed for use inside a building or semi-protective shelter that is vented or open to outside ambient humidity. The BAR 80, Section 3.1.5, specification for humidity conditions shall be used.

§ 4.4. Temperature control.

Analyzer 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.

§ 4.5. 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 V. PERFORMANCE.

§ 5.1. Overall accuracy.

A. Each analyzer shall have an overall accuracy which limits the maximum error to +/- 3% of each range or portion thereof as follows, when calibrated with 1600 ppm HC, 8.0% CO and 11% CO₂.

HC:	0 to 400 ppm HC = +/- 12 ppm
	400 to 1000 ppm HC = +/- 30 ppm
	1000 to 2000 ppm HC = +/- 60 ppm
CO:	0 to 2% CO = +/- 0.06%
	2 to 5% CO = +/- 0.15%
	5 to 10% CO = +/- 0.3%
CO ₂ :	0 to 10% CO ₂ = +/- 0.3%
	10 to 16% CO ₂ = +/- 0.5%

B. This error shall include, but not be limited to, the resolution limitations incurred when reading the equivalent instrument meters and/or other read-out devices by eye at the distance of 15 feet. [Ref: BAR 80, Section 3.1.2 (see Appendix D)]

§ 5.2. Drift.

For span and zero drift, the instrument shall not exceed +/- 12 ppm HC and +/- 0.06% CO for the first hour of operation and shall not exceed +/- 8 ppm HC and +/- 0.04% CO for each succeeding hour of operation. Both drift corrections shall be automatically activated at start-up each day and before every test. [Ref: BAR 80, Section 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.

§ 5.3. Warm-Up.

The analyzer shall reach stabilized operation in a garage environment within 15 minutes from power on (20 min. at 40 degrees F) [Ref: BAR 80, Section 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.

§ 5.4. Response.

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

§ 5.5. Optical correction factor.

A. The hexane/propane conversion factor shall be limited to values between 0.49 and 0.54. The BAR 80, Section 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.

§ 5.6. Interference.

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

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

§ 5.7. 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. [Ref: BAR 80, Sections 3.1.12, 3.1.2, 3.2.2.7, and 4.2.3 (see Appendix D)].

§ 5.8. 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.

§ 5.9. Anti-dilution limits.

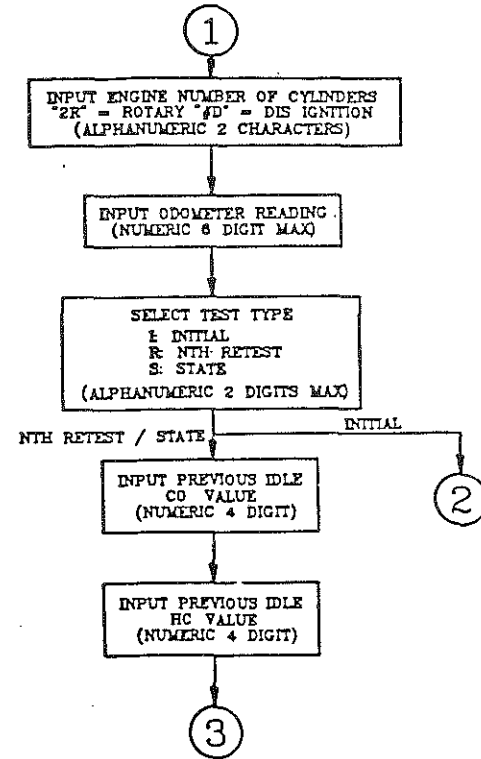
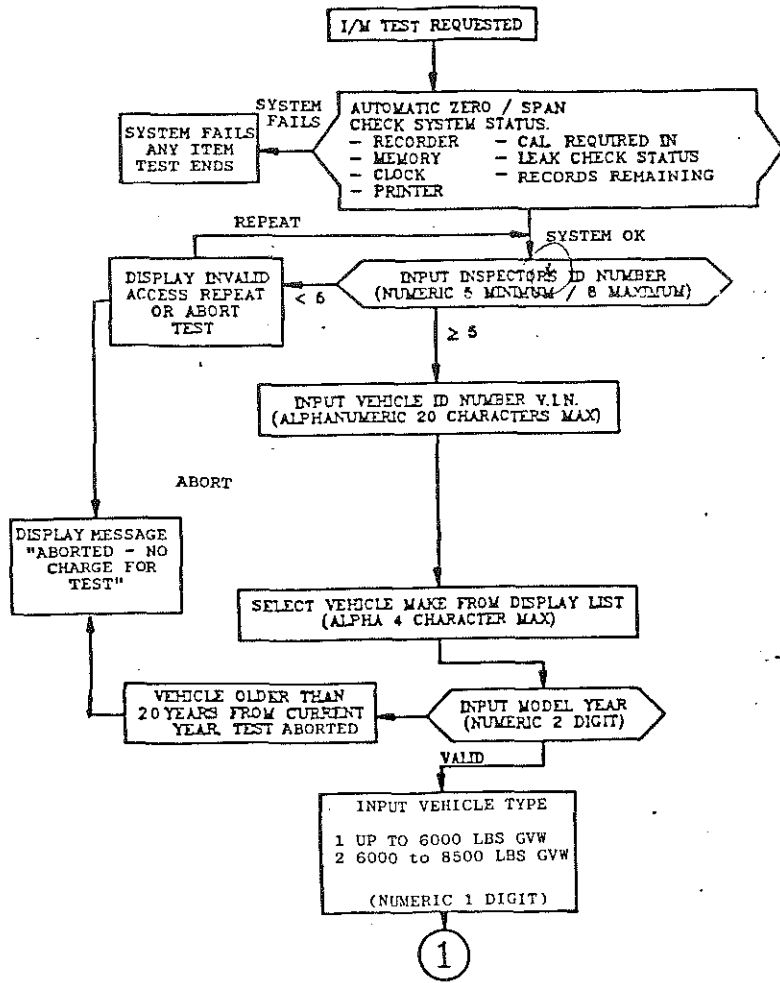
The CO₂ analyzer shall meet all the analyzer accuracy specifications between CO₂ values of 0 and 14%. Exceptions are (i) the CO₂ interference specification does not apply; and (ii) the uncertainty of the calibration curve shall be $\pm 0.3\%$ CO₂ in the range of 0 to 10% CO₂ and $\pm 0.5\%$ CO₂ in the range of 10 to 15% CO₂.

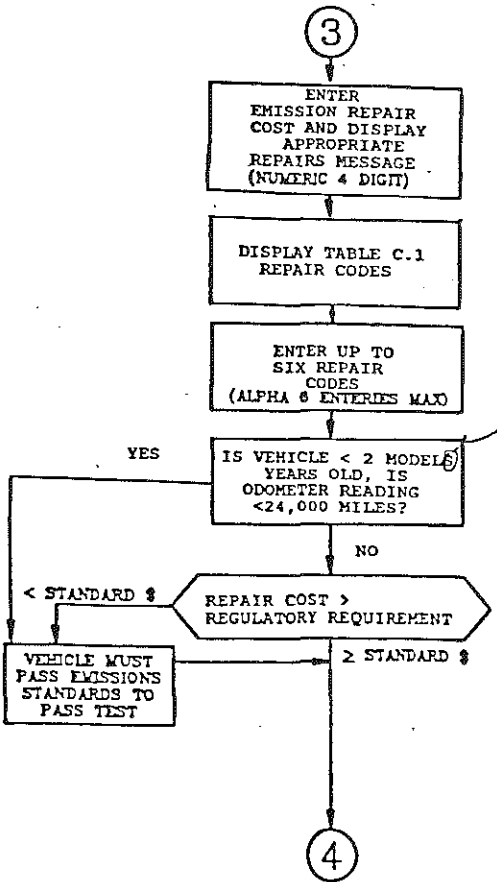
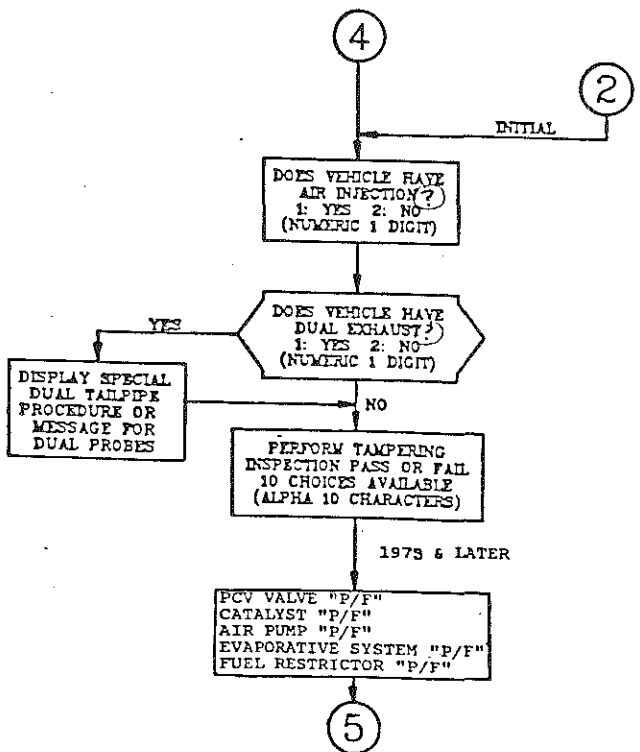
ABBREVIATIONS

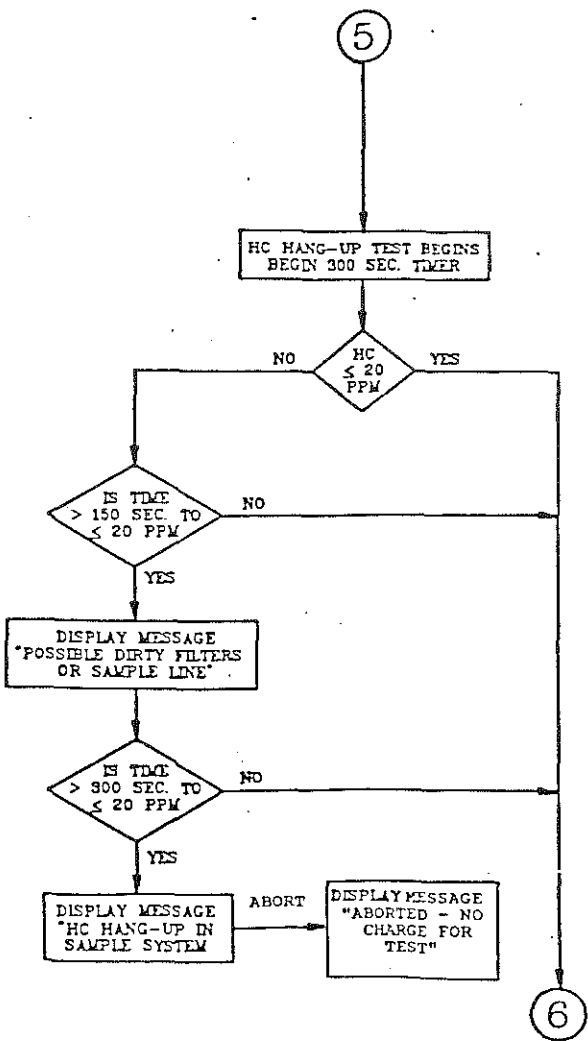
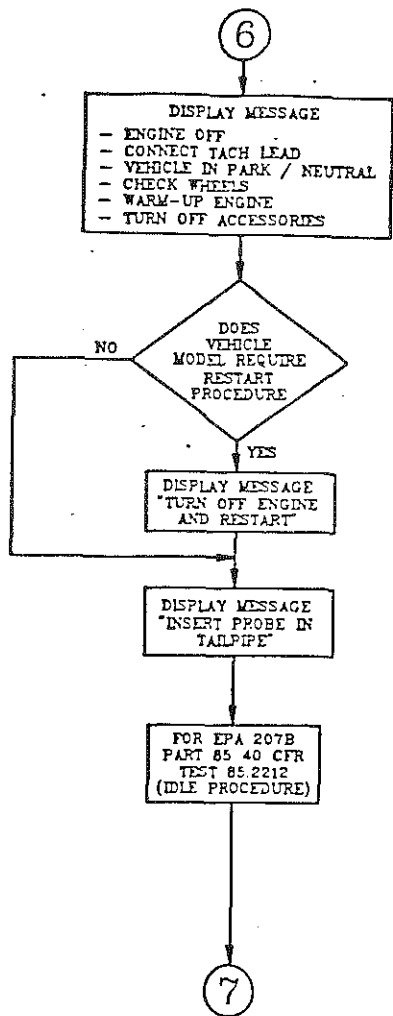
BAR	Bureau of Automobile Repair, State of California analyzer specifications
CO	Carbon Monoxide
CO ₂	Carbon Dioxide

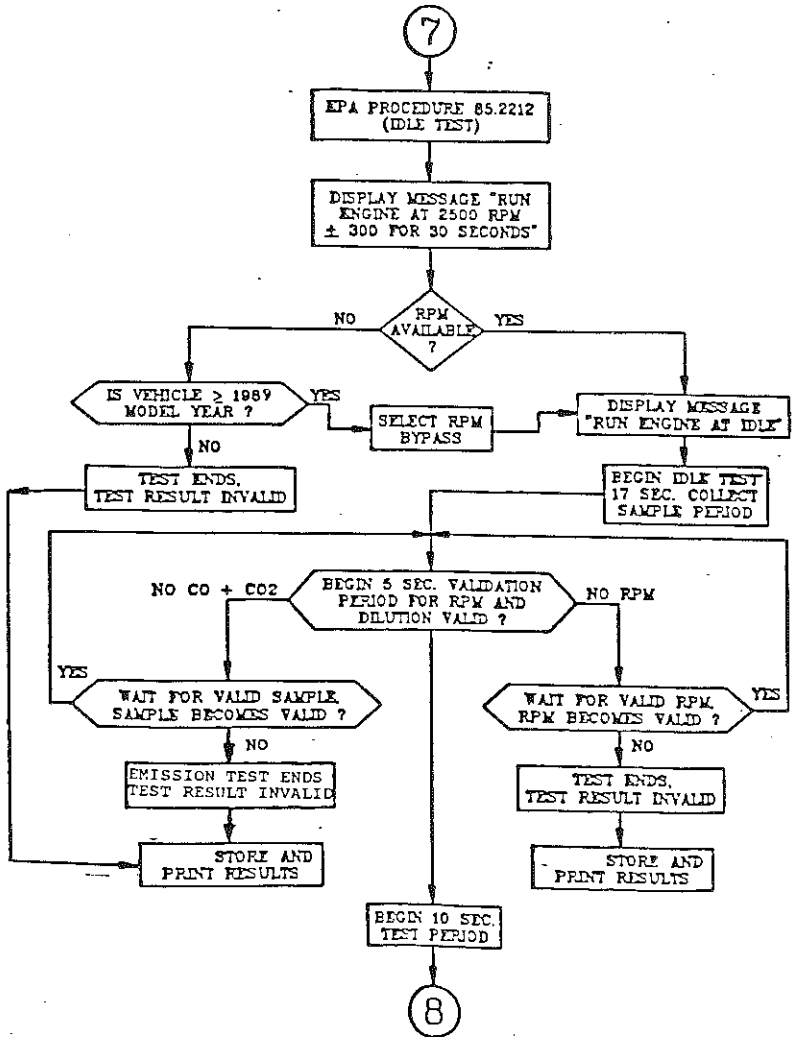
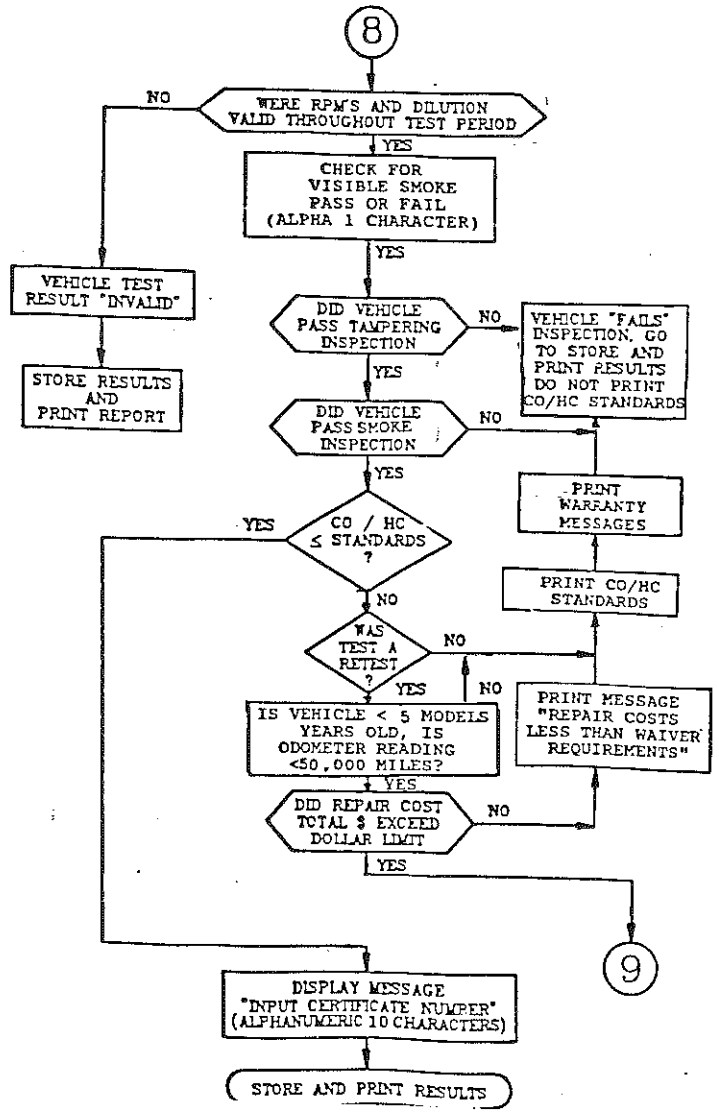
CRT	Cathode Ray Tube, a monitor or screen
HC	Hydrocarbons
O ₂	Oxygen
ppm	parts per million
r.p.m.	revolutions per minute
VAS	Virginia Analyzer System

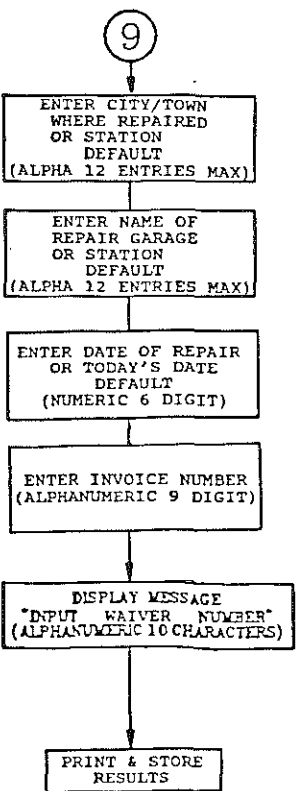
PROGRAM FLOW DIAGRAM











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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 track - 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

Pre-defined 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 pre-defined 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 pre-defined 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 encounters any disk errors during write or read after write, the disk read or write should be re-tried ten 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 operations will be inhibited. The State representative 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 will require that this test be performed at least every 180 hours. The analyzer 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 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 CRT. The vehicle make abbreviation selected will be entered into the analyzer 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".

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TABLE A-1
CALIBRATION RECORD FORMAT

Description	Byte Count	Bytes	Method ¹	Content ²
<u>GENERAL INFORMATION</u>				
1. Record Identification	6	0-5	A	"SYSTEM"
2. Gas Cal 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
<u>MANUAL INPUT</u>				
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
<u>TEST RESULTS</u>				
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	71-51		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.

TABLE A-2

VEHICLE TEST RECORD FORMAT

Description	Byte Count	Bytes	Method ¹	Content ²
<u>GENERAL INFORMATION</u>				
1. Record Identification	6	0-5	A	"VEHICL"
2. Station Number	5	5-10	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
<u>INSPECTION INFORMATION</u>				
7. 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
<u>TAMPERING INSPECTION RESULTS</u>				
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 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"

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Description	Byte Count	Bytes	Method ¹	Content ²
<u>REPAIR INPUTS</u>				
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
<u>IDLE EMISSIONS TEST RESULTS</u>				
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
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		
<u>WAIVER INPUTS</u>				
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
<u>FINAL INPUTS</u>				
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

2 - Content Input Codes

M = Manual Entry
A = Automatic Entry

A = Alphabetic Character
N = Numeric Character
AN = Alphanumeric Character

TABLE A-3
VEHICLE CODES

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

APPENDIX B.
PHYSICAL DISK DEFINITION.

<u>MODEL</u>	<u>SONY (or equivalent)</u>
<u>GENERAL CHARACTERISTICS</u>	
<u>Usable Sides</u>	Double Side
<u>Recording density</u>	Double density
<u>Maximum recording density</u>	8,717
<u>Number of tracks</u>	80x2
<u>Track density (TPI)</u>	135
<u>Memory capacity (Bytes, Unformatted)</u>	1M
<u>Format</u>	Unformatted
<u>Data transfer rate (BPS)</u>	500K (500 RFM)
<u>Disk rotation (RPM)</u>	300/600
<u>Recording system</u>	MFM
<u>Dimensions</u>	
<u>Outer diameter (mm)</u>	86.0
<u>Disk thickness (um)</u>	80
<u>Coating thickness (um)</u>	1.9
<u>External dimensions (mm)</u>	90±0.4±3.3 (WHD)
<u>Weight (g)</u>	22
<u>Track Quality</u>	
<u>Missing pulse</u>	0
<u>Extra pulse</u>	0
<u>Environmental Requirements</u>	
<u>Operating/storage conditions</u>	32°F to 140°F at 3% to 90% RH
<u>Magnetic Characteristics (Normal)</u>	
<u>Squareness</u>	0.7
<u>Residual magnetic flux density (GAUSS)</u>	700
<u>Coercive force (OERSTEDS)</u>	625
<u>Surface electric resistance (OHM/IN²)</u>	1x10 ¹²

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APPENDIX C. INNOVATIVE TECHNOLOGY REQUIREMENTS FOR 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 to determine if systems meet VAS certification requirements. Only analyzer systems which demonstrate superior or equivalent performance and utility shall obtain certification. 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 § 3.6 C and the data verification standards of § 3.6 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 non-conformance.

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 these regulations, 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.

B. Any reference in these regulations 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 regulations 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, in 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 Automated Repair.

1. The following documents from the California Bureau of Automotive Repair are hereby 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

Emergency Regulations

*Consumer Affairs, Bureau of Automotive Repair,
California Vehicle Inspection Program, 3116 Bradshaw
Road, Sacramento, California 95827.*

APPROVALS:

/s/ Richard L. Cook
Executive Director
Department of Air Pollution Control

/s/ John W. Daniel, II
Secretary of Natural Resources

/s/ Gerald L. Baliles
Governor

/s/ Joan W. Smith
Registrar of Regulations
Date: August 30, 1988 - 11:01 a.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: Senior Citizens Higher Education
Program.

Statutory Authority: §§ 23-38.54 through 23-38.60 of the
Code of Virginia.

Effective Date: August 30, 1988 through August 29, 1989

Upon adoption by the Council, approval by the Governor
and filing with the Registrar of Regulations, pursuant to §
9-6.14:4.1.C5 of the Code of Virginia.

Summary:

*The General Assembly passed, and the Governor
signed on March 8, Senate Bill 307. This bill provides
that senior citizens participating in the tuition-free
program of higher education who have completed 75%
of their degree requirements may enroll for courses at
the same time as tuition-paying students, rather than
waiting until regular registration is completed.*

Background and Emergency Justification:

*The Council is charged with prescribing the
regulations governing the Senior Citizens Higher
Education Act as amended. The proximate cause of
the legislation was the experience of many senior
citizens who approached the end of the degree
program finding the courses needed for completion
are frequently filled to capacity by tuition-paying
students or cancelled for insufficient participation.
Since the senior citizens in the nontuition program
cannot register until other students have completed
registration, they have no effect on the decision to
cancel due to insufficient participation and they are*

*unable to finish their degree work when they are
locked out of courses required for a degree that are
filled by tuition-paying students. Council staff
estimates that this regulation will directly affect about
100 senior citizen students.*

*To have the regulations in place for the 1988-89
school year, the Council, on July 6, 1988, directed
that the regulations necessary to implement these
changes in the program should be promulgated as
emergency regulations. The Council will proceed as
prescribed by the Administrative Processes Act to
promulgate permanent regulations.*

Approval Sought:

*Approval of the Governor is sought for the emergency
amendment of the State Council of Higher Education's
regulations in accordance with § 9-6.14:4.1.C5 of the
Code of Virginia.*

Implementation:

*After the Governor's approval is given, the State
Council of Higher Education will publish as soon as
possible these emergency regulations in the Virginia
Register. The effective period of the emergency
regulations will be limited to one year or until full
compliance with provisions of the APA process in §
9-6.14:1 of the Code of Virginia are met, whichever
occurs first.*

Submitted by:

/s/ Gordon K. Davies
Director, State Council of Higher Education
Date: August 5, 1988

Submitted by:

/s/ Donald J. Finley
Secretary of Education
Date: August 10, 1988

Approved by:

/s/ Gerald L. Baliles
Governor of Virginia
Date: August 29, 1988

Filed with:

/s/ Joan W. Smith
Registrar of Regulations
Date: August 30, 1988 - 11:01 a.m.

* * *

Pursuant to § 23-38.56 of the Code of Virginia, these
regulations are duly issued by the State Council of Higher
Education for Virginia to assist institutions in administering
a program to enable senior citizens to take courses in any
state-supported institution in Virginia without paying tuition
or fees.

Emergency Regulations

Sections 23-38.54 through 23-38.60 of the Code of Virginia govern the administration of the Senior Citizens Higher Education Program. Effective July 1, 1986, and as amended effective July 1, 1988, the statute provides:

§ 23-38.54. Title of chapter.—This chapter may be cited as the “Senior Citizens Higher Education Act of 1974.”

§ 23-38.55. Definitions.—For the purposes of this chapter, the following words shall have the meanings ascribed to them by this section:

(a) “Senior citizen” shall mean any person who, before the beginning of any term, semester or quarter in which such person claims entitlement to the benefits of this chapter, (i) has reached sixty years of age and (ii) has had his legal domicile in this State for one year.

(b) “Course” shall mean any course of study offered in any state institution of higher education including the regular curriculum of any department, or school, or subdivision of any such institution or any special course given for any purpose, including, but not limited to, adult education.

(c) [Repealed.]

Nothing in this section shall be construed to exclude any other rules and requirements now or hereafter made applicable for all other persons with respect to residency in this State by a state institution of higher learning.

§ 23-38.56. Attendance at state institutions; conditions.—A senior citizen shall be permitted, under rules and regulations as may be prescribed by the State Council of Higher Education:

(i) To register for and enroll in courses as a full-time student for academic credit if such senior citizen had a taxable income not exceeding \$7,500 for federal income tax purposes for the year preceding the year in which enrollment is sought;

(ii) To register for and audit courses offered for academic credit; and

(iii) To register for and enroll in courses not offered for academic credit in any state institution of higher education in this Commonwealth.

Such senior citizen shall pay no tuition or fees except fees established for the purpose of paying for course materials, such as laboratory fees, but shall be subject to the admission requirements of the institution and a determination by the institution of its ability to offer the course or courses for which the senior citizen registers; however, a senior citizen shall only be admitted to a course in which enrollment is sought ~~if~~ ~~all~~ ~~tuition~~ ~~paying~~ ~~students~~ ~~have~~ ~~been~~ ~~accommodated~~. The Council of Higher Education shall establish procedures to ensure that

tuition-paying students are accommodated in courses before senior citizens participating in this program are enrolled. However, the state institutions of higher education may make individual exceptions to these procedures when the senior citizen has completed seventy-five percent of the requirements for a degree.

§ 23-38.57. Repealed by Acts 1977, c. 281.

§ 23-38.58. Courses; terms; number and limitations.—There shall be no limit to the number of terms, quarters or semesters in which a senior citizen who is not enrolled for academic credit may register for courses but he may register for no more than three courses in any one term, quarter or semester.

§ 23-38.59. Catalogue to include statement of benefits.—Each state institution of higher learning shall prominently include in its catalogue a statement of the benefits provided by this chapter for senior citizens.

§ 23-38.60. Determination of senior citizen status; forms.—The registrar or other admissions officer of an institution of higher learning shall determine whether a person is a senior citizen pursuant to the provisions of this chapter. Upon determination that a person qualifies as a senior citizen, the registrar or other admissions officer may require such person to execute appropriate forms to request the benefits provided by this chapter.

General Rules

Eligibility: The statute allows a senior citizen, defined as a person who is at least 60 years old prior to the beginning of any academic term, semester or quarter, to take courses without paying tuition or required fees (except for course materials) under certain conditions. If the senior citizen, who must be a domiciliary resident of Virginia for one year, had a federal taxable income of not more than \$7,500 in the preceding year, the individual may take a course for academic credit. If the person's taxable income exceeded \$7,500, the individual may only audit the course for free. A senior citizen, regardless of income level, may take a non-credit course for free.

No limit is placed on the number of terms, quarters or semesters in which a senior citizen who is not enrolled for academic credit may register for courses, but the individual can take no more than three non-credit courses in any one term, quarter or semester. The law places no restriction on the number of courses that may be taken for credit in any term, semester or quarter or on the number of terms, semesters or quarters in which an eligible senior citizen may take courses for credit.

The statute stipulates two additional conditions which must be met before a senior citizen who wishes to take a course under the provisions of this program may do so.

(1) the senior citizen must meet the appropriate admission requirements of the institution in which the

Emergency Regulations

student plans to enroll, and

(2) the senior citizen may be admitted to a course only on a "space-available" basis after all tuition-paying students have been accommodated, unless the senior citizen has completed 75% of the degree requirements necessary for a degree. At such time in the senior citizen's program, the senior citizen can enroll in courses at the same time as other tuition-paying students.

An institution has no special obligation to offer courses specifically to meet the needs of senior citizens or to continue to provide a particular course for a senior citizen who has registered for the course if the regular enrollment in the course is not adequate to justify the offering.

Application: A senior citizen who wishes to take courses under the provisions of this Act must complete an application at the institution in which the person plans to enroll. The institution must determine all aspects of the person's eligibility under the Act. The application process must include a determination of income eligibility (review of an IRS 1040 form, for example), if the individual makes application to take courses for academic credit, and determine that the individual has had his or her legal domicile in Virginia for at least one year. For this purpose, an institution shall use the same criteria for student eligibility for in-state tuition as set forth at § 23-7.4 of the Code of Virginia.

Inclusion of the Senior Citizen in an Institution's FTE Count: A 1984 amendment to the Act, effective July 1, 1986, deleted language prohibiting a state institution from counting senior citizens enrolled under the provisions of the Act in the computation of the institution's full-time equivalent student (FTES) count. Therefore, effective July 1, 1986, such students should be included in an institution's FTES count.

Reporting requirement: Although the Council will not require an institution to submit an annual report on the number of eligible students who receive free tuition and fees under the provisions of this Act, it may periodically request such information in order to respond to Executive or Legislative inquiries.

An institution should, therefore, be prepared to report the headcount and FTE number of senior citizens taking courses for academic credit, the headcount and student credit hours of senior citizens who are auditing courses, and the headcount of those who are taking noncredit courses.

Notification to senior citizens: As required in § 23-38.59, each state-supported institution shall prominently include in its catalogue a statement of the benefits available to senior citizens under this program.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-2.6150. Regulation for Burial Exclusion.

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

Effective Dates: August 26, 1988 through August 25, 1989

SUMMARY

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Burial Exclusion. The Burial Exclusion policy will conform the Plan for Medical Assistance to the Social Security Act § 1613(d) containing the SSI provisions for burial exclusions.

2. RECOMMENDATION:

/s/ Ray T. Sorrell, Director
Date: August 5, 1988

3. CONCURRENCES:

/s/ Eva S. Teig
Secretary of Health and Human Resources
Date: August 10, 1988

4. GOVERNOR'S ACTION:

Approve:

/s/ Gerald L. Baliles, Governor
Date: August 19, 1988

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: August 26, 1988 - 2:48 p.m.

DISCUSSION

6. BACKGROUND: Prior to 1982, Medicaid policy contained a provision that required a period of ineligibility for Medicaid when an individual disposed of resources for less than fair market value in order to gain or maintain Medicaid eligibility. This policy, known as the Transfer of Assets Rule, was set forth by § 1917(c) of the Social Security Act. At that time Medicaid lacked a policy providing for any burial exemptions to the Transfer of Assets Rule in the determination of eligibility, although SSI had a burial exclusion policy that did allow for a set aside. Even though Medicaid is tied to SSI for purposes of eligibility, this discrepancy in policy made it possible for a person to be eligible for SSI but not for Medicaid. Legislative action in 1982 changed that by allowing Medicaid recipients to establish Irrevocable Burial Trusts for a maximum amount of \$1500. The \$1500 maximum was to be reduced by the face value of life insurance

Emergency Regulations

policies or other burial arrangements. Establishment of these trusts was designated as an exemption to the Transfer of Assets rule. Expanding legislation was passed by the 1987 General Assembly to increase the maximum amount of these irrevocable burial trusts to \$2,000 effective July 1, 1987, and to \$2,500 effective July 1, 1988.

Enactment, on July 1, 1988, of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-661) has revised the transfer of assets provisions of § 1917(c) of the Social Security Act. This Congressional action leaves DMAS with no federal statutory basis for its burial trusts policy.

To provide for the allowance of some funds for burial by Medicaid recipients, DMAS seeks to adopt the SSI policy which is still allowed under P.L. 100-661. Section 1613(d) of the Social Security Act contains the SSI burial exclusion of resources set aside to meet an individual's burial expenses. This SSI policy is subject to a reduction by the face value of any life insurance or other burial arrangement. The burial exclusion is applied only when the assets have been specifically designated as set aside for burial, e.g., by the title of an account or by a signed declarative designation as to the purpose of the asset.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's adoption of emergency regulations subject to the Governor's approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

Public Law 100-661, known as the Medicare Catastrophic Coverage Act of 1988, was signed by the President July 1, 1988. This Act abolished the federal statutory authority on which the Department relied for its burial trusts policies. If the Department were to continue to enforce its current burial trusts policies, without benefit of federal statutory support, litigation could result. Consequently, the Department is seeking the Governor's approval to take an emergency action to adopt the burial exclusion policies of the Supplemental Security Income program, pursuant to the Social Security Act § 1613(d), which are allowed by P.L. 100-661.

Without this emergency regulation, amendments to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met.

8. FISCAL/BUDGETARY IMPACT: As a result of past General Assembly actions, the maximum amount that could have been placed into irrevocable burial trusts was to have been \$2,500 effective July 1, 1988. The fiscal

impact estimated by the Department for this was \$1.6 million for 1988.

The Burial Exclusion provision allows a maximum of \$2,500 to be set aside for burial purposes. Since the Burial Exclusion provision applies the same dollar cap to the same population of affected persons, with the irrevocable aspect of the old trust policy being replaced by penalties for other use of the set aside funds, DMAS expects no additional costs to be incurred as a result of adopting this provision. Therefore, this emergency policy is expected to be budget neutral with respect to the current policy.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective subject to HCFA's approval. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to exclude from consideration in determining eligibility any funds that an individual might wish to set aside for burial.

10. Approval Sought for VR 460-03-2.6150.

Approval of the Governor is sought for an emergency modification of Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

BURIAL EXCLUSIONS:

§ 202.5. Resources set aside to meet the burial expenses of an applicant/recipient or that individual's spouse are excluded from countable assets. These excluded resources cannot exceed \$2500 for the individual and \$2500 for the spouse. This amount is reduced by the face value of life insurance owned by the applicant/recipient or spouse unless the cash value of such life insurance has been counted as a resource to the applicant/recipient. The excluded resource is further reduced by the amount of any other revocable or irrevocable trust, revocable or irrevocable contract, or any other arrangement for the purpose of meeting the individual's burial expenses.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, August 31, 1988

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS880413

Ex Parte: In the matter of adopting revised rules governing the implementation of the Individual Accident and Sickness Insurance Minimum Standards Act

TAKE NOTICE ORDER

WHEREAS, the Bureau of Insurance has proposed certain revisions of the Commission's regulation entitled "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act", which is attached hereto and made a part hereof; and

THE COMMISSION, having considered said revisions, is of the opinion that the proposed revised rules should be adopted,

THEREFORE, IT IS ORDERED:

(1) That all interested parties TAKE NOTICE that the Commission shall enter an order thirty (30) days from the date hereof adopting the proposed revised rules, unless the Commission receives within such thirty days a request for a hearing to contest the adoption of the proposed revised rules;

(2) That an attested copy hereof together with a copy of the proposed regulation be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Stephen J. Kaufmann who shall forthwith give further notice of the proposed revised regulation by mailing a copy of this order together with a copy of the proposed revised regulation to every insurance company licensed to sell accident and sickness insurance in the Commonwealth of Virginia; and

(3) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

INSURANCE REGULATION NO. 19

RULES GOVERNING THE IMPLEMENTATION OF THE INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS ACT

§ 1. Authority.

This regulation is issued pursuant to the authority vested in the Commission under §§ ~~38.1-362.1~~ through ~~38.1-362.16~~

§§ ~~38.2-3516~~ through ~~38.2-3520~~ of the Code of Virginia.

§ 2. Purpose.

The purpose of this regulation is to implement the "Individual Accident and Sickness Insurance Minimum Standards Act."

This regulation is designed to:

(a) provide reasonable standardization and simplification of terms and coverages of individual accident and sickness insurance policies;

(b) facilitate public understanding and comparison;

(c) eliminate provisions contained in individual accident and sickness insurance policies which may be misleading or unreasonably confusing in connection either with the purchase of such coverage or with the settlement of claims; and

(d) provide for full disclosure in the sale of individual accident and sickness coverages.

§ 3. Effective date.

A. This regulation shall be effective on ~~January 1, 1981~~

B. No new policy form shall be approved on or after ~~July 1, 1981~~ unless it complies with this regulation.

C. No policy form shall be delivered or issued for delivery in this State on or after ~~July 1, 1982~~, unless it complies with this regulation.

§ 4. Scope.

This regulation shall apply to all individual accident and sickness insurance policies delivered or issued for delivery in this State, except it shall not apply to Medicare Supplement and Specified Disease policies.

Except as otherwise provided, nothing contained in this regulation shall be construed to relieve an insurer of complying with the statutory requirements set forth in Title ~~38.1~~ 38.2 of the Code of Virginia.

§ 5. Policy definitions.

Except as provided hereafter no individual accident or sickness insurance policy delivered or issued for delivery to any person in this State shall contain definitions respecting the matters set forth below unless such definitions comply with the requirements of this section.

A. "One period of confinement" means consecutive days of in-hospital service received as an inpatient, or successive confinements when discharge from and

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readmission to the hospital occurs within a period of not more than 90 days or three times the maximum number of days of in-hospital coverage provided by the policy to a maximum of 180 days.

B. "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

(1) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

(a) be an institution operated pursuant to law;

(b) be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and

(c) provide 24 hours nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

(2) The definition of the term "hospital" may state that such term shall not include:

(a) convalescent homes, convalescent, rest, nursing facilities;

(b) facilities primarily affording custodial, educational or rehabilitory care;

(c) facilities for the aged, drug addicts or alcoholics subject to the requirements of § ~~38.1-348.7~~ § 38.2-3412 ; or

(d) any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof, except as provided in § 7E of this regulation, for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for changes made to the individual for such services.

C. "Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall be defined in relation to its status, facilities, and available services.

(1) A definition of such home or facility shall not be more restrictive than one requiring that it:

(a) be operated pursuant to law;

(b) be approved for payment of Medicare benefits or be qualified to receive such approval, if so

requested;

(c) be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

(d) provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

(e) maintain a daily medical record of each patient.

(2) The definition of such home or facility may provide that such term shall not include:

(a) any home, facility or part thereof used primarily for rest;

(b) a home or facility for the aged or for the care of drug addicts or alcoholics; or

(c) a home or facility primarily used for the care and treatment of mental diseases, or disorders, or custodial or educational care.

D. "Accident," "Accidental Injury," or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

The definition shall not be more restrictive than the following: Injury or injuries, for which benefits are provided, means accidental bodily injury sustained by the insured person which are the direct result of an accident, independent of disease or bodily infirmity or any other cause, and which occur while the insurance is in force.

Such definition may provide that injuries shall not include:

(1) injuries for which benefits are provided under any workmen's compensation, employer's liability or similar law, motor vehicle no-fault plan, unless prohibited by law; or

(2) injuries incurred while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit.

E. "Sickness" shall not be defined to be more restrictive than the following:

Sickness means sickness or disease of an insured person which manifests itself after the effective date of insurance and while the insurance is in force. A definition of sickness may provide for a probationary period which will not exceed thirty (30) days from the effective date of the

coverage of the insured person. The definition may be further modified to exclude sickness or disease for which benefits are provided under any workmen's compensation, occupational disease, employer's liability or similar law.

F. "Preexisting condition" shall not be defined to be more restrictive than the following:

(1) the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment within a two (2) year period preceding the effective date of the coverage of the insured person; or

(2) a condition for which medical advice or treatment was recommended by a physician or received from a physician within a two (2) year period preceding the effective date of the coverage of the insured person.

G. "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician."

H. "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific description as to type, then the use of such terms requires the insurer to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

I. "Total Disability"

(1) A general description of total disability cannot be more restrictive than one requiring the individual to be totally disabled from engaging in an employment or occupation for which he is or becomes qualified by reason of education, training or experience and not in fact engaged in any employment or occupation for wage or profit.

(2) Total disability may be defined in relation to the inability of the person to perform duties but may not be based solely upon an individual's inability to: (a) perform "any occupation whatsoever," "any occupational duty," or "any and every duty of his occupation"; or (b) engaged in any training or rehabilitation program.

(3) An insurer may specify the requirement of the complete inability of the person to perform all of the substantial and material duties of his regular occupation or words of similar import. An insurer may require care by a physician (other than the insured or a member of the insured's immediate family).

J. "Partial Disability" shall be defined in relation to the individual's inability to perform one or more but not all of

the "major," "important," or "essential" duties of employment or occupation or may be related to a "percentage" of time worked or to a "specified number of hours" or to "compensation." Where a policy provides total disability benefits and partial disability benefits, only one elimination period may be required.

K. "Residual Disability" shall be defined in relation to the individual's reduction in earnings and may be related either to the inability to perform some part of the "major," "important," or "essential duties" of employment or occupation, or to the inability to perform all usual business duties for as long as is usually required. A policy which provides for residual disability benefits may require a qualification period, during which the insured must be continuously, totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term "residual disability," the insurer may use "proportionate disability" or other term of similar import which in the opinion of the Commission adequately and fairly describes the benefit.

L. "Medicare" shall be defined in any hospital, surgical or medical expense policy which relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of the Public Laws 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the "Health Insurance for the Aged Act," as then constituted and any later amendments or substitutes thereof, or words of similar import.

M. "Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind including physiological and psychological dependence on alcohol and drugs subject to ~~38.1-34.7~~ § 38.2-3412.

N. "Non-cancellable," or "Non-cancellable and Guaranteed Renewable," as used in a renewability provision, shall not be defined more restrictively than one providing the insured the right to continue in force by the timely payment of premiums set forth in the policy until the age of sixty-five (65) or until eligibility for Medicare. During this period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force. Any accident and sickness policy, however, which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60, if at age 60, the insured has the right to continue the policy in force at least to age 65 while actively or regularly employed.

O. "Guaranteed Renewable" as used in a renewability

State Corporation Commission

provision, shall not be defined more restrictively, except as provided in paragraph N, than one providing the insured the right to continue in force by the timely payment of premiums until the age of sixty-five (65) or until eligibility for Medicare. During this period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except that the insurer may make changes in premium rates by class. Class should be defined by age, sex, occupation, or other broad categories in order to eliminate any possibilities of individual discrimination. Any accident and sickness policy, however, which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age sixty (60) if, at age sixty (60), the insured has the right to continue the policy in force at least to age sixty-five (65) while actively and regularly employed.

P. "Medical necessity," or words of similar meaning, shall not be defined more restrictively than all services rendered to an insured that are required by his medical condition in accordance with generally accepted principles of good medical practice, which are performed in the least costly setting and not only for the convenience of the patient or his physician.

§ 6. General Policy Requirements.

A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" policy shall not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. The policy shall provide that in the event of the insured's death, the spouse of the insured, if covered under the policy, shall become the insured.

B. The renewability provisions "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" shall not be used without further explanatory language in accordance with the disclosure requirements of § 9A(1).

C. In a family policy covering both husband and wife, the age of the younger spouse must be used as the basis for meeting the age and durational requirements of the definitions of "noncancellable" or "guaranteed renewable." This requirement, however, shall not prevent termination of coverage of the older spouse upon attainment of the stated age limit (e.g., age 65) so long as the policy may be continued in force as to the younger spouse, to the age or for the durational period as specified in said definition.

D. When accidental death and dismemberment coverage is part of the insurance coverage offered under the contract, the insured shall have the option to include all insureds under such coverage and not just the principal insured.

E. If a policy contains a status type military service exclusion or a provision which suspends coverage during military service, the policy shall provide, upon receipt of written notice of military service, for refund of premiums as applicable to such person on a pro rata basis.

F. In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits shall provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force.

G. Policies providing convalescent or extended care benefits following hospitalization shall not condition such benefits upon admission to the convalescent or extended care facility within a period of less than fourteen (14) days after discharge from the hospital.

H. Any policy providing coverage for the recipient in a transplant operation shall also provide reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy, after benefits for the recipient's own expenses have been paid.

I. A policy may contain a provision relating to recurrent disabilities; provided, however, that no such provision shall specify that a recurrent disability be separated by a period greater than six (6) months.

J. Accidental death and dismemberment benefits shall be payable if the loss occurs within ninety (90) days from the date of the accident, irrespective of total disability, or occurs within one year from the date of the accident and during a period of continuous total disability resulting from the accident and commencing within thirty (30) days of the date of the accident. Disability income benefits, if provided, shall not require the loss to commence less than thirty (30) days after the date of accident, nor shall any policy which the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the policy was in force.

K. Specific dismemberment benefits shall not be in lieu of other benefits unless the specific benefit equals or exceeds the other benefits.

L. Termination of the policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

§ 7. Prohibited Policy Provisions.

A. Except as provided in the definition of sickness (§ 5E) no policy shall contain provisions establishing a probationary or waiting period during which no coverage

is provided under the policy subject to the further exception that a policy may specify a probationary or waiting period not to exceed six (6) months for specified diseases or conditions and losses resulting therefrom for hernia, disorder of reproduction organs, varicose veins, adenoids, appendix and tonsils. However, the permissible six (6) months exception shall not be applicable where such specified diseases or conditions are treated on an emergency basis. Accident policies shall not contain probationary or waiting periods.

B. No policy or rider for additional coverage may be issued as a dividend unless an equivalent cash payment is offered to the policyholder as an alternative to such dividend policy or rider. No such dividend policy or rider shall be issued for an initial term of less than six (6) months.

The initial renewal subsequent to the issuance of any policy or rider as a dividend shall clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that such renewal is optional with the policyholder.

C. No policy shall exclude coverage for a loss due to a preexisting condition for a period greater than twelve (12) months following policy issue where the application for such insurance does not seek disclosure of prior illness, disease or physical conditions or prior medical care and treatment and such preexisting condition is not specifically excluded by the terms of the policy.

D. A disability income protection policy may contain a "return of premium" or "cash value benefit" so long as:

- (1) such return of premium or cash value benefit is not reduced by an amount greater than the aggregate of any claims paid under the policy; and
- (2) the insurer demonstrates that the reserve basis for such policies is adequate.

No other policy shall provide a return of premium or cash value benefit, except return of unearned premium upon termination or suspension of coverage, retroactive waiver of premium paid during disability, payment of dividends on participating policies, or experience rating refunds.

E. Policies providing hospital confinement indemnity coverage shall not contain provisions excluding coverage because of confinement in a hospital operated by the Federal government.

F. No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

- (1) preexisting conditions or diseases, except for congenital anomalies of a covered dependent child;

(2) mental or emotional disorders, alcoholism and drug addiction, subject to § ~~38.1-248.7~~ § 38.2-3412 ;

(3) pregnancy, except for complications of pregnancy, other than for policies defined in Section §§ 8(E) and 8(F) of this regulation;

(4) illness, treatment or medical condition arising out of:

(a) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary thereto;

(b) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;

(c) aviation;

(d) with respect to short-term nonrenewable policies, interscholastic sports;

(5) cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part, and reconstructive surgery because of congenital disease or anomaly of a covered dependent child which has resulted in a functional defect;

(6) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

(7) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column;

(8) treatment provided in a government hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workmen's compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

(9) dental care or treatment;

(10) eye glasses, hearing aids and examination for the prescription or fitting thereof;

(11) rest cures, custodial care, transportation and

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routine physical examinations;

(12) territorial limitations;

(13) services or care not medically necessary.

G. Other provisions of this regulation shall not impair or limit the use of waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases, physical condition or extra hazardous activity. Where waivers are required as a condition of issuance, renewal or reinstatement, signed acceptance by the insured is required unless on initial issuance the full text of the waiver is contained either on the first page or specification page of the policy or unless notice of the waiver appears on the first page or specification page.

H. Policy provisions precluded in this section shall not be construed as a limitation on the authority of the Commission to disapprove other policy provisions in accordance with ~~§ 38.1-362.13B~~ § 38.2-3518 which, in the opinion of the Commission, are unjust, unfair, or unfairly discriminatory to the policyholder, beneficiary, or any person insured under the policy.

I. Except as provided in § 5F, no policy shall exclude coverage for an illness or sickness which manifests itself (makes itself known) prior to the effective date of the policy.

§ 8. Accident and Sickness Minimum Standards for Benefits.

The following minimum standards for benefits are prescribed for the categories of coverage noted in the following subsections. No individual policy of accident and sickness insurance shall be delivered or issued for delivery in this State which does not meet the required minimum standards for the specified categories unless the Commission finds that such policies or contracts are approvable as Limited Benefit Health Insurance.

Nothing in this section shall preclude the issuance of any policy or contract combining two or more categories of coverage set forth in ~~§ 38.1-362.14A~~ §§ 38.2-3519A and ~~§ 38.1-362.14B~~ 38.2-3519B .

A. Basic Hospital Expense Coverage: "Basic Hospital Expense Coverage" is a policy of accident and sickness insurance which provides coverage for a period of not less than thirty-one (31) days during any continuous hospital confinement for each person insured under the policy, for expenses incurred for the necessary treatment and services rendered as a result of accident or sickness for at least the following:

(1) daily hospital room and board in an amount not less than the lesser of:

(a) 80% of the charges for semi-private room accommodations; or (b) \$60 per day;

(2) miscellaneous hospital services for expenses incurred for the charges made by the hospital for services and supplies which are customarily rendered by the hospital and provided for use only during any one period of confinement in an amount not less than either: (a) 80% of the charges incurred up to at least \$2,000; or (b) 10 times the daily hospital room and board benefits; and

(3) hospital outpatient services consisting of: (a) hospital services on the day surgery is performed; (b) hospital services rendered within 72 hours after accidental injury, in an amount not less than \$100; and (c) X-ray and laboratory tests to the extent that benefits for such services would have been provided to an extent not less than \$200 if rendered to an inpatient of the hospital.

(4) benefits provided under (1) and (2) or (A) above, may be provided subject to a combined deductible amount not in excess of \$200.

B. Basic Medical-Surgical Expense Coverage: "Basic Medical-Surgical Expense Coverage" is a policy of accident and sickness insurance which provides coverage for each person insured under the policy for the expenses incurred for the necessary services rendered by a physician for treatment of an injury or sickness for at least the following:

(1) Surgical services:

(a) in amounts not less than those provided on a fee schedule based on the relative values contained in the State of New York certified surgical fee schedule, or the 1964 California Relative Value Schedule or other acceptable relative value scale of surgical procedures, up to a maximum of at least \$1,000 for any one procedure; or

(b) not less than 80% of the reasonable charges.

(2) Anesthesia services, consisting of administration of necessary general anesthesia and related procedures in connection with covered surgical service rendered by a physician other than the physician (or his assistant) performing the surgical services:

(a) in an amount not less than 80% of the reasonable charges; or

(b) 15% of the surgical service benefit.

(3) In-hospital medical services, consisting of physician services rendered to a person who is a bed patient in a hospital for treatment of sickness or injury other than that for which surgical care is required, in an amount not less than: (a) 80% of the reasonable charges; or (b) \$10 per day for not less than thirty-one (31) days during the period of confinement.

C. Hospital Confinement Indemnity Coverage: "Hospital Confinement Indemnity Coverage" is a policy of accident and sickness insurance which provides daily benefits for hospital confinement on an indemnity basis in an amount not less than \$30 per day and not less than thirty-one (31) days during any one period of confinement for each person insured under the policy.

D. Major Medical Expense Coverage: "Major Medical Expense Coverage" is an accident and sickness insurance policy which provides hospital, medical and surgical expense coverage, to an aggregate maximum of not less than \$25,000; copayment by the covered person not to exceed 25% of covered charges; a deductible stated on a per person, per family, per illness, per benefit period, or per year basis, or a combination of such bases not to exceed 5% of the aggregate maximum limit under the policy, unless the policy is written to complement underlying hospital and medical insurance in which case such deductible may be increased by the amount of the benefits provided by such underlying insurance, for each covered person for at least:

(1) daily hospital room and board expenses, prior to application of the copayment percentage, for not less than \$100 daily (or in lieu thereof the average daily cost of semi-private room rate in the area where the insured resides) for a period of not less than sixty (60) days during continuous hospital confinement;

(2) miscellaneous hospital services, prior to application of the copayment percentage, for an aggregate maximum of not less than \$3,000 or 15 times the daily room and board rate if specified in dollar amounts;

(3) surgical services, prior to application of copayment percentage to a maximum of not less than \$1,200 for the most severe operation with the amounts provided for other operations reasonably related to such maximum amount;

(4) anesthesia services, prior to application of the copayment percentage, for a maximum of not less than 15% of the covered surgical fees or, alternatively, if the surgical schedule is based on relative values, not less than the amount provided therein for anesthesia services at the same unit value as used for the surgical schedule;

(5) in-hospital medical services, prior to application of the copayment percentage, consisting of physician services rendered to a person who is a bed patient in a hospital for treatment of sickness or injury other than that which surgical care is required;

(6) out-of-hospital care, prior to application of the copayment percentage, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, and diagnostic X-ray, laboratory services, radiation therapy,

and hemodialysis ordered by a physician; and

(7) not fewer than three of the following additional benefits, prior to application of the copayment percentage, or an aggregate maximum of such covered charges of not less than \$2,000:

(a) In-hospital private duty graduate registered nurse services.

(b) Convalescent nursing home care.

(c) Diagnosis and treatment by a radiologist or physiotherapist.

(d) Rental of special medical equipment, as defined by the insurer in the policy.

(e) Artificial limbs or eyes, casts, splints, trusses or braces.

(f) Out-of-hospital prescription drugs and medications.

(g) Treatment for functional nervous disorders, and mental and emotional disorders unless required by § 38.1-348.7 § 38.2-3412 .

E. Disability Income Protection Coverage: "Disability Income Protection Coverage" is a policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination thereof which:

(1) Provides that periodic payments which are payable at ages after 62 and reduced solely on the basis of age are at least 50% of amounts payable immediately prior to 62.

(2) Contains an elimination period no greater than:

(a) Ninety (90) days in the case of a coverage providing a benefit of one (1) year or less;

(b) One hundred and eighty (180) days in the case of coverage providing a benefit of more than one (1) year but not greater than two (2) years; or

(c) Three hundred sixty-five (365) days in all other cases during the continuance of disability resulting from sickness or injury.

(3) Has a maximum period of time for which it is payable during disability of at least six (6) months except in the case of a policy covering disability arising out of pregnancy, childbirth, or miscarriage in which case the period for such disability may be one (1) month. No reduction in benefits shall be put into effect because of an increase in Social Security or similar benefits during a benefit period.

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This section does not apply to those policies providing business buy out coverage.

F. Income Replacement Coverage: "Income Replacement Coverage" is a policy which provides for periodic payments, weekly or monthly, for a specified period during which there is a loss of income resulting from sickness, injury, or a combination thereof which:

(1) Provides that periodic payments which are payable at ages after 62 and reduced solely on the basis of age are at least 50% of amounts payable immediately prior to 62.

(2) Contains an elimination period no greater than:

(a) Ninety (90) days in the case of a coverage providing a benefit of one (1) year or less;

(b) One hundred eighty (180) days in the case of coverage providing a benefit of more than one (1) year but not greater than two (2) years; or

(c) Three hundred sixty-five (365) days in all other cases during the continuance of loss of income resulting from sickness or injury;

(3) Has a maximum period of time for which it is payable during the continuance of loss of income of at least six (6) months except in the case of a policy covering loss of income arising out of pregnancy, childbirth, or miscarriage in which case the maximum period may be limited to one (1) month. No reduction in benefits shall be put into effect because of an increase in social security or similar benefits during a benefit period;

(4) Requires loss of income to be no greater than 80% in order to pay full periodic benefits; and

(5) The front page of the policy shall contain the following statements: **THIS IS AN INCOME REPLACEMENT POLICY, THE POLICY PAYS NO BENEFITS IF THERE IS NO LOSS OF INCOME, (This notice must be in capital letters and in no less than 14 point type.)**

This section does not apply to those policies providing business buy out coverage.

F G. Limited Benefit Health Insurance Coverage: "Limited Benefit Health Insurance Coverage" is any policy or contract which provides less coverage than the standards for benefits required under §§ 8A, B, C, D and E and F; or is any policy that provides Accident Only coverage or Specified Accident Only coverage. These policies, if approved by the Commission, may be delivered or issued for delivery in this State only as Limited Benefit Health Insurance and not as basic health expense or indemnity insurance or any other type of coverage. These policies must meet the disclosure requirements set forth in

§ 9.

§ 9. Required Disclosure Provisions.

A. General Rules for all policies:

(1) Each individual policy of accident or sickness insurance shall include a renewal, continuation or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) Except for riders or endorsements by which the insurer fulfills a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement which increases benefits or coverage with an accompanying increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage is required by law.

(3) Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(4) A policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include an explanation of such terms.

(5) If a policy contains any limitations with respect to preexisting conditions such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(6) If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy as originally issued, such fact must be prominently set forth in the policy.

(7) If a policy contains a conversion privilege, it shall comply, in substance, with the following:

(a) the caption of the provision shall be "Conversion Privilege," or words of similar import;

(b) the provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the

conversion, and the person by whom the conversion privilege may be exercised;

(c) the provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.

B. Rules for Limited Benefit Policies, other than Accident Only or Specified Accident Only Policies;

The following disclosure requirements must be met by all limited benefit policies:

(1) A cover sheet, containing only the following information shall be permanently attached to the front of the policy:

COMPANY NAME

LOGO (OPTIONAL)

NOTICE: LIMITED BENEFIT DISCLOSURE FORM. THE POLICY DESCRIBED IN THIS COVER SHEET DOES NOT MEET THE MINIMUM STANDARDS REQUIRED BY THE BUREAU OF INSURANCE, VIRGINIA STATE CORPORATION COMMISSION, FOR INDIVIDUAL ACCIDENT AND SICKNESS POLICIES. (This notice must be in capital letters and in no less than 14 point type.)

Minimum Stanards were established by the Bureau to insure the availability of health insurance contracts providing a minimum of basic benefits needed for health care. This policy does not meet the Virginia minimum standards for the following reason(s): (A listing of the reason(s) will be furnished by the Bureau at the time the contract is reviewed and the actual Bureau language must be used.)

(The following language is required for an insurer, other than a direct response insurer.) I have read this cover sheet and realize that this policy does not meet minimum standards required by Virginia law and that it can only be sold as a

LIMITED BENEFIT POLICY.

Signature

FORM NUMBER

This is a disclosure form. It is not part of the policy to which it is attached.

(2) The cover sheet shall contain one duplicate copy to be maintained by the insurance company for the length of time that the policy is in force or for three (3) years whichever is greater.

C. Rules for Accident and Specified Accident Only Policies.

The following disclosure requirement must be met by all accident only and specified accident only policies:

Insurers have the option of (a) printing, clearly stamping or printing on gum labels on the first page of the policy, (b) attaching a cover sheet to the front of the policy or (c) adding to their outline of coverage, which must be attached to the front of the policy, the following information:

NOTICE: THIS IS A LIMITED BENEFIT POLICY. IT DOES NOT PAY ANY BENEFITS FOR LOSS FROM SICKNESS. THIS POLICY PROVIDES RESTRICTIVE COVERAGE FOR CERTAIN LOSSES WHICH OCCUR AS A RESULT OF (AN ACCIDENT) (A SPECIFIED ACCIDENT) ONLY. (This notice must be in capital letters and in no less than 14 point type.)

§ 10. Requirements for Replacement.

A. Application forms shall include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other accident and sickness insurance presently in force.

B. Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent shall furnish the applicant, prior to issuance or delivery of the policy, the notice described in (C) below. One (1) copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant upon issuance of the policy, the notice described in (D) below. In no event, however, will such a notice be required in the solicitation of the following types of policies; accident only and single premium nonrenewable policies.

C. The notice required by (B) above for an insurer, other than a direct response insurer, shall provide, in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to your application, you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (insert Company Name) Insurance Company. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result

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in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agency regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, re-read it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

D. The notice required by (B) above for a direct response insurer shall be as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to your application, you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by (insert Company Name) Insurance Company. Your new policy provides 10 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved

in replacing your present coverage.

(3) (To to included only if the application is attached to the policy.) If, after due consideration you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (insert Company Name and Address) within 10 days if any information is not correct and complete, or if any medical history has been left out of the application.

(Company Name)

§ 11. Severability.

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

* * * * *

AT RICHMOND, August 15, 1988

APPLICATION OF NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

CASE NO. SEC870031

For promulgation of a rule
pursuant to Virginia Code
Section 13.1-523 (Securities Act)

FINAL ORDER AND OPINION

On March 27, 1987, the National Association of Securities Dealers, Inc. (NASD) filed an application seeking the promulgation by the Commission, pursuant to its rulemaking authority granted by Virginia Code Section 13.1-523, of a rule which would exempt from the registration requirements of the Securities Act (Virginia Code §§ 13.1-501-13.1-527.3) those securities designated or approved for designation on notice of issuance on the NASD's Automated Quotations/National Market System (NASDAQ/National Market System). Such a rule would provide NASDAQ/National Market System securities the same exemption which, in the Commonwealth of Virginia, is currently enjoyed by securities listed on the New York Stock Exchange, the American Stock Exchange, and the Midwest Stock Exchange.

A hearing before the Commission was held on February 16, 1988. We received testimony from six public witnesses, the NASD, the North American Securities Administrators Association, Inc., (NASAA), and the Commission's Division of Securities and Retail Franchising (Staff). At the close of

the hearing, we directed the parties and the Staff to file memoranda of law by April 5, 1988. By Order dated March 29, 1988, we extended the date for filing the memoranda to May 5, 1988.

After carefully reviewing the record in this case, we find that a rule allowing an exemption for certain securities designated on the NASDAQ/National Market System should be promulgated at this time. However, we are of the opinion that such a rule must specify criteria with which issuers must comply before their securities can qualify for the exemption.

The NASD is a nonprofit corporation registered with the Securities and Exchange Commission as a national securities association. Its primary purpose is to provide self-regulation for the over-the-counter securities market. The NASDAQ system came into existence in 1971 to collect and distribute securities price quotation information through the NASD's communication system. The NASDAQ/National Market System is a securities quotation system which began operation in 1982 and provides automated information regarding last-sale transactions, as well as price and volume data throughout each trading day. NASDAQ/National Market System securities are subject to higher standards for designation than other NASDAQ securities.

Virginia Code § 13.1-507 makes it unlawful for any person to offer for sale or to sell any security unless the security is registered under the Virginia Securities Act or is exempted from registration by the Act. The NASD's proposed rule would exempt all securities designated or approved for designation upon notice of issuance on the NASDAQ/National Market System. It provides:

In accordance with Section 13.1-514(a)(13), any security designated or approved for designation upon notice of issuance on the NASDAQ/National Market System; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants designated for trading in the NASDAQ/National Market System; or any warrant or right to subscribe to any of the foregoing securities is exempt from the registration requirements of this chapter.

This proposed rule does not include explicit standards which must be met to qualify for the exemption. Virginia investors would have to rely upon the NASD to establish and enforce NASDAQ/National Market System designation standards which are adequate for investor protection. The proposed rule would allow exemptions for initial public offerings (IPO's), as well as the NASDAQ/National Market System designated securities of more seasoned issuers.

The primary purpose of the Securities Act is to protect investors from the fraudulent sale of securities. Pollok v. Commonwealth, 217 Va. 411, 413, 229 S.E.2d 858, 859 (1976). Accordingly, the Act requires adequate disclosure by issuers and registration of securities prior to their

being offered for sale or sold in Virginia unless they are exempt from the registration requirements (see Virginia Code § 13.1-507). The purpose of registration is to prevent public distribution of securities offerings which are fraudulent, insubstantial, or accompanied by inadequate disclosure. Registration ensures that public securities offerings are reviewed by the Staff before the securities are offered for sale or sold to Virginia investors. Staff review helps to assure full disclosure of the material facts related to an offering and reduces the likelihood that a securities offering will involve fraud or an issuer who is insolvent or engaged in illegal business activities. We feel that this review is very important for investor protection. Accordingly, prior to promulgating a rule which would exempt certain securities from Staff review, we must carefully scrutinize the rule and confirm that it provides an adequate substitute for such review and is in the public interest.

After full review of the record and submissions in this matter, including the submission of the NASD concerning its current and proposed listing and maintenance standards and its activities in policing these requirements, we have concluded that with sufficient standards to assure continued protection for Virginia investors, a rule exempting from the registration requirements certain securities which have been designated on the NASDAQ/National Market System would be in the public interest because such a rule would provide investors with easier access to a broader range of investment products, including the securities of Virginia issuers. We do not feel that an exemption without specification of required standards is appropriate at this time, for several reasons, including: (1) the possibility of a "race to the bottom" among entities which compete for the right to list publicly traded securities, and (2) the current mood among investors resulting from the October, 1987, market crash.

Competition among the NASD, the exchanges, and the publishers of securities manuals for the right to list publicly traded securities has become intense in recent years. Such competition could create a great "race to the bottom" with each competitor lowering its listing criteria to a point where economic concerns may override investor protection considerations.¹ Without specifying the criteria which issuers must meet to have their securities exempted from the registration requirements, we would have no guarantee that this would not occur.

The October, 1987, market crash is another reason why an exemption from registration without stated criteria would be inappropriate at this time. On October 19, 1987, the Dow Jones Industrial Average plummeted a record 22.6 percent, which is almost twice the 12.8 percent drop experienced on October 29, 1929. Many people were harmed by the market crash and, subsequently, investors became exceptionally wary. When investor confidence is extremely low, as it is now, regulatory authority over a marketplace should not be delegated to the industry. Investors may view this as being analogous to delegating the protection of a henhouse to a fox.

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We do not take comfort in the fact that securities which would benefit from a blanket exemption as requested by the NASD would be reviewed by the Securities and Exchange Commission (SEC). According to Staff witness Robert M. Milburn, the SEC has stated in its current budget request that it expects to review only 73.5 percent of the initial public offerings and only 26.7 percent of the repeated offerings filed with it in fiscal 1988.²

Also, we do not feel that IPOs designated or approved for designation on notice of issuance on the NASDAQ/National Market System should receive an exemption from the registration requirements. An IPO is the first sale of an issuer's securities to the general public. IPO issuers often have little to no operating histories and tend not to be well known within the securities industry or by investors. Since their securities have not been publicly traded, information regarding them is usually limited to information found in registration statements which are prepared by or on behalf of the issuers. Therefore, the risks involved with IPOs are greater, as are the opportunities for fraud and other illegal activities. We feel that, for investor protection, it is necessary that the Staff review NASDAQ/National Market System IPOs before they are offered for sale or are sold to Virginia investors because the Staff provides the only completely independent, objective analysis of such offerings. Consequently, NASDAQ/National Market IPOs should not receive an exemption from the Securities Act registration requirements.³

Accordingly, we conclude that a new rule, Rule 504, should be promulgated pursuant to our rulemaking authority granted by Virginia Code § 13.1-523 and would read as follows:

Rule 504 NASDAQ/National Market System Exemption

In accordance with Virginia Code Section 13.1-514(a)(13), any security designated on the National Association of Securities Dealer Automated Quotations National Market System (NASDAQ/National Market System) is exempt from the securities registration requirements of the Act if the following criteria are met:

1. The issuer has a class of securities currently registered under Section 12 of the Securities Exchange Act of 1934 or in the case of an American Depository Receipt issued against the equity securities of a foreign issuer, such equity securities are registered pursuant to Section 12 of the Act.
2. The issuer, or in the case of an American Depository Receipt, the foreign issuer of the underlying equity securities, has been subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934 for the preceding 180 days and is current in its filings.
3. The National Association of Securities Dealers

(NASD) shall require at least the following standards to be met for designation of securities of an issuer on the quotation system:

	Alt. No. 1	Alt. No. 2
Net Tangible Assets ⁴	\$4,000,000	\$12,000,000
Public Float	500,000	1,000,000
Pre-Tax Income	750,000	--
Net Income	400,000	--
Shareholders ⁵	800/400	800/400
Market Value of Float	3,000,000	15,000
Minimum Bid	\$5/Share	--
Operating History	--	3 Years

The rules of the NASD shall require at least two authorized market makers for each issuer.

4. The NASD shall require at least the following minimum corporate governance standards:

a. Distribution of Annual and Interim Reports.

i. Each issuer shall distribute to shareholders copies of an annual report containing audited financial statements of the company and its subsidiaries. The report shall be distributed to shareholders a reasonable period of time prior to the company's annual meeting of shareholders and shall be filed with the NASD at the time it is distributed to shareholders.

ii. Each issuer which is subject to SEC Rule 13a-13 shall make available to shareholders copies of quarterly reports including statements of operating results either prior to or as soon as practicable following the company's filing its Form 10-Q with the SEC. If the form of such quarterly report differs from the Form 10-Q, both the quarterly report and the Form 10-Q shall be filed with the NASD. The statement of operations contained in quarterly reports shall disclose, as a minimum, any substantial items of an unusual or nonrecurrent nature, net income, and the amount of estimated federal taxes.

iii. Each issuer which is not subject to SEC Rule 13a-13 and which is required to file with the SEC or another federal or state regulatory authority interim reports relating primarily to operations and financial position shall distribute to shareholders reports which reflect the information contained in those interim reports. Such reports shall be distributed to shareholders either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report provided to shareholders differs from that filed with the regulatory authority, both the report to shareholders and the report to the regulatory authority shall be filed with the NASD.

b. Independent Directors. Each issuer shall maintain a minimum of two independent directors on its board of directors. For purposes of this section,

"independent director" shall mean a person other than an officer or employee of the issuer or its subsidiaries or any other individual having a relationship which, in the opinion of the board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

c. Audit Committee. Each issuer shall establish and maintain an audit committee, a majority of the members of which shall be independent directors.

d. Shareholder Meetings. Each issuer shall hold an annual meeting of shareholders and shall provide notice of such meeting to the NASD.

e. Quorum. Each issuer shall provide for a quorum as specified in its by-laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33-1/3 percent of the issuer's common voting stock.

f. Solicitation of Proxies. Each issuer shall solicit and provide proxy statements for all meetings of shareholders and shall provide copies of such proxy solicitation to the NASD.

g. Conflicts of Interest. Each issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and shall use the issuer's audit committee or a comparable body for the review of potential conflict of interest situations where appropriate.

h. Shareholder Approval Policy. Each issuer shall require shareholder approval of the issuance of securities in connection with the following:

i. Options plans or other special remuneration plans for directors, officers, or key employees.

ii. Actions resulting in a change in control of the issuer.

iii. The acquisition, direct or indirect, of a business, a company, tangible or intangible assets, or property or securities representing any such interests:

(1) From a director, officer, or substantial security holder of the issuer (including its subsidiaries and affiliates), or from any company or party in which one of such persons has a direct or indirect interest;

(2) Where the present or potential issuance of common stock or securities convertible into common stock could result in an increase in outstanding common shares of 25 percent or more.

5. Voting Rights.

a. The NASD rules shall provide that no rule, stated

policy, practice, or interpretation shall permit the authorization for designation on the NASDAQ/National Market System (authorization), or the continuance of the authorization, of any common stock or equity security of a United States domestic issuer if, on or after September 1, 1988, the issuer issues any class of security or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the per-share voting rights of holders of all of an outstanding class or classes of common stock of such issuer registered pursuant to Section 12 of the Securities Exchange Act of 1934.

b. The following securities may be excluded from these voting rights requirements:

i. Any class of securities having a preference over the issuer's common stock as to dividends, interest payments, redemption, or payments in liquidation, if the voting rights of such securities only become effective as a result of specified events, not relating to an acquisition of the issuer's common stock, which reasonably can be expected to relate to the issuer's financial ability to meet its payment obligations to the holders of that class of securities.

ii. Any class of securities created as part of a merger or acquisition or a recapitalization or modification of voting rights within an existing single class of voting equity security if such merger, acquisition, recapitalization, or modification receives prior approval by a majority of the votes eligible to be cast by the issuer's independent, disinterested directors⁶ and by a majority of the votes eligible to be cast by the issuer's public shareholders.

iii. Any securities of an issuer distributed pro rata among the issuer's existing common stock shareholders.

iv. Securities outstanding at the time an issuer first had a class of securities held by 500 shareholders.

v. Any class of securities issued through a public offering with voting rights not greater than the per-share voting rights of any outstanding class of the issuer's common stock.

d. The following terms shall have the following meanings for purposes of this Section, and the NASD rules shall include such definitions for purposes of the prohibition in paragraph a of this section:

i. "Common stock" is any security of an issuer designated as common stock and any security of an issuer, however designated, which by its terms is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

State Corporation Commission

ii. "Equity security" is any equity security defined as such pursuant to Rule 3a11-1 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.3a11-1 as amended or superseded).

iii. "Public shareholders" are beneficial owners of the issuer's voting equity securities who are not directors, officers, or members of their immediate families or their affiliates, or affiliates of the issuer.

6. Maintenance Criteria. After authorization for designation of a security on the NASDAQ/National Market System, the issuer of such security must meet the following criteria in order for such designation to continue in effect:

a. The issuer of the security has net tangible assets of at least:

i. \$2,000,000 if the issuer has sustained losses from continuing and/or net losses in two of its three most recent fiscal years; or

ii. \$4,000,000 if the issuer has sustained losses from continuing operations and/or net losses in three of its four most recent fiscal years;

b. There are at least 200,000 publicly held shares;

c. There are at least 400 shareholders or at least 300 shareholders of round lots;

d. The aggregate market value of publicly held shares is at least \$1,000,000; or

e. The issuer has complied with all NASD policies and procedures relating to the maintenance criteria for the NASDAQ/National Market System exemption.

7. The Commission may vacate this order pursuant to its authority under § 13.1-523, thereby revoking this rule, if the Commission determines that the requirements of the NASDAQ/National Market System have been so changed or insufficiently applied so that the protection of investors is no longer afforded.

8. The Commission shall have the authority to deny or revoke the exemption created by this Rule as to a specific issue or category of securities.

9. The NASD shall promptly notify the Commission when an issue of securities is removed from NASDAQ/National Market System designation.

NOW, THE COMMISSION, upon consideration of the record in this proceeding is of the opinion and finds that:

(1) A rule allowing an exemption for certain securities designated on the NASDAQ/National Market System should be promulgated at this time. This rule should specify criteria with which issuers must comply before their

securities can qualify for an exemption; and

(2) Initial public offerings should not be included in the rule. Accordingly,

IT IS ORDERED:

(1) That Rule 504 detailed herein be, and hereby is, adopted pursuant to § 13.1-523 of the Securities Act and shall become effective on September 1, 1988.

(2) That there being nothing further to come before the Commission, this case is dismissed and the record developed herein shall be placed in the file for ended causes.

ATTESTED COPIES of this order shall be sent to Frank J. Wilson, Esquire, General Counsel, National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006; Lee Polson, Esquire, Suite 750, 555 New Jersey Avenue, Washington, D.C. 20001; and Donald G. Owens, Esquire, Post Office Box 1122, Richmond, Virginia 23208-9970.

¹In his written testimony, James C. Meyer, President of NASAA, stated the following:

The NASDAQ National Market System ("NASDAQ/NMS") began operation in 1982. A second tier of NASDAQ/NMS companies was added in 1983, and the number of companies eligible for NASDAQ/NMS designation was expanded by amendments to the NASDAQ/NMS criteria in 1984 and 1987. During that time, the securities exchanges (the other self-regulatory organizations against which the NASD competes for the business of listing corporate securities or sale) have considered changing their own standards to expand their markets. None of these organizations can expand its market by raising standards. The competition for this listing business has resulted in an unhealthy race to the bottom by the self-regulators.

"Testimony of James C. Meyer", February 16, 1988, p.2, exhibit JCM-8.

²Transcript p.135.

³At the hearing, a Virginia attorney who has specialized in securities law for over seventeen years, stated "I have expressed to others one misgiving about this rule [the NASD proposed rule] that I wish to share with you, and that is that if I were to start from a clean slate in writing the securities laws, ... I would give consideration to excluding from the exemption the initial public offerings of all securities." Transcript p.83.

"Net Tangible Assets" is defined for purposes of this Rule to include the value of patents, copyrights, and trademarks but to exclude the value of good will.

⁵ The minimum number of shareholders under each alternative is 800 for companies with 500,000 to 1,000,000 shares publicly held and 400 for companies with over 500,000 shares publicly held and daily trading volume in excess of 2,000 shares per day for six months.

* For those NASDAQ/National Market System issuers that do not currently have independent directors, an exception will be provided until such time as they are required to have independent directors, as provided by Schedule D Part III Section 5(J) of the NASD Manual. See paragraph 1812 CCH NASD Manual.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Virginia Board of Hearing Aid Dealers and Fitters**. The purpose of the proposed action is to solicit public comment on all existing regulations as to effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's Public Participation Guidelines and Chapter 15.2 (§ 54-524.110) of Title 54 of the Code of Virginia.

Statutory Authority: § 54-524.110 of the Code of Virginia.

Written comments may be submitted until October 12, 1988.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

DEPARTMENT OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Education intends to consider amending regulations entitled: **VR 270-02-0000. Certification Regulations for Teachers**. Amendments to the regulation is in response to federal legislation (P.L. 99-457) requiring that personnel serving special education students meet the highest standard in the Commonwealth. Accordingly, the certification regulations for speech-language pathologists are being revised.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until December 31, 1988.

Contact: Dr. Lissa Power Cluver, Associate Director, Special Education Programs, Department of Education, P. O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2873

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

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Health Services Cost Review Council intends to consider amending regulations entitled: **Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed regulation is to incorporate the commercial diversification survey into the rules and regulations. Currently operating with rules and regulations that were promulgated on emergency basis on July 11, 1988.

Statutory Authority: § 9-164 of the Code of Virginia.

Written comments may be submitted until October 11, 1988.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

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: **Burial Exclusion**. The purpose of the proposed action is to promulgate a burial exclusion policy, which is consistent with SSI policy, allowed by the Catastrophic Health Care Act.

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

Written comments may be submitted until October 10, 1988, to Marsha Vandervall, Manager, Medical Social Services, Department of Medical Assistance 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

STATE BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR**

530-01-1. Regulations of the Virginia Board of Pharmacy. The purpose of the proposed action is to amend § 5.2, Automated data processing records of prescriptions, to provide that the original prescription placed on file must be hand-initialed by the pharmacist and to provide for other changes that may be indicated in automated data system records.

Statutory Authority: §§ 54-524.16 and 54-524.69 (Drug Control Act) of the Code of Virginia.

Written comments may be submitted until October 12, 1988.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

VIRGINIA REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Real Estate Board intends to consider amending regulations entitled: **Virginia Real Estate Board Regulations, Real Estate License Laws and Fair Housing Laws**. The Virginia Real Estate Board proposes to undertake an annual review and seek public comments on all its regulations for promulgation, amendment and repeal as is deemed necessary.

Statutory Authority: § 54-740 of the Code of Virginia.

Written comments may be submitted until November 1, 1988.

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

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,

General Notices/Errata

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 ☎

BOARD FOR RIGHTS OF THE DISABLED

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Rights of the Disabled intends to consider promulgating regulations entitled: **Nondiscrimination Under State Grants and Programs**. The purpose of the proposed regulation is to assure nondiscrimination on the basis of disability under state grants and programs.

Statutory Authority: § 51.01-33 (A)(7) of the Code of Virginia.

Written comments may be submitted until October 31, 1988.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, 101 N. 14th St., 17th Fl., Richmond, Va. 23219, telephone (804) 225-2042, toll-free 1-800-552-3962 or SCATS 225-2042

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Comprehensive Case Management Process for Adult Services and Adult Protective Services Clients**. The purpose of the proposed regulation is to expand the current case management for Adult Services and Adult Protective Services clients by developing policy to include a standardized assessment tool and reassessment process.

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

Written comments may be submitted until October 17, 1988.

Contact: Phyllis Grooms, Program Supervisor, Adult Placement Services, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9241 or SCATS 662-9241

† 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: **Mandatory Telephone Standard in the Food Stamp Program**. The purpose of the proposed action is to reduce the administrative burden on local agencies and on clients by mandating the use of a state computed telephone standard for food stamp households entitled to use it.

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

Written comments may be submitted until October 26, 1988, to Guy Lusk, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Virginia 23229.

Contact: Burt Richman, Food Stamp Program Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9046 or SCATS 662-9046

GENERAL NOTICES

DEPARTMENT FOR THE AGING

† Notice of Intent to Develop State Application for Funding under Title III of the Older Americans Act, As Amended

Notice is hereby given that the Department for the Aging will develop an application for funding pursuant to Title III of the Older Americans Act, as amended. The application will be for a two-, three-, or four-year period to be determined by the department. The department anticipates submitting the application to the federal Administration on Aging in August, 1989. Prior to submission, there will be a public comment period, including at least one public hearing.

The application will:

1. Identify the Virginia Department for the Aging as the sole state agency which has been designated to develop and administer Title III programs in Virginia;
2. Identify the geographic boundaries of each Planning and Service Area in Virginia and the Area Agency on Aging designated for each Planning and Service Area;
3. Include a plan developed in accordance with guidelines issued by the Commissioner of the Administration on Aging for the distribution and proposed use of Title III funds within Virginia;
4. Set forth statewide program objectives to implement the requirements of Title III; and
5. Provide prior federal fiscal year information related to low-income minority and rural older persons in Virginia.

Statutory Authority: § 2.1-373 of the Code of Virginia.

Written comments may be submitted until March 31, 1989.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 700 E. Franklin St., 10th Fl., Richmond, Va. 23219-2327, telephone (804) 225-2271 or toll-free in Virginia 1-800-552-4464/TDD ☎

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Public Hearing

The Board of Agriculture and Consumer Services will hold a public hearing on a preliminary draft of regulations, printed below, on pseudorabies in swine. The hearing will be held on Wednesday, October 5, 1988, at 10 a.m. in the:

Board Room
2nd Floor
Washington Building
1100 Bank Street
Richmond, Virginia

The board anticipates that the preliminary draft regulation will serve as the basis of an emergency regulation.

To assure the fullest possible public participation under the circumstances in creating the regulation, however, the board has elected to hold a public hearing on the preliminary draft regulation.

There is a critical need for a measure to test for pseudorabies in swine in Virginia. Two consequences of failing to do so are the proliferation of a serious disease and the closing of out-of-state markets to Virginia swine. Specifics on the need for such a measure appear in the preamble to the draft regulation, below.

PRELIMINARY DRAFT

RULES AND REGULATIONS ESTABLISHING TESTING REQUIREMENTS FOR FEEDER PIG PRODUCTION HERDS (VR 115-02-16)

AUTHORITY

Sections 3.1-724 and 3.1-726 of the Code of Virginia.

EFFECTIVE DATE

December 1, 1988

APPLICABILITY

The provisions of this regulation are in addition to, and

not in lieu of, other provisions of law or regulation.

PREAMBLE

The Board of Agriculture and Consumer Services finds that pseudorabies is one of the contagious and infectious diseases of livestock and poultry subject to regulation pursuant to § 3.1-726 of the Code of Virginia. The disease is not known to infect man. For reasons detailed below, there is not sufficient time to promulgate a regulation through ordinary means under the Administrative Process Act. Without a regulation, serious harm will result to the market for Virginia feeder pigs.

Pseudorabies affects (and often kills) a host of warm-blooded animals, but its presence is of particular concern in swine. There is a need to develop early a program to test swine in Virginia for this disease. The need derives in part from the fact that the disease has been found in Virginia, and abatement requires knowledge of where and to what extent the disease exists in the Commonwealth. Also, a number of states have adopted, and others are in the process of adopting, regulations that bar importation of swine from states that do not have in place pseudorabies-control programs that meet their standards. North Carolina, for one, will close its markets to Virginia feeder pigs on January 1, 1989, unless Virginia has a satisfactory program in place by that time. Tennessee, Pennsylvania, Kentucky, Ohio, and Georgia are initiating or have initiated similar measures. The standards they have adopted center on a model program recently established by the National Pseudorabies Control Board. The effort of that board is a cooperative one, involving the National Pork Producers Association, the United States Animal Health Association, and the Livestock Conservation Institute.

There is a need for a regulation to establish the program in Virginia. A fuller regulation will soon be developed, and that regulation will supersede the present, proposed emergency regulation.

§ 1. Definitions.

The following terms, when used in this regulation, shall have the following meanings, unless the context clearly indicates otherwise:

"Accredited veterinarian" means a licensed veterinarian approved by the United States Department of Agriculture and the State Veterinarian to perform functions required by cooperative state-federal disease control and eradication programs.

"Approved laboratory" means a laboratory approved by the United States Department of Agriculture or the State Veterinarian to conduct official pseudorabies tests.

"Boar" means any male swine used for or intended to be used for producing offspring.

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“Feeder pig” means any immature swine used for or intended to be used exclusively for feeding for slaughter.

“Licensed veterinarian” means a veterinarian who has been graduated from a recognized college of veterinary medicine and has been examined and found to be proficient by the Virginia Board of Veterinary Medicine.

“Official pseudorabies serologic test” means an official pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

“Official pseudorabies test” means any test for the diagnosis of pseudorabies approved by the United States Department of Agriculture and conducted in an approved laboratory.

“Pseudorabies” is an infectious and contagious disease, governed by § 3.1-726 of the Code of Virginia, of swine and certain other warm-blooded animals.

“Pseudorabies monitored herd” means a feeder pig production herd that has been tested according to the provisions of § 4 of this regulation.

“Qualified pseudorabies negative herd” means a feeder pig production herd that meets the provisions of § 5 of this regulation.

“Sow” means any female swine used for or intended to be used for producing offspring.

“State Veterinarian” means a Virginia Department of Agriculture and Consumer Services veterinarian employed by the Commissioner of Agriculture and Consumer Services who is responsible for the animal-health programs in the Commonwealth of Virginia.

§ 2. Pseudorabies test procedures.

A. Blood samples collected for use in conducting an official pseudorabies serologic test shall be drawn by an accredited veterinarian, and the test shall be conducted at an approved laboratory.

B. The accredited veterinarian shall record on the official pseudorabies test chart individual identification of the animals tested.

§ 3. Identification of swine.

A. All swine tested for pseudorabies from feeder pig production herds shall be individually identified by eartag, tattoo, registration number, standard ear notch, or by any other method approved by the State Veterinarian.

B. Feeder pigs subject to this regulation shall be individually identified by metal eartag or by any other method approved by the State Veterinarian.

§ 4. Pseudorabies monitored herd procedures.

A. To achieve initial certification as a pseudorabies monitored herd, a feeder pig production herd shall be tested and found to be negative for pseudorabies, with the testing to be of a representative sample of the herd, including all boars. The sample size shall be as follows:

- 1. In herds of ten sows or fewer, all sows shall be tested;*
- 2. In herds of 11 to 35 sows, ten sows shall be tested; and*
- 3. In herds of 36 sows or more, 30% of sows or 30 sows, whichever is fewer, shall be tested.*

B. To continue to be certified as a pseudorabies monitored herd, the initially certified feeder pig production herd shall be recertified annually by utilizing the sample size specified in § 4 A of this regulation. The sample for recertification shall also include all boars and 30% of sows added to the feeder pig production herd since the last certification test. The recertification date shall be no more than 30 days before and no more than 30 days after the anniversary date of the initial herd certification pursuant to § 4 A.

§ 5. Qualified pseudorabies negative herd procedures.

A. Qualified pseudorabies negative herd status shall be attained by subjecting all swine over six months of age in the feeder pig production herd to an official pseudorabies serologic test and finding all swine so tested to be negative.

B. Qualified pseudorabies negative herd status shall be maintained by subjecting all swine over six months of age in the feeder pig production herd to an official pseudorabies serologic test at least once each year. The test shall be accomplished by testing 25% of swine over six months of age every 80-105 days and finding all swine so tested to be negative. No swine may be tested twice in one year to comply with the 25% requirement.

C. To the extent that they are consistent with the present regulation, the provisions of 9 CFR 85.1 shall govern the means of establishing a herd as a qualified pseudorabies negative herd.

§ 6. Proof of herd-health status.

Proof of herd-health status for pseudorabies shall be by one of the following methods:

A. A current Swine Herd Health Card for Pseudorabies (VDACS-03024) issued by the State Veterinarian or other proof, specified by the State Veterinarian, of being a pseudorabies monitored herd or a qualified pseudorabies negative herd; or

B. An official pseudorabies test chart identifying the individual feeder pigs offered in the transaction or

shipment and indicating that they have been tested and found to be negative for pseudorabies within the past 30 days.

§ 7. Intrastate dealings in feeder pigs; interstate shipment.

Feeder pigs sold, lent, leased or traded in Virginia; feeder pigs offered for sale, loan, lease, or trade in Virginia; feeder pigs imported into Virginia from other states; and feeder pigs exported from Virginia into states that require testing for export shall:

A. Originate from a pseudorabies monitored herd;

B. Originate from a qualified pseudorabies negative herd; or

C. Be individually tested and found negative for pseudorabies within 30 days prior to the shipment and within 30 days prior to the transaction.

§ 8. Petitions for reconsideration or revision.

The Board of Agriculture and Consumer Services will receive, consider, and respond to petitions by any interested persons at any time with respect to reconsideration or revision of this regulation.

These regulations shall expire on January 1, 1990, if they are not superseded prior to that time by other, more extensive regulations contemplated for the abatement of pseudorabies.

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.

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Notice of the Virginia Outdoors Fund Loan and Grant Programs

The Department of Conservation and Historic Resources is the agency designated by the General Assembly of Virginia to administer state appropriated funds for the acquisition and development of outdoor recreation areas and facilities.

The program goal is to facilitate the availability of outdoor recreation areas and facilities for all political jurisdictions in the Commonwealth of Virginia. Eligibility is limited to: Cities, Towns, Counties and Public Authorities responsible for providing public recreation services under the Code of Virginia.

Pursuant to the aforementioned authority, the Department of Conservation and Historic Resources hereby announces the availability of \$1,400,000 in loans and \$2,100,000 in grants each year for the 1988-90 biennium.

Applications for loans or grants or a combination of both to assist localities are available from the Department of Conservation and Historic Resources, Division of Parks and Recreation. Applications are received year-round and are reviewed in accordance with established criteria and needs identified through local and regional master plans and the State of Virginia Outdoors Plan.

Notice of Chesapeake Bay Youth Conservation Corps Program

The Department of Conservation and Historic Resources is the lead agency designated by the General Assembly of Virginia to administer state appropriated funds for the Chesapeake Bay Youth Conservation Corps Program.

The program goal is to improve the water and the environment of the Chesapeake Bay through conservation projects that employ youth.

Eligibility is limited to all state agencies, political

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subdivisions, educational institutions, and Soil and Water Conservation Districts located within a specified Tidewater area of the Commonwealth of Virginia.

Notice is hereby given by the Department of Conservation and Historic Resources on the availability of \$300,000 in grant funds each year for the 1988-90 biennium.

Applications for eligible Tidewater localities are available from the Department of Conservation and Historic Resources, Division of Parks and Recreation. Applications are accepted year-round, but major emphasis is placed on the receipt of applications in the spring of each fiscal year in order to accommodate the opportunity for summer youth employment.

Program information for both the Virginia Outdoors Fund Loan and Grant Programs and the Chesapeake Bay Youth Conservation Corps Program is available by contacting:

Department of Conservation and Historic Resources
Division of Parks and Recreation
Attention: Art Buehler
Director, Administrative Services
Suite 306
203 Governor Street
Richmond, Virginia 23219

COUNCIL ON THE ENVIRONMENT

Notice of Public Meeting

The Council on the Environment, the Department of Agriculture and Consumer Services and other relevant agencies of the Commonwealth will undertake a comprehensive review of pesticide management issues in Virginia. Public participation will be encouraged throughout this year-long review. The goal of the review will be to develop a management plan that protects public health and natural resources from potential pesticide contamination. Recommendations will be submitted to the Secretaries of Health and Human Resources, Natural Resources, and Economic Development in time for review and submission of budgetary and legislative proposals to the 1990 General Assembly. Issues that could be considered as part of the review include but are not limited to water quality protection, pesticide storage and disposal, wildlife and endangered species protection, farm worker safety, applicator and dealer certification, and education.

Scoping meetings will be held at four locations:

September 26, 1988 - 7:30 p.m. Donaldson Brown Continuing Education Center, Conference Room C, Virginia Tech, Blacksburg, Virginia

September 27, 1988 - 7:30 p.m. Chandler Hall, James

Madison University, South Main Street, Harrisonburg, Virginia

September 28, 1988 - 7:30 p.m. Upper Occoquan Sewage Authority, Board Meeting Room, Administration Building, Centreville, Virginia

September 29, 1988 - 7:30 p.m. Paul D. Camp Community College, Room 143, College Drive, Franklin, Virginia

Speakers will be asked to limit their comments to ten minutes. Written comments will be received until October 12, 1988, and should be addressed to: Administrator, Council on the Environment, Ninth Street Office Building, Room 903, Richmond, Va. 23219.

Contact: Jay Roberts, Council on the Environment, Ninth Street Office Bldg., Room 903, Richmond, Va. 23219, telephone (804) 786-4500

DEPARTMENT OF HEALTH

† Notice

The 1987 State Medical Facilities Plan is now available for purchase. The Plan contains statistics descriptive of health services and facilities in Virginia and, in instances where projection methodologies have been adopted, it includes estimates of future need. Adopted by the Virginia Statewide Health Coordinating Council, this Plan would be of interest to parties engaged in the development of applications for certificates of public need or other health system planning activities. Copies may be obtained at a price of \$12.00 (including postage) by writing to: Division of Health Planning, Virginia Department of Health, James Madison Building, Room 1010, 109 Governor Street, Richmond, Virginia 23219.

† Notice of Intended Public Participation Virginia WIC Program

Notice is hereby given that the Special Supplemental Food Program for Women, Infants and Children (WIC) intends to solicit additional public comments regarding the manner in which it manages its vendor operations. Interested parties will have the opportunity to comment on the WIC authorization process for grocery stores, pharmacies and military commissaries. Information on WIC vendor limitation and selection criteria, as well as other related aspects of WIC Program administration may be obtained by writing to the Virginia Department of Health, Division of Public Health Nutrition/WIC, 109 Governor Street, 6th Floor, Richmond, Virginia 23219.

Comments may be submitted in writing to the above address between September 26, 1988, and November 25, 1988, or they may be presented at the following public hearings:

October 31, 1988 - 7 p.m.
Board of Supervisors Meeting Room, 401 McIntire Road,
2nd Floor, Room 7, Charlottesville, Virginia

October 31, 1988 - 7 p.m.
Municipal Building, 215 Church Avenue, Council Chambers,
4th Floor, Roanoke, Virginia

November 7, 1988 - 7 p.m.
Henrico Government Center, Parham at Hungary Springs
Road, Board of Supervisors Room, Richmond, Virginia

November 15, 1988 - 7 p.m.
Massey Building, 4100 Chain Bridge Road, Board of
Supervisors Meeting Room, "A" Level, Fairfax, Virginia

November 16, 1988 - 7 p.m.
Virginia Beach Public Library, 4100 Virginia Beach
Boulevard, Virginia Beach, Virginia

November 16, 1988 - 7 p.m.
University of Virginia Southwest Center, Highway 19 North,
Room 1, Abingdon, Virginia

DEPARTMENT OF LABOR AND INDUSTRY

† Eligibility Determination for the Commonwealth of Virginia Occupational Safety and Health Plan and Opportunity for Public Comment

This document gives notice that the Commonwealth of Virginia Occupational Safety and Health Plan as administered by the Virginia Department of Labor and Industry is eligible for a determination under Section 18(e) of the Occupational Safety and Health Act of 1970 as to whether final approval of the plan should be granted.

OSHA in its notice of eligibility for final approval published in the Federal Register on September 2, 1988, gives notice that it is soliciting public comment and the opportunity to request an informal public hearing to allow interested persons to present their views regarding whether or not final approval should be granted.

Written comments or requests for a hearing must be received by October 7, 1988, and should be submitted, in quadruplicate, to the Docket Officer, Docket No. T-023, Room N2439 Rear, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-7894.

All information and data presently available to OSHA relating to the Virginia 18(e) proceeding have been made a part of the record and placed in the OSHA Docket Office. The contents of the record are available for inspection and copying at the following locations:

Virginia Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241-0064

Virginia Department of Labor and Industry
11211 Waples Mill Road, Suite 302
Fairfax, Virginia 22030

Virginia Department of Labor and Industry
2551 Eltham Avenue, Suite H
Norfolk, Virginia 23513

Virginia Department of Labor and Industry
Peters Creek Plaza Office Building
1314 Peters Creek Road, N.W., Suite 130
Roanoke, Virginia 24017

For further information please contact Jay W. Withrow at (804) 786-5873.

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 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT FOR THE AGING

September 27, 1988 - 10 a.m. – Open Meeting
Council Chambers, Municipal Building, S.W., Room 450,
Roanoke, Virginia. ☒ (Interpreter for deaf provided if
requested)

September 29, 1988 - 10 a.m. – Open Meeting
Holiday Inn - South, Virginia Room, US 1 and Interstate
95, Exit 44, Fredericksburg Exit, Fredericksburg, Virginia.
☒ (Interpreter for deaf provided if requested)

Hearing to invite public comment and perspectives as part of a study on the problems of suicide and substance abuse by the elderly. Also, to consider the impact of family care-giving on employee work performance (HJR 156). Written comments should be sent to: Mr. Ron Handy, Virginia Department for the Aging, 700 Centre, 10th Floor, 700 East Franklin Street, Richmond, Virginia 23219-2327. The department will arrange interpreter services for the hearing impaired on request.

Contact: Ron Handy, Information Analyst, 700 Centre, 10th Fl., 700 E. Franklin St., Richmond, Va. 23219-2327, telephone (804) 225-2853, toll-free 1-800-552-4464, SCATS 225-2271 or 225-2271/TDD ☎

† **November 29, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room
A, Richmond, Virginia. ☒

† **December 1, 1988 - 10 a.m.** – Public Hearing
Loudoun County Administration Building, 18 North King
Street, Board of Supervisors Meeting Room, Leesburg,
Virginia

† **December 8, 1988 - 10 a.m.** – Public Hearing
W. W. Scott Senior Center, 307 South Park Street, Marion,
Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department for the Aging intends to adopt regulations entitled: **VR 110-01-02. Area Agencies on Aging.** The proposed regulation sets forth the methods for (i) designating a planning and service area and an area agency on aging and (ii) suspending or terminating the designation of an area agency on aging.

STATEMENT

Basis, purpose and impact: One of the statutory responsibilities of the Virginia Department for the Aging is to designate Planning and Service Areas and Area Agencies on Aging pursuant to the Older Americans Act of 1965, as amended (PL 89-73) and to promulgate regulations for the composition and operation of the Area Agencies on Aging. In fulfilling this responsibility, the department has defined the boundaries of 25 Planning and Service Areas in Virginia and has designated an Area Agency on Aging in each area.

Statutory Authority: § 2.1-373 (a)(7) of the Code of Virginia.

Written comments may be submitted until December 9, 1988.

Contact: J. James Cotter, Division Director, Department for the Aging, 700 E. Franklin St., 10th Fl., Richmond, Va. 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-4464 or SCATS 225-2271

† **November 29, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room
A, Richmond, Virginia. ☒

† **December 1, 1988 - 10 a.m.** – Public Hearing
Loudoun County Administration Building, 18 North King
Street, Board of Supervisors Meeting Room, Leesburg,
Virginia

Calendar of Events

† **December 8, 1988 - 10 a.m.** – Public Hearing
W. W. Scott Senior Center, 307 South Park Street, Marion,
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Aging intends to adopt regulations entitled: **VR 110-01-03. Area Plans for Aging Services.** The proposed regulation regulates the process by which an Area Agency on Aging develops and implements its Area Plan for Aging Services.

STATEMENT

Basis, purpose and impact: As a condition of its designation by the Virginia Department for the Aging, an Area Agency on Aging must prepare and develop an Area Plan for Aging Services for its Planning and Service Area. This plan is for a period determined by the department. It must comply in content and format with the requirements established by the department.

Statutory Authority: § 2.1-373 (a)(7) of the Code of Virginia.

Written comments may be submitted until December 9, 1988.

Contact: J. James Cotter, Division Director, Virginia Department for the Aging, 700 E. Franklin St., 10th Fl., Richmond, Va. 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-4464 or SCATS 225-2271

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† **November 29, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

† **December 1, 1988 - 10 a.m.** – Public Hearing
Loudoun County Administration Building, 18 North King Street, Board of Supervisors Meeting Room, Leesburg, Virginia

† **December 8, 1988 - 10 a.m.** – Public Hearing
W. W. Scott Senior Center, 307 South Park Street, Marion, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Aging intends to adopt regulations entitled: **VR 110-01-04. Financial Management Policies Applicable to Area Agencies on Aging.** The proposed regulation provides policies and standards for an Area Agency on Aging in the administration of federal and state grants to provide supportive and nutrition services to older persons.

STATEMENT

Basis, purpose and impact: Such fiscal controls and fund

accounting procedures must be adopted as may be necessary to assure proper disbursement of, and accounting for, federal and state funds paid to an Area Agency on Aging to achieve the purposes of Title III of the Older Americans Act, including any such funds paid to the recipients of a grant/contract from the Area Agency on Aging.

Statutory Authority: § 2.1-373 (a)(7) of the Code of Virginia.

Written comments may be submitted until December 9, 1988.

Contact: J. James Cotter, Division Director, Virginia Department for the Aging, 700 E. Franklin St., 10th Fl., Richmond, Va. 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-4464 or SCATS 225-2271

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† **November 29, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

† **December 1, 1988 - 10 a.m.** – Public Hearing
Loudoun County Administration Building, 18 North King Street, Board of Supervisors Meeting Room, Leesburg, Virginia

† **December 8, 1988 - 10 a.m.** – Public Hearing
W. W. Scott Senior Center, 307 South Park Street, Marion, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Aging intends to adopt regulations entitled: **VR 110-01-05. Long-Term Care Ombudsman Program.** The proposed regulation describes the policies by which the Department for the Aging establishes and operates the Office of the State Long-Term Care Ombudsman and designates/supervises area or local ombudsman entities.

STATEMENT

Basis, purpose and impact: The Older Americans Act of 1965, as amended, requires the Virginia Department for the Aging to establish and operate an Office of the State Long-Term Care Ombudsman and to carry out through the office a long-term care ombudsman program. The Act also allows the office to designate area or local ombudsman entities as representatives of the office in meeting its responsibilities.

Statutory Authority: § 2.1-373 (a)(7) of the Code of Virginia.

Written comments may be submitted until December 9, 1988.

Calendar of Events

Contact: J. James Cotter, Division Director, Virginia Department for the Aging, 700 E. Franklin St., 10th Fl., Richmond, Va. 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-4464 or SCATS 225-2271

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

October 4, 1988 - 1 p.m. – Open Meeting
October 5, 1988 - 9 a.m. – Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia

A regular meeting of the board.

Contact: Roy E. Seward, Acting Secretary, 1100 Bank St., Room 210, Richmond, Va. 23219, telephone (804) 786-3501 or SCATS 786-3501

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

STATE AIR POLLUTION CONTROL BOARD

October 3, 1988 - 9 a.m. – Open Meeting
October 4, 1988 - 8:45 a.m. – Open Meeting
Sheraton, Virginia Beach, Virginia

This is a general meeting of the board. The annual meeting of the State Advisory Board on Air Pollution will be on October 4 at the Sheraton, Virginia Beach.

Contact: Richard Stone, Public Information Officer, P. O.

Box 10089, Department of Air Pollution Control, Richmond, Va. 23240, telephone (804) 786-5478 or SCATS 786-5478

DEPARTMENT OF AIR POLLUTION CONTROL

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.

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 that 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 establishes 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.

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

Written comments may be submitted until close of business 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

ALEXANDRIA SARA TITLE III LOCAL EMERGENCY PLANNING COMMITTEE

† **October 12, 1988 - 7:30 p.m.** – Open Meeting
Alexandria Police Department, 2003 Mill Road, Conference Room, Alexandria, Virginia. ☐

Information and discussion of SARA Title III Emergency Planning and Community Right-to-Know legislation. Open meeting, public invited to attend.

Contact: Chap Coleman, Emergency Preparedness Coordinator, Fire Department, 900 Second St., Alexandria, Va. 22314, telephone (703) 838-3825

AMHERST COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† **October 5, 1988 - 3:30 p.m.** – Open Meeting
Amherst County Courthouse, Board of Supervisor's Meeting Room, Lynchburg, Virginia. ☐

The Amherst County Local Emergency Planning Committee shall formally adopt 1988 revisions to the Emergency Operations Plan to satisfy SARA Title III legislation.

Contact: Michael T. Dorsey, Environmental Planner, P. O. Box 2526, Lynchburg, Va. 24503, telephone (804) 845-3491

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 Land Surveyors

† **October 27, 1988 - 9 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes of the August 5,

1988, meeting; (ii) review applications; (iii) review and discuss enforcement files; and (iv) review general correspondence.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS 367-8514

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **September 28, 1988 - 10 a.m.** – Open Meeting
Nandua High School Auditorium, Accomack, Virginia

The third meeting of the board to conduct general board business.

Contact: Melany K. Earnhardt, Administrative Assistant, 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

October 6, 1988 - 5:30 p.m. – Open Meeting
November 3, 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

CHILD DAY-CARE COUNCIL

November 1, 1988 - 4 p.m. – Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. – Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Boulevard, AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. – Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-02-01. Minimum Standards for Licensed Child Care Centers.** This regulation lists the standards that child care centers licensed by the Department of Social Services must meet. The following issues are addressed in the regulation: administration, personnel,

Calendar of Events

staffing/supervision, physical environment, admission policies and procedures, special care provisions, emergencies, and program and services which include: management of behavior, nutrition and food service, daily schedule, and activities.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 28, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Va. 23229, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

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November 1, 1988 - 4 p.m. -- Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. -- Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Boulevard, AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. -- Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-04-01. Criminal Record Checks.** This regulation establishes the criminal record check procedures that employees and volunteers of a child care center must follow. The regulation includes the following topics: individuals required to obtain certificates, routing of certificates, validity of certificates, duplicate certificates, and maintenance and responsibility of certificates by facilities.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 28, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

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November 1, 1988 - 4 p.m. -- Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. -- Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Boulevard,

AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. -- Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Title of Regulation: General Procedures and Information for Licensure.

Notice: Refer to Notice of Comment Period for this regulation listed under Department of Social Services.

DEPARTMENT OF COMMERCE

October 11, 1988 - 10 a.m. -- Open Meeting
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Conference Rooms A and B, Virginia Beach, Virginia

The department will meet to conduct a formal administrative hearing regarding Department of Commerce v. Flair Beauty Institute, No. 2.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

September 26, 1988 - 10 a.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Historic Resources intends to amend regulations entitled: **VR 215-01-01. Standards for Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Assessment Law.** The proposed amendments clarify existing requirements and strengthen eligibility standards for real estate devoted to open space preserved or provided for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, and consistent with the local land use plan.

Statutory Authority: §§ 10.1-104 and 58.1-3230 of the Code of Virginia.

Written comments may be submitted until November 11, 1988, to B. C. Leynes, Jr., Director, Department of Conservation and Historic Resources, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Historic Resources, 203 Governor St., Suite 302, Richmond, Va. 23219, telephone (804) 786-4570

Falls of the James Advisory Committee

October 21, 1988 - noon - Open Meeting
Richmond City Hall, 3rd Floor Conference Room,
Richmond, Virginia

A regular meeting to discuss issues relating to the Falls of the James Scenic River.

Division of Parks and Recreation

† **September 27, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Carillon, Byrd Park, Blanton Avenue, Richmond, Virginia

† **September 27, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Mt. Rogers Planning District Commission, 1021 Terrace Drive, Conference Room, Marion, Virginia

† **September 27, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Providence Recreation Center, 7525 Mac Drive, Falls Church, Virginia

† **September 28, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Norfolk City Council Chambers, City Hall, 810 Union Street, 11th Floor, Norfolk, Virginia

† **September 28, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Roanoke County Library Headquarters, 3131 Electric Road, S.W., Roanoke, Virginia

† **September 28, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Samuels Public Library, 538 Villa Avenue, Front Royal, Virginia

† **September 28, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Southside Community College, J. N. Daniel Campus, Keysville, Virginia

† **September 29, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Howie Memorial National Guard Armory, Gypsy Hill Park, Staunton, Virginia

† **September 29, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Nanona High School, Route 13, Onley, Virginia

† **September 29, 1988 - 2:30 p.m. and 7:30 p.m.** - Open Meeting
Fredericksburg-Stafford Park Authority Office, 60 Butler Road, Falmouth, Virginia

A public information meeting to discuss the draft Virginia Outdoors Plan, 1989 Issue.

Contact: Richard G. Gibbons, Planning Chief, Department of Conservation and Historic Resources, Division of Parks and Recreation, 203 Governor St., Suite 306, Richmond, Va. 23219, telephone (804) 786-4132

STATE BOARD FOR CONTRACTORS

October 19, 1988 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A quarterly meeting of the board to (i) address policy and procedural issues, (ii) review and render decisions on applications for contractors' licenses, (iii) review staff recommendations for revisions to its rules and regulations, (iv) and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a large portion of the board's business will be discussed in Executive Session.

Contact: Laster G. Thompson, Jr., Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

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.

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

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November 15, 1988 - Written comments may be submitted until this date.

Title of Regulations: **VR 230-40-001. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.**

Calendar of Events

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services.

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† November 30, 1988 - 10 a.m. - Public Hearing

Title of Regulations: **VR 230-40-001. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.**

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services.

VIRGINIA BOARD OF COSMETOLOGY

October 4, 1988 - 10 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. ☒

A meeting to conduct a formal administrative hearing regarding Virginia Board of Cosmetology v. Flair Beauty Institute, No. 2.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

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† December 2, 1988 - 10 a.m. - Public Hearing
Travelers Building, 3600 West Broad Street, Room 395, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Cosmetology intends to amend regulations entitled: **VR 235-01-02. Virginia Board of Cosmetology Regulations.** The proposed amendments establish the requirements for licensure for cosmetologists, cosmetology instructors, and cosmetology schools and establishes standards of practice and fees.

STATEMENT

A summary of the major proposed changes and their estimated impact is as follows:

1. Sections 1.1, 1.2, 1.3 are being deleted in the proposed regulations because the information is addressed in the applications used by the board. No impact is anticipated for the applicant or licensee.
2. Proposed § 1.1(C) provides the board with the authority to consider the previous licensing history of individuals when an applicant applies to the board.
3. Proposed § 1.1(D) creates a cosmetology license application fee. Currently the board does not charge a separate fee for a license. The fee is being established

to cover administrative costs.

4. Section 1.4 is being deleted in the proposed regulations because the language is unnecessary.

5. Sections 1.5, 1.6, and 1.7 are being deleted from the proposed regulations because the fees appear in different sections of the regulations.

6. Proposed § 1.4(A) and (B) provide the board the authority to contract with the private sector to administer the cosmetology examination in accordance with Executive Memorandum 1-88.

7. Proposed § 1.4(D) requires an individual to pay a rescheduling fee if they fail to appear as scheduled for an examination. The board is hopeful that the rescheduling fee will discourage candidates from not showing for an examination and will appropriately cover administrative costs for rescheduling candidates.

8. Proposed § 1.5(B) prohibits certified instructors who are currently teaching and school owners from serving as examiners. This prohibition will eliminate the appearance of impropriety.

9. Proposed § 1.5(C) revises the requirements for a chief examiner. The revision requires a chief examiner to have three years experience as an examiner and be a practicing cosmetologist. No significant impact is anticipated.

10. Proposed § 1.7(C) provides for a licensed cosmetologist to obtain a student instructor permit under the supervision of a certified instructor. The permit will remain in force for no more than 12 months. The proposed regulation will allow an individual to teach with supervision prior to completing the teachers examination.

11. Proposed § 1.9(B) clarifies that salon licenses are not to be transferred to other individuals and shall bear the name and address in which the salon operates. A licensee will be required to notify the board of any changes in the name of the salon, address or owners within 30 days of such changes. The proposed amendment should result in more accurate licensing records and clearer understanding of the requirements of the salon owner.

12. The board is deleting §§ 1.8, 1.8.1.1, 1.8.1.2, 1.8.2, 1.8.1.3 and 1.8.1.4 which established a staggered renewal system as the relevant period of time has passed.

13. Proposed § 2.1(A) implements a renewal requirement for teacher certificates.

14. Proposed § 2.1(C) establishes renewal fees for cosmetology licenses, teach certificates, salon licenses and cosmetology school licenses.

Calendar of Events

15. Proposed §§ 2.3 and 2.3(A) establishes the late renewal penalty fees and reinstatement fees for cosmetology licenses, teacher certificates, salon licenses and school licenses.

16. Proposed § 2.3(C) requires an individual whose license has expired for a two year period or longer to pass the cosmetology practical and written examination prior to reinstatement. The board is proposing this regulation because it feels it is appropriate if an individual has not been practicing for two years or longer that they should demonstrate to the board they are still qualified for licensure. The board administers examinations each month so the impact should not be significant on the regulants.

17. Proposed § 2.4(A) allows the board to exercise its discretionary authority to delay or stop renewal of a license in which the board has before it evidence which, in the judgment of the board, shows that renewal of the license may pose a threat to the public.

18. Proposed § 3.1(A) requires an owner and operator of a cosmetology school to obtain a license for each location. The requirement for each location to be licensed is consistent with the current requirement for each shop to be licensed.

19. Proposed § 3.5 requires cosmetology schools to report to the student by written report the hours as well as performances upon completion of 25%, 50% and 75% of performances completed. The proposed regulation has no significant impact on the schools in that the hours are already being maintained by the cosmetology schools to be reported to the state board.

20. Section 4.5 is being deleted because it has been combined with proposed § 3.5.

21. Proposed § 3.6 requires cosmetology schools to maintain written records of hours and performances completed for each student for a period of five years after the student terminates or completes the curriculum. The impact of the proposed amendment is considered insignificant because it is estimated that cosmetology schools currently maintain the records for five years or longer.

22. Proposed § 3.7 includes the requirement of performances as well as hours. No significant impact is anticipated.

23. Section 4.5 is being deleted. The impact of the deletion of the section eliminates the requirement for schools to report hours to the state board. Proposed § 3.5 requires hours to be reported to the student not the board.

24. Proposed § 4.1 is being revised to require the displaying of all current licenses, permits, and

certificates in the school or establishment where business is being conducted. No significant impact is anticipated.

25. Proposed § 4.2(A1) and (B3) are being amended to reflect the use, sanitation, storage and disposal of all sharp-edged cutting instruments used as tools of the profession. The amendments to the regulations are being proposed in an effort to prevent transmission of infections and disease.

26. Proposed § 4.3(E) provides the board with the authority to sanction regulants who do not cooperate with the board when requesting information relating to investigations or projects where such information is necessary to assist the board in its conclusions.

Due to the continuing necessity of the board to comply with § 54-1.28:1 of the Code of Virginia, in its financial revenues and expenditure fees are increased in the proposed amendments as follows:

	Current Fee	Proposed Fee
Cosmetology Examination Fee	\$35.00	\$60.00
Cosmetology Reexamination Fee	\$20.00	\$40.00
Cosmetology License Fee	—	\$20.00
Cosmetology License Renewal Fee	\$25.00	\$30.00
Cosmetology Salon License Fee	\$35.00	\$75.00
Cosmetology Salon License Renewal Fee	\$35.00	\$75.00
Certified Teacher Examination Fee	\$35.00	\$20.00
Teacher Certificate Fee	—	\$30.00
Teacher Certificate Renewal Fee	—	\$40.00
Cosmetology School License Fee	\$65.00	\$100.00
Cosmetology School License Renewal Fee	\$65.00	\$100.00

In addition to these substantive changes, many of the proposed changes contain minor language revisions to improve clarity without altering the current substantive requirements.

Statutory Authority: § 54-1.28(5) of the Code of Virginia.

Written comments may be submitted until November 26, 1988.

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)

CRIMINAL JUSTICE SERVICES BOARD

October 5, 1988 - 11 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

Calendar of Events

Committee on Criminal Justice Information Systems

October 6, 1988 - 10 a.m. - Open Meeting
Ninth Street Office Building, 9th and Grace Streets,
Governor's Cabinet Conference Room, 6th Floor,
Richmond, Virginia. ☐

A meeting to discuss projects and business of the committee.

Committee on Training

October 5, 1988 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000 or SCATS 786-4000

VIRGINIA BOARD OF DENTISTRY

September 28, 1988 - 10 a.m. - Open Meeting
NOTE: CHANGE OF MEETING TIME
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

STATE BOARD OF EDUCATION

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)

November 15, 1988 - Written comments may be submitted until this date.

Title of Regulation: VR 270-01-003. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services:

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† **November 30, 1988 - 10 a.m. - Public Hearing**

Title of Regulation: VR 270-01-003. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services:

COUNCIL ON THE ENVIRONMENT

September 26, 1988 - 7:30 p.m. - Open Meeting
Donaldson Brown Continuing Education Center, Virginia Polytechnic Institute and State University, Conference Room C, Blacksburg, Virginia

September 27, 1988 - 7:30 p.m. - Open Meeting
James Madison University, Chandler Hall, South Main Street, Harrisonburg, Virginia

September 28, 1988 - 7:30 p.m. - Open Meeting
Upper Occoquon Sewage Authority, 14631 Compton Road, Board Meeting Room, Administration Building, Centreville, Virginia

September 29, 1988 - 7:30 p.m. - Open Meeting
Paul D. Camp Community College, College Drive, Room 143, Franklin, Virginia

Notice of intent to hold a public scoping meeting to receive comments on the range of issues that should be considered in a comprehensive review of pesticides management in Virginia.

(See General Notices section of this issue of the Virginia Register.)

Contact: Jay Roberts, Environmental Programs Analyst,

Ninth Street Office Bldg., Room 903, Richmond, Va. 23219, telephone (804) 786-4500 or SCATS 786-4500

LOCAL EMERGENCY PLANNING COMMITTEE OF FAIRFAX COUNTY - TOWN OF VIENNA - CITY OF FAIRFAX - TOWN OF HERNDON

October 14, 1988 - 10 a.m. - Open Meeting

NOTE: CHANGE OF MEETING DATE

Wood Municipal Center, Old Lee Highway, Fairfax, Virginia

The committee is meeting in accordance with 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

† October 6, 1988 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A business meeting.

Contact: R. Duke Burruss, Washington Bldg., 1100 Bank St., Room 802, Richmond, Va. 23219, telephone (804) 786-1949

VIRGINIA FIRE SERVICES BOARD

† October 7, 1988 - 8 a.m. - Open Meeting
Hanover Training Center, Route 696, Ashland, Virginia. ☐

The purpose of this meeting is to review grant applications for the construction, expansion or improvement to regional training centers.

Contact: Anne J. Bales, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

October 7, 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

GLOUCESTER LOCAL EMERGENCY PLANNING COMMITTEE

September 28, 1988 - 6:30 p.m. - Open Meeting
Old Courthouse, Court Green, Gloucester, Virginia. ☐

The local emergency planning committee will meet in a work session to review the final draft of the County Hazardous Materials Response Plan.

The local emergency planning committee will not meet in October.

Contact: Georgette N. Hurley, Assistant County Administrator, P. O. Box 329, Gloucester, Va. 23061, telephone (804) 693-4042

HANOVER COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† October 4, 1988 - 9 a.m. - Open Meeting
Hanover Courthouse Volunteer Fire Department, Route 1004, Hanover, Virginia. ☐

The adoption of hazardous materials emergency plans that comply with SARA Title III requirements.

Contact: John Trivellin, Hazardous Materials Coordinator, P. O. Box 470, Hanover County, Va. 23069, telephone (804) 798-8554

DEPARTMENT OF HEALTH (STATE BOARD OF)

NOTE: CHANGE IN PUBLIC HEARING DATE
November 3, 1988 - 2 p.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-28-01.02. Regulations for Disease Reporting and Control.** These regulations explain the requirements for reporting communicable diseases, toxic substances related diseases, and cancer to the health department, including defining who is required to report, which diseases are reportable, and what mechanisms are available for reporting. The amendments to the regulation are proposed as a result of current national disease control initiatives, recent changes to the Code of Virginia, or both. They will enable the Virginia Department of Health to monitor diseases of public health importance, including conditions which have only recently achieved such importance.

Calendar of Events

Statutory Authority: § 32.1-12 of the Code of Virginia.

Written comments may be submitted until October 31, 1988.

Contact: Diane Woolard, M.P.H., Senior Epidemiologist, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6261 or SCATS 786-6261

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† **October 31, 1988 - 7 p.m.** – Public Hearing
Board of Supervisors Meeting Room, 401 McIntire Road, Second Floor, Room 7, Charlottesville, Virginia

† **October 31, 1988 - 7 p.m.** – Public Hearing
Municipal Building, 215 Church Avenue, Council Chambers, Fourth Floor, Roanoke, Virginia

† **November 7, 1988 - 7 p.m.** – Public Hearing
Henrico Government Center, Parham and Hungary Springs Road, Board of Supervisors Room, Richmond, Virginia

† **November 15, 1988 - 7 p.m.** – Public Hearing
Massey Building, 4100 Chain Bridge Road, Board of Supervisors Meeting Room, "A" Level, Fairfax, Virginia

† **November 16, 1988 - 7 p.m.** – Public Hearing
Virginia Beach Public Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia

† **November 16, 1988 - 7 p.m.** – Public Hearing
University of Virginia Southwest Center, Highway 19 North, Room 1, Abingdon, Virginia

See the General Notices section of this register for information concerning a notice of intended public participation on the Virginia WIC Program. Comments may be submitted in writing between September 26, 1988, and November 25, 1988, or they may be presented at the public hearings.

Contact: Paul W. Matthias, Director, Department of Health, Division of Public Health Nutrition/WIC, 109 Governor St., 6th Fl., Richmond, Va. 23219

COUNCIL ON HEALTH REGULATORY BOARDS

Compliance and Discipline Committee

† **October 6, 1988 - 10 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

A regular monthly committee meeting to oversee evaluation of the enforcement system operated by the Department of Health Regulatory Boards.

Contact: Richard D. Morrison, Executive Director, 1601

Rolling Hills Dr., Richmond, Va. 23219, telephone (804) 662-9904 or SCATS 662-9904

DEPARTMENT OF HEALTH REGULATORY BOARDS

Task Force on Anabolic Steroids

September 26, 1988 - noon – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The Task Force will continue its review of anabolic steroids use and misuse among minors in response to House Joint Resolution 88 of th 1988 General Assembly.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23219, telephone (804) 662-9904 or SCATS 662-9904

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

September 28, 1988 - 9:30 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **October 6, 1988 - 1 p.m.** – Public Hearing
James Monroe Building, 101 North 14th Street, Council Conference Room, 9th Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Council of Higher Education for Virginia intends to repeal existing regulations and adopt new regulations entitled: **VR 380-03-01. College Scholarship Assistance Program Regulations.** The purpose of the proposed action is to promulgate new program regulations to include part-time students and decentralize the program's administration.

STATEMENT

Basis: The proposed regulations have been developed pursuant to § 23-38.46 of the Code of Virginia.

Purpose: To expand eligibility to include part-time students, to increase the maximum individual award from \$1,000 to

\$2,000, and to simplify the procedure by which institutions identify eligible students.

Impact: The number of students potentially eligible to receive assistance under the program will be increased. Eligible students now will include part-time students as well as full-time students, and many recipients will be eligible for larger awards.

Statutory Authority: §§ 23-38.45 through 23-38.50 of the Code of Virginia.

Written comments may be submitted until November 25, 1988, to Barry M. Dorsey, Associate Director, State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Contact: David J. Carr, Coordinator of Financial Aid Programs, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2623 or SCATS 225-2623

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† **October 6, 1988 - 1 p.m.** – Public Hearing
James Monroe Building, 101 North 14th Street, Council Conference Room, 9th Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Council of Higher Education for Virginia intends to adopt regulations entitled: **VR 380-03-02. Virginia Work Study Program Regulations.** The purpose of the proposed regulations is to establish policies and procedures for administering the new state work-study program.

STATEMENT

Basis: The proposed regulations have been developed pursuant to § 23-38.70 of the Code of Virginia.

Purpose: To establish the policies and procedures for administering the program.

Impact: The regulations implement a new state work-study program that increases student employment opportunities, provides public service jobs that benefit Virginia's taxpayers, and benefits students by providing both financial assistance and job experiences related to the students' academic pursuits. The program's focus on off-campus employment will generate a minimum of \$300,000 in employer contributions for each \$1 million of state matching funds appropriated for student wages. Private, for-profit employers and certain in-state postsecondary career schools may participate in the program.

Statutory Authority: §§ 23-38.70 and 23-38.71 of the Code of Virginia.

Written comments may be submitted until November 25,

1988, to Barry M. Dorsey, Associate Director, State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Contact: David J. Carr, Coordinator of Financial Aid Programs, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2623 or SCATS 225-2623

HOPEWELL INDUSTRIAL SAFETY COUNCIL

† **October 4, 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

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

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.

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. 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

Calendar of Events

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.

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. 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 394-01-21. 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.

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. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

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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 Housing and Community Development intends to adopt regulations entitled: **VR 394-01-104. Congregate Housing.** This regulation provides program guidelines for administering the congregate housing program throughout Virginia and it establishes program guidelines for eligible properties and applicants for

low interest loans.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until September 30, 1988.

Contact: Pamela R. Coaxum, Program Manager, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-1575

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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 Housing and Community Development intends to adopt regulations entitled: **VR 394-01-102. Single Family Rehabilitation and Energy Conservation Loan Program.** This regulation provides the program guidelines for administering single family rehabilitation program throughout Virginia and establishes program guidelines for eligible properties and applicants for low interest loans.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until September 30, 1988.

Contact: Pamela R. Coaxum, Program Manager, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-1575

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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 Housing and Community Development intends to adopt regulations entitled: **VR 394-01-103. Multifamily Rehabilitation and Energy Conservation Loan Program.** This regulation provides program guidelines for administering the multifamily rehabilitation program throughout Virginia and establishes program guidelines for eligible properties and applicants for low interest loans.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until September 30, 1988.

Contact: Pamela R. Coaxum, Program Manager, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-1575

COUNCIL ON INDIANS

October 26, 1988 - 2 p.m. - Open Meeting

NOTE: CHANGE OF MEETING DATE

Ninth Street Office Building, Cabinet Conference Room, 6th Floor Richmond, Virginia. ☒

A regular meeting to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Special Assistant, Virginia Council on Indians, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

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).

October 17, 1988 - 2:30 p.m. - Open Meeting
County Office Building, Gate City, Virginia. ☒

A meeting of LEPC to discuss final approval of Annex A.7 "Airborne Hazardous Substances" to Scott County's Emergency Operations Plan.

Contact: Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, Va. 24251, telephone (703) 386-6521

COMMISSION ON LOCAL GOVERNMENT

October 24, 1988 - 10:30 a.m. - Open Meeting
Town of Chincoteague, Accomack County area (site to be determined)

Oral presentations regarding the Town of Chincoteague, Accomack County annexation action.

October 24, 1988 - 7:30 p.m. - Public Hearing
Town of Chincoteague, Accomack County area (site to be determined)

Public hearing regarding the Town of Chincoteague, Accomack County annexation action.

Contact: Ted McCormack, Assistant Director, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone

(804) 786-6508

CITY OF LYNCHBURG LOCAL EMERGENCY PLANNING COMMITTEE

† **October 4, 1988 - 10 a.m. - Open Meeting**
Lynchburg Public Library, Community Meeting Room, Lynchburg, Virginia. ☒

The City of Lynchburg Local Emergency Planning Committee shall formally adopt 1988 revisions to the Local Emergency Operations Plan.

Contact: Michael T. Dorsey, Environmental Planner, P. O. Box 2526, Lynchburg, Va. 24501, telephone (804) 845-3491

VIRGINIA MARINE PRODUCTS BOARD

† **September 29, 1988 - 3 p.m. - Open Meeting**
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Members Dining Room, Richmond, Virginia. ☒

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on: finance, marketing, past and future program planning, publicity/public relations, old/new business.

Contact: Kathy Eaton, telephone (804) 367-6078. Additional information may be obtained from: Shirley Estes Berg, Executive Director, 97 Main St., Room 103, Newport News, Va. 23601, telephone (804) 599-7261

MARINE RESOURCES COMMISSION

† **October 4, 1988 - 9:30 a.m. - Open Meeting**
Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia. ☒

The Virginia Marine Resources Commission will meet on the first Tuesday of each month at 9:30 a.m. in Newport News City Council Chambers, located at 2400 Washington Avenue, Newport News, Virginia. It hear and decides cases on fishing licensing, oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within 5 days.

Contact: Sandra S. Schmidt, Secretary to the Commission, 2401 West Ave., P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2208

Calendar of Events

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.

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, Department 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

VIRGINIA STATE BOARD OF MEDICINE

† **October 4, 1988 - 10 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A formal hearing to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia.

Acupuncture Committee

October 15, 1988 - 10 a.m. – Open Meeting
Embassy Suite Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ☐

A meeting to review acupuncture treatment records, review new acupuncture programs for approval and discuss any other items which may come before the committee.

Ad Hoc Committee on Optometry

September 30, 1988 - 2 p.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to review the clinical studies and postgraduate training of optometry relating to didactic therapeutic training.

Credentials Committee

October 1, 1988 - 8:15 a.m. – Open Meeting
December 3, 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.

Executive Committee

September 30, 1988 - 9 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to review (i) proposed legislation for the 1988-1989 General Assembly Session, (ii) Licensure of Clinical Psychologists, (iii) case files and (iv) any other items which may come before the committee.

Informal Conference Committee

† **October 5, 1988 - 10 a.m.** – Open Meeting
Lynchburg Radisson Hotel, 601 Main Street, Lynchburg, Virginia. ☐

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Respiratory Therapy Committee

October 11, 1988 - 10 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to draft legislative changes for the mandatory certification and to discuss any other items which may come before the 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

September 28, 1988 - 9:30 a.m. - Open Meeting
Norfolk Community Services Board, 201 Granby Mall Building, Norfolk, Virginia. ☐

A regular monthly meeting. The agenda will be published on September 21 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Board Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

November 15, 1988 - Written comments may be submitted until this date.

Title of Regulation: VR 470-02-01. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services.

† November 30, 1988 - 10 a.m. - Public Hearing

Title of Regulation: VR 470-02-01. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services.

† November 30, 1988 - 10 a.m. - Public Hearing
Henrico County Government Center, Parham and Hungary

Springs Road, Administration Building, 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 Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled: VR 470-02-02. Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children. These regulations establish minimum program requirements for licensed facilities serving mentally ill, mentally retarded and substance abusing children. The purposes of the proposed revisions are to increase the level of protection and safety provided to children in out of home care and assure that the methods of discipline and treatment which are used are therapeutically sound and reasonable.

STATEMENT

Subject: Public comment and public hearings on the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing children. These regulations in conjunction with Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children articulate the minimum requirements for licensure of residential facilities providing care or treatment to these groups. These are amendments to the present regulations and are designed to more clearly articulate the requirements governing behavior management and the use of intrusive aversive therapy in residential facilities for children licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

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

Revised and new definitions and requirements for policies and procedures governing behavior management and the use of intrusive aversive therapy in residential facilities for children.

Basis: Section 37.1-179.1 of the Code of Virginia provides the statutory basis for promulgation of this regulation. The Board of Mental Health, Mental Retardation and Substance Abuse Services has approved the proposed revisions for a 60-day period of public comment.

Statutory Authority: §§ 37.1-10 and 37.1-179.1 of the Code of Virginia.

Written comments may be submitted until November 30,

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Contact: Barry P. Craig, Director of Licensure, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

Forensic Issues Advisory Committee

October 6, 1988 - 2 p.m. - Open Meeting
Institute of Law, Psychiatry and Public Policy, Charlottesville, Virginia

A regular meeting to discuss issues related to the provision of forensic mental health, mental retardation and substance abuse services.

Contact: Russell C. Petrella, Ph.D., Director of Forensic Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-4837

State Human Rights Committee

† **October 11, 1988 - 9 a.m. (Subcommittee) - Open Meeting**

† **October 11, 1988 - 11 a.m. - Open Meeting**
Williamsburg Hilton, Route 60 East-Kingsmill, Williamsburg, Virginia. ☒

Regular meetings of the State Human Rights Committee to discuss business relating to human rights issues. Agenda items are listed prior to meeting.

Contact: Elsie D. Little, ACSW, State Human Rights Director, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3988

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

COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

October 10, 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

DEPARTMENT OF MOTOR VEHICLES

September 26, 1988 - 2 p.m. - Open Meeting
Norfolk Airport Hilton, 1500 No. Military Highway, Norfolk, Virginia

September 27, 1988 - 10:30 a.m. - Open Meeting
Holiday Inn, Route 58 & I-85, South Hill, Virginia

The federal Commercial Vehicle Safety Act of 1986 requires each state, including Virginia, to adopt legislation that will ultimately affect anyone who drives a vehicle weighing 26,001 pounds or more, or who drives a vehicle designed to carry 16 or more persons including the driver, or anyone who drives a vehicle of any size which carries hazardous materials required to be placarded.

DMV is planning to submit legislation to the 1989 session of the General Assembly that will bring Virginia into compliance with the impending federal licensing and testing standards.

DMV is conducting public meetings through the Commonwealth for the purpose of introducing and explaining the new requirements. The meetings will provide an opportunity for interested parties to ask questions and make suggestions concerning the federal requirements and how the Commonwealth will implement these new requirements.

Contact: Susan R. Metcalf, Manager, P. O. Box 27412, Richmond, Va. 23269, telephone (804) 367-1930

NORFOLK STATE UNIVERSITY

Board of Visitors

† **October 1, 1988 - 9 a.m. - Open Meeting**
Harrison B. Wilson Administration Building, Board Room, Norfolk, Virginia

A meeting to discuss various issues pertaining to the University. The agenda should be available at least five working days prior to the meeting.

Contact: Gerald D. Tyler, Norfolk State University, 2401 Corprew Ave., Wilson Hall-S340, Norfolk, VA. 23504, telephone (804) 683-8373

VIRGINIA STATE BOARD OF NURSING

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 I★★ 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

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September 26, 1988 - 9 a.m. - Open Meeting
September 27, 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. ☒

A regular meeting of the Virginia Board of Nursing to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement, and other matters under jurisdiction of the board. On Monday, September 26, 1988, at 1:30 p.m., the board will conduct a public hearing on proposed regulations in House Room C, General Assembly Building, Capitol Square, Richmond. Depending on the extent of public comment, the board may take action on proposed regulations before the close of the meeting on September 28, 1988.

October 25, 1988 - 1 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting of the Virginia Board of Nursing to respond

to public comment on proposed regulations and take action on regulations if such action cannot be taken at meeting scheduled September 26-28, 1988. Other matters under the jurisdiction of the board may be considered.

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

Informal Conference Committee

October 11, 1988 - 8:30 a.m. - Open Meeting
November 4, 1988 - 8:30 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll free 1-800-533-1650, or SCATS 662-9909

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

October 13, 1988 - 1:30 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to consider and act upon matters related to the certification and practice of nurse practitioners.

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

BOARD OF OPTOMETRY

October 12, 1988 - 9 a.m. - Open Meeting
Supreme Court Building, Judicial Conference Room, 3rd Floor, Richmond, Virginia. ☒

A meeting to conduct general business.

Contact: Moira C. Lux, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

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November 12, 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 Board of Optometry

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intends to amend regulations entitled: **VR 510-01-1. Regulations of the Board of Optometry.** The proposed regulations establish a minimum series of procedures to be performed and documented during eye examinations by optometrists.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until November 12, 1988.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

VIRGINIA OUTDOORS FOUNDATION

† **October 5, 1988 - 10:30 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-5539 or SCATS 786-5539

PETERSBURG LOCAL EMERGENCY PLANNING COUNCIL

September 29, 1988 - 9 a.m. – Open Meeting
American Red Cross, 233 South Adams Street, Board Room, Petersburg, Virginia. ☐

A meeting to consider (i) reports from subcommittees, correlation of material from subcommittee into major plan; (ii) new business, if any; (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

STATE BOARD OF PHARMACY

† **September 27, 1988 - 8 a.m.** – Open Meeting
† **September 28, 1988 - 8 a.m.** – Open Meeting
Regency Inn, Parham and Quioccasin Roads, Richmond, Virginia

September 27 - Routine board business and administer examinations to pharmacist candidates.

September 28 - Administer examinations to pharmacist candidates.

October 6, 1988 - 9 a.m. – Open Meeting

Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☐

The Board of Pharmacy will meet to draft regulations on physician dispensing and continue its review.

Contact: Jack Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9921 or SCATS 662-9921

PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

October 7, 1988 - 2 p.m. – Open Meeting
October 21, 1988 - 2 p.m. – Open Meeting
1 County Complex Court, Prince William, Virginia. ☐

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, Va. 23192-9201, telephone (703) 335-6800

VIRGINIA BOARD OF PSYCHOLOGY

† **September 29, 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 Sivert, Executive Director or Phyllis Henderson, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

VIRGINIA REAL ESTATE BOARD

† **October 7, 1988 - 4 p.m.** – Open Meeting
Richmond Marriott, Sixth and Broad Streets, Richmond, Virginia

Virginia Real Estate Board/Virginia Association of Realtors Liaison Meeting.

† **October 8, 1988 - 8:30 a.m.** – Open Meeting
Richmond Marriott, Sixth and Broad Streets, Richmond, Virginia

A regular business meeting of the board. The agenda will consist of investigative cases (files) to be considered, files to be reconsidered, matters relating to fair housing, property registration and licensing issues (e.g., reinstatement and eligibility requests).

† **December 7, 1988 - 8:30 a.m.** – Open Meeting
† **December 8, 1988 - 8:30 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 investigative cases (files) to be considered, files to be reconsidered, matters relating to fair housing, property registration and licensing issues (e.g., reinstatement, eligibility requests).

Additionally, a work session for regulatory review of licensing regulations is anticipated to be scheduled for December 8, 1988.

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

September 30, 1988 - 9:30 a.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will review progress reports on WWRC, consider committee and department recommendations and conduct the regular business of the board.

Finance Committee

September 29, 1988 - 3 p.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review and comment on the monthly financial report.

Legislation and Analysis Committee

September 29, 1988 - 1 p.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will consider legislative initiatives and develop policy recommendations for action by the board.

Program Committee

September 29, 1988 - 2 p.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review proposed grants and contracts, review board bylaws, and review comments on proposed regulation amendments.

Contact: James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, SCATS 367-6446, toll-free 1-800-552-5019/TDD ☒ ,

or 367-0280/TDD ☒

RICHMOND EMERGENCY PLANNING COMMITTEE

† **October 4, 1988 - noon - Open Meeting**
John Marshall High School, 4225 Old Brook Road, Library, Richmond, Virginia. ☒

A meeting to review and consider approval of the Hazardous Materials Contingency Plan.

Contact: Thomas E. Price, Community Emergency Coordinator, Richmond Fire Bureau, 501 N. 9th St., Richmond, Va. 23219, telephone (804) 780-4120

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

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

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November 15, 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 Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to amend regulations entitled: **VR 230-40-001, VR 270-01-003, VR 470-02-01, VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.** The proposed regulation amends and clarifies those sections of the regulations that define which facilities are subject to regulation under the Core Standards.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196.4 and 63.1-217 of the Code of Virginia.

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Written comments may be submitted until November 15, 1988.

Contact: Linda Struck, Assistant Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

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† **November 30, 1988 10 a.m.** – Public Hearing
Henrico County Government Center, Parham and Hungary Springs Road, Administration Building, Board Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to amend regulations entitled: **VR 230-40-001, VR 270-01-003, VR 470-02-01, VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.** The purpose of the proposed action is to amend and clarify those sections of the regulations which address discipline or punishment and to assure that the methods of treatment and discipline which are used are therapeutically sound and responsible.

STATEMENT

Subject: Sections 16.1-311, 22.1-321, 37.1-179, 53.1-249, 63.1-196.4, and 63.1-217 of the Code of Virginia provide the statutory basis for promulgation of standards for licensure and certification of residential facilities for children. The State Board of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services have approved the proposed revisions for a 60-day period of public comment.

Purpose: The proposed revisions are intended to amend and clarify the requirements governing management of residents behavior in §§ 1.1 and 5.94 of the Core Standards and to assure that the methods of discipline and treatment which are used are therapeutically sound and responsible.

Impact: One hundred forty-four residential facilities are currently regulated under the Core Standards. These facilities would be subject to regulation under the revised requirements. The impact is anticipated to be minimal since all are currently regulated under substantively similar requirements.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196.4 and 63.1-217 of the Code of Virginia.

Written comments may be submitted until November 30, 1988.

Contact: John J. Allen, Jr. Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7124, toll-free 1-800-552-7091 or SCATS 662-7124

STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL

November 1, 1988 - 4 p.m. – Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. – Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Road, AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. – Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services and Child Day-Care Council intend to adopt and amend regulations entitled: **General Procedures and Information for Licensure.** This regulation describes the rights and responsibilities of licensees and the Department of Social Services during the licensing process. The following issues are addressed in the regulation: the license, the licensing process, allowable variances, informal appeal process, complaint investigation, revocation and denial, licensing office locations and schedule of fees.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 28, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

VIRGINIA BOARD OF SOCIAL WORK

† **October 21, 1988 - 8:30 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.

Contact: Beverly Putnam, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9914

VIRGINIA SOIL AND WATER CONSERVATION BOARD

September 26, 1988 - 1 p.m. - Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond,
Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to adopt regulations entitled: **VR 625-01-00. Impounding Structure Regulations** and repeal existing regulations of the State Water Control Board entitled: **Impounding Structure Regulations, Regulation No. 9**. The regulation provides for the safe design, construction, alteration and operation and maintenance of impounding structures. Permits for construction or alteration and certificates for operation and maintenance will be issued in accordance with these Impounding Structure Regulations.

Statutory Authority: § 10.1-605 of the Code of Virginia.

Written comments may be submitted until October 29, 1988.

Contact: Robert V. Gay, Chief of Dam Safety, Department of Conservation and Historic Resources, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-2064 or SCATS 786-2064

DEPARTMENT OF TAXATION

November 15, 1988 - 10 a.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 Department of Taxation intends to amend regulations entitled **Virginia Declaration of Estimated Income Tax by Individuals** as follows:

- VR 630-2-490.1. Definitions.**
- VR 630-2-490.2. Delcarations of Estimated Tax.**
- VR 630-2-492. Failure by Individual to Pay Estimated Tax.**

These regulations set forth the filing threshold for filing a declaration of estimated income tax and provide guidance as to when the addition to tax for the underpayment of estimated income tax is applicable.

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

Written comments may be submitted until November 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

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November 15, 1988 - 10 a.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 Department of Taxation intends to adopt regulations entitled **Fiduciary Estimated Tax** as follows:

- VR 630-5-490. Definitions, Delcaration.**
- VR 630-5-491. Installment Payments.**
- VR 630-5-492. Additions to the Tax.**

These regulations provide guidance to estates and trusts in complying with the new requirements relating to the estimated tax.

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

Written comments may be may until November 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)**

November 1, 1988 - 10 a.m. - Public Hearing
Virginia Department of Transportation - Central Office, 1221 East Broad Street, Auditorium, Richmond, Virginia

November 2, 1988 - 10 a.m. - Public Hearing
Virginia Department of Transportation - Suffolk District Office, 1700 North Main Street, Auditorium, Suffolk, Virginia

November 4, 1988 - 10 a.m. - Public Hearing
James McCoart Administration Building, Prince William County Government Complex, 1 County Complex Court, Auditorium, Prince William, Virginia

November 10, 1988 - 10 a.m. - Public Hearing
Virginia Department of Transportation - Staunton District Office, Route 11 (Commerce Road) near the North Corporate Limits of Staunton, Auditorium, Staunton, Virginia

November 15, 1988 - 1 p.m. - Public Hearing
Virginia Highlands Community College, located off Route 140 between Route 11 and Exit 7, Route 81, Auditorium, Abingdon, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of

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Transportation intends to adopt regulations entitled: **VR 385-01-08. Subdivision Street Requirements.** These proposed regulations prescribe the requirements and administrative procedures for the addition of subdivision streets into the secondary system of state highways.

Statutory Authority: §§ 33.1-12(3) and 33.1-229 of the Code of Virginia.

Written comments may be submitted until October 31, 1988, to Gerald E. Fisher, Secondary Roads Engineer, Virginia Department of Transportation, 1401 East Broad Street, Richmond, Va. 23219.

Contact: D.L. Camper, Assistant Secondary Roads Engineer, Virginia Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2745 or SCATS 786-2745

TREASURY BOARD

† **October 19, 1988 - 9 a.m.** – Open Meeting
† **November 16, 1988 - 9 a.m.** – Open Meeting
† **December 21, 1988 - 9 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A regular monthly meeting of the board.

Contact: Betty A. Ball, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., 3rd Fl., Richmond, Va. 23219, telephone (804) 225-2142

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.

† **October 20, 1988 - 10:30 a.m.** – Open Meeting
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

VIRGINIA WASTE MANAGEMENT BOARD

† **October 18, 1988 - 10 a.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A regularly scheduled meeting. Comments from public hearings on the Solid Waste Regulations will be discussed and revisions made to the proposed regulations. Comments on infectious waste regulations will be discussed.

Contact: Loraine Williams, Secretary, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Fl., Richmond, Va. 23219, telephone (804) 225-2667, toll-free 1-800-552-2075, SCATS 225-2667 or 225-3753/TDD ☎

STATE WATER CONTROL BOARD

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

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October 4, 1988 - 7 p.m. - Public Hearing
Council Chambers, City of Harrisonburg, 345 South Main Street, Harrisonburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan.** The purpose of this action is to amend the five day biochemical oxygen demand loading requirements for Stony Creek at the Bryce Mountain sewage treatment plant and Quail Run at Massanutten sewage treatment plant.

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

Written comments may be submitted until October 28, 1988, to Doneva Dalton, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Charles T. Mizell, Water Resources Development Supervisor, Valley Regional Office, State Water Control Board, P. O. Box 268, Bridgewater, Va. 22812, telephone (703) 828-2595 or SCATS 332-7879

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October 3, 1988 - 7 p.m. - Public Hearing
City Council Chambers, City Hall, 497 Cumberland Street, 2nd Floor, Bristol, Virginia

October 4, 1988 - 2 p.m. - Public Hearing
Warm Springs Courthouse, Courthouse Road, General District Courtroom, Warm Springs, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-08. River Basin Section Tables - Water Quality Standards.** The purpose is to amend the stream classification for Beaver Creek and the unnamed tributary to Cascades Creek.

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

Written comments may be may until 4 p.m., October 28, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Water Resources Ecologist, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985 or SCATS 367-6985

December 12, 1988 - 9 a.m. - Open Meeting
December 13, 1988 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room

B, Richmond, Virginia ☐

A regular 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

VIRGINIA WINEGROWERS ADVISORY BOARD

† **September 28, 1988 - 3 p.m. - Open Meeting**
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☐

A regular meeting.

Contact: Annette C. Ringwood, Wine Marketing Specialist, 1100 Bank St., Room 703, Richmond, Va. 23219, telephone (804) 786-0481 or SCATS 786-0481

COUNCIL ON THE STATUS OF WOMEN

September 27, 1988 - 8:30 p.m. - Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the Council on the Status of Women.

September 28, 1988 - 9 a.m. - Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

A regular meeting of the Council on the Status of Women to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9200

VIRGINIA WORLD TRADE COUNCIL

† **October 12, 1988 - 9 a.m. - Open Meeting**
Department of World Trade, 6000 World Trade Center, Conference Room, Norfolk, Virginia

† **November 9, 1988 - 9 a.m. - Open Meeting**
Department of Planning and Budget, Conference Room, Room 409, Richmond, Virginia

A meeting to discuss activities associated with the state government exporting projects.

Contact: Eftora T. Brown, Administrative Staff Specialist, Department of World Trade, 6000 World Trade Center, Norfolk, Va. 23510, telephone (804) 683-2856

Calendar of Events

LEGISLATIVE MEETINGS

JOINT SUBCOMMITTEE STUDYING ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

October 3, 1988 - 10 a.m. - Open Meeting
October 3, 1988 - 1 p.m. - Public Hearing
Lewis Hall Auditorium, Eastern Virginia Medical School,
700 Olney Road, Room 1035, Norfolk, Virginia

October 20, 1988 - 10 a.m. - Open Meeting
October 20, 1988 - 1 p.m. - Public Hearing
Alexandria Court House, 520 King Street, Circuit Court
Room 3, 4th Floor, Alexandria, Virginia.

Working session to discuss AIDS related issues and
public hearing to receive testimony from the public.
HJR 31

November 15, 1988 - 10 a.m. - Open Meeting
December 8, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A working session to discuss AIDS related issues. HJR
31

Contact: Norma Szakal, Staff Attorney, Division of
Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,
telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ALL-TERRAIN VEHICLES

October 5, 1988 - 2 p.m. - Public Hearing
General Assembly Building, Capitol Square, Senate Room
B, Richmond, Virginia. ☐

A public hearing. SJR 6

November 1, 1988 - 2 p.m. - Open Meeting
December 1, 1988 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room
B, Richmond, Virginia. ☐

A regular meeting of the committee. SJR 6

Contact: Alan B. Wambold, Research Associate, Division of
Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,
telephone (804) 786-3591 or Amy Wachter, Committee
Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va.
23203, telephone (804) 786-5742

HOUSE APPROPRIATIONS COMMITTEE

† October 17, 1988 - 9:30 a.m. - Open Meeting
Roanoke/Danville area (location to be announced)

A regular monthly meeting of the committee.

Contact: Donna C. Johnson, House Appropriations
Committee, General Assembly Bldg., 9th Fl., Richmond, Va.
23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE CAPITAL OUTLAY AND PUBLIC SAFETY SUBCOMMITTEES

October 12, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

The subcommittees will receive a report on the 1992
Inmate Forecast, trends in inmate custody
classifications, and the status of the Greensville and
Buchanan construction projects.

Contact: Donna C. Johnson, House Appropriations
Committee, General Assembly Bldg., 9th Fl., Richmond, Va.
23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE ON JAIL AND JUVENILE DETENTION FACILITY FINANCING

October 12, 1988 - 1:30 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

The subcommittee will receive public comment
regarding issues involving state support for local jails
and juvenile detention facilities.

Contact: Donna C. Johnson, House Appropriations
Committee, General Assembly Bldg., 9th Fl., Richmond, Va.
23219, telephone (804) 786-1837

FOR-PROFIT CEMETERIES SUBCOMMITTEE

September 27, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A working session to discuss proposals before the
subcommittee. HJR 73

Contact: Jessica F. Bolececk, Staff Attorney, Division of
Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,
telephone (804) 786-3591

MEDIATION OF CHILD SUPPORT, CUSTODY AND VISITATION

October 3, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,

Richmond, Virginia. ☐

The first meeting and working session of the interim for this continued study committee. HJR 246

Contact: Susan C. Ward, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

VIRGINIA CODE COMMISSION

October 6, 1988 - 9:30 a.m. - Open Meeting
October 7, 1988 - 9:30 a.m. - Open Meeting
Virginia Beach Hilton Inn, 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

JOINT SUBCOMMITTEE STUDYING METHODS OF CLEARING TITLE TO REAL PROPERTY

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 MEETING OF HOUSE COMMITTEE ON COUNTIES, CITIES AND TOWNS AND SENATE COMMITTEE ON LOCAL GOVERNMENT

October 3, 1988 - 1:30 p.m. - Open Meeting
October 3, 1988 - 2:30 p.m. - Public Hearing
Pavilion Convention Center, 1000 19th Street, Rooms 101 and 102, Virginia Beach, Virginia

1:30 p.m. - Meeting with local government officials and participants in Virginia Municipal League Annual Conference at Virginia Beach.

2:30 p.m. - Meeting and public hearing of joint committees on tree preservation in Commonwealth.

Contact: Persons wishing to speak should contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: C. M. Conner, Jr., Staff Attorney, or Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,

telephone (804) 786-35 1

JOINT SUBCOMMITTEE ON COUNTY-TOWN RELATIONS

October 4, 1988 - 8:30 a.m. - Open Meeting
Pavilion Convention Center, 1000 19th Street, Room 101, Virginia Beach, Virginia

A regular meeting. SJR 7

Contact: Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Lucy Dodson, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

JOINT SUBCOMMITTEE STUDYING CRIMINAL DEFENSE SYSTEMS FOR THE INDIGENT

September 29, 1988 - 10 a.m. - Open Meeting
November 2, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

The subcommittee will meet for the purpose of receiving information on post conviction remedies and defense systems in capital cases and other related issues. HJR 141

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING DIESEL ENGINES IN UNDERGROUND COAL MINES

September 29, 1988 - 10 a.m. - Public Hearing
Mountain Empire Community College, Dalton-Cantrell Hall, Big Stone Gap, Virginia.

A public hearing to receive testimony regarding use of diesel engines in coal mines followed by mining tour for MEMBERS AND STAFF in area mine.

Contact: Persons wishing to speak contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: John T. Heard, Staff Attorney, or Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

TASK FORCES OF JOINT SUBCOMMITTEE STUDYING EARLY CHILDHOOD AND DAY CARE PROGRAMS

† September 30, 1988 - 10 a.m. - Open Meeting

Calendar of Events

General Assembly Building, Capitol Square, Richmond, Virginia. ☒

The joint subcommittees task forces will meet to address topics such as programs, licensure and education. The membership of each task force consists of legislators, business leaders and citizens with experience in the field of early childhood and daycare program. HJR 27

The schedule for the days meetings follows:

Task Force

Programs – 10 a.m.-2 p.m., 4th Floor West Conference Room

Licensure – 10 a.m.-2 p.m., 7th Floor West Conference Room

Parental Education and Involvement – 2 p.m.-4 p.m., 4th West Conference Room

Education Professionals and Providers – 2 p.m.-4 p.m., 7th Floor West Conference Room

Corporate Involvement and Funding – 2 p.m.-4 p.m., 8th Floor West Conference Room

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Jeff Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227

SUBCOMMITTEE FROM THE HOUSE OF DELEGATES COMMITTEE ON AGRICULTURE STUDYING WAYS TO IMPROVE VIRGINIA'S FARM ECONOMY

September 27, 1988 - 2 p.m. – Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☒

The subcommittee will meet to discuss the use of agricultural lands for recreational purposes and liability coverage for private property owners offering recreational opportunities. HR 6

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FLOOD CONTROL POLICIES OF THE COMMONWEALTH

September 27, 1988 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

The subcommittee will have a business meeting followed immediately by a public hearing to receive public comments and recommendations on the Commonwealth's role in flood control.

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

October 13, 1988 - 10 a.m. – Open Meeting
November 17, 1988 - 10 a.m. – Open Meeting
December 9, 1988 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will meet to discuss certain issues pertaining to the Virginia Freedom of Information Act and certain other public access laws contained in the Code of Virginia. HJR 100

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

COMMISSION ON LOCAL GOVERNMENT STRUCTURES AND RELATIONSHIPS

October 3, 1988 - 11:30 a.m. – Public Hearing
Pavilion Convention Center, 1000 19th Street, Rooms 101 and 102, Virginia Beach, Virginia

The second meeting of the interim to discuss issues of local government relationships. 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

HOUSE OF DELEGATES MILITIA AND POLICE COMMITTEE

October 14, 1988 - (time not yet determined) – Open Meeting
October 15, 1988 - (time not yet determined) – Open Meeting
Camp Pendleton, Virginia Beach, Virginia

This will be two-day meeting of the committee. The committee will meet on issues pertinent to the Virginia Military Advisory Commission, Virginia National Guard and Virginia Defense Force.

Contact: Jeff Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING SALARIES AND BENEFITS OF COMMUNICATIONS OPERATORS OF THE VIRGINIA DEPARTMENT OF STATE POLICE AND RETIREMENT BENEFITS FOR LAW-ENFORCEMENT OFFICERS

October 6, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will meet to finalize recommendations. HJR 105

Contact: Regina McNally, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SCHOOL DROPOUTS

† October 18, 1988 - 10 a.m. - Public Hearing
Northern Virginia area (site to be determined)

The second of three public hearings scheduled for the joint subcommittee. The subcommittee solicits comments from government and business leaders and citizens that wish to be heard in the issue of school dropouts and potential solutions. HJR 124

The site will most likely be at a high school in Arlington County or the City of Alexandria.

Contact: Jeff Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227 or Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SUPPLY AND DEMAND OF NURSES IN THE COMMONWEALTH

October 11, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A public hearing. HJR 165

Contact: Persons wishing to speak contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

September 26

Education, State Board of
Environment, Council on the
Health Regulatory Boards, Department of
- Task Force on Anabolic Steroids
Motor Vehicles, Department of
Nursing, Virginia State Board of
Water Control Board, State

September 27

Aging, Department for the
† Conservation and Historic Resources, Department of
- Division of Parks and Recreation
Education, State Board of
Environment, Council on the
Farm Economy, Subcommittee from the House of
Delegates Committee on Agriculture Studying Ways to
Improve Virginia's
Flood Control Policies of the Commonwealth, Joint
Subcommittee Studying the
Local Emergency Planning Committee - Scott County
Motor Vehicles, Department of
Nursing, Virginia State Board of
† Pharmacy, State Board of
Water Control Board, State
Women, Council on the Status of

September 28

† Chesapeake Bay Local Assistance Board
† Conservation and Historic Resources, Department of
- Division of Parks and Recreation
Dentistry, Virginia Board of
Environment, Council on the
Gloucester Local Emergency Planning Committee
Health Services Cost Review Council, Virginia
Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Nursing, Virginia State Board of
† Pharmacy, State Board of
† Winegrowers Advisory Board, Virginia
Women, Council on the Status of

September 29

Aging, Department for the
Architects, Virginia State Board of
† Conservation and Historic Resources, Department of
- Division of Parks and Recreation
Criminal Defense Systems for the Indigent, Joint
Subcommittee Studying
Environment, Council on the
† Marine Products Board, Virginia
Petersburg Local Emergency Planning Council
† Psychology, Virginia Board of
Rehabilitative Services, Board of
- Finance Committee

Calendar of Events

- Legislation and Analysis Committee
- Program Committee

September 30

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
† Early Childhood and Day Care Programs, Task Forces of Joint Subcommittees Studying
Medicine, Virginia State Board of
- Ad Hoc Committee on Optometry
- Executive Committee
Rehabilitative Services, Board of

October 1

Medicine, Virginia State Board of
- Credentials Committee
† Norfolk State University
- Board of Visitors

October 3

Acquired Immunodeficiency Syndrome (AIDS), Joint Subcommittee Studying
Air Pollution Control Board, State
Child Support, Custody and Visitation, Mediation of Counties, Cities and Towns, and Senate Committee on Local Government, Joint Meeting of House Committee on
Local Government Structures and Relationships, Commission on

October 4

Agriculture and Consumer Services, State Board of
Air Pollution Control Board, State
- State Advisory Board on Air Pollution
Cosmetology, Virginia Board of
County-Town Relations, Joint Subcommittee on
† Hanover County Local Emergency Planning Committee
† Hopewell Industrial Safety Council
† Lynchburg Local Emergency Planning Committee, City of
† Marine Resources Commission
† Medicine, Virginia State Board of
† Richmond Emergency Planning Committee

October 5

Agriculture and Consumer Services, State Board of
† Amherst County Local Emergency Planning Committee
Criminal Justice Services Board
- Committee on Training
† Medicine, Virginia State Board of
- Informal Conference Committee
† Outdoors Foundation, Virginia

October 6

Chesterfield County, Local Emergency Planning Committee of
Code Commission, Virginia
Criminal Justice Services Board
- Committee on Criminal Justice Information Systems

† Farmers' Market Board, Virginia
† Health Regulatory Boards, Council on
- Compliance and Discipline Committee
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Forensic Issues Advisory Committee
Pharmacy, State Board of
Salaries and Benefits of Communications Operators of the Virginia Department of State Police and Retirement Benefits for Law-Enforcement Officers, Joint Subcommittee Studying

October 7

Code Commission, Virginia
Education, State Board of
† Fire Services Board, Virginia
General Services, Department of
- Art and Architectural Review Board
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee
† Real Estate Board, Virginia

October 8

Military Institute, Virginia
- Board of Visitors
† Real Estate Board, Virginia
Visually Handicapped, Department for the
- Advisory Committee on Services

October 10

Montgomery/Town of Blacksburg Local Emergency Planning Committee, County of

October 11

Commerce, Department of
Medicine, Virginia State Board of
- Respiratory Therapy Committee
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee
Nursing, Virginia State Board of
- Informal Conference Committee

October 12

† Alexandria SARA Title III Local Emergency Planning Committee
Appropriations and Senate Finance Capital Outlay and Public Safety, Joint Subcommittee of House
Appropriations and Senate Finance on Jail and Juvenile Detention Facility Financing, Joint Subcommittee of House
Optometry, Board of
† World Trade Council, Virginia

October 13

Freedom of Information Act, Joint Subcommittee Studying the
Nursing and Medicine, Committee of the Joint Boards of

October 14

Calendar of Events

Fairfax County, Town of Vienna, City of Fairfax, Town of Herndon, Local Emergency Planning Committee of Militia and Police Committee, House of Delegates

October 15

Medicine, Virginia State Board of
- Acupuncture Committee
Militia and Police Committee, House of Delegates

October 17

† Appropriations Committee, House
Clearing Title to Real Property, Joint Subcommittee
Studying Methods of
Local Emergency Planning Committee - Scott County

October 18

† Waste Management Board, Virginia

October 19

Contractors, State Board for
† Treasury Board

October 20

Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying
† Voluntary Formulary Board, Virginia

October 21

Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
Prince William County, Manassas City, and Manassas
Park City Local Emergency Planning Committee
† Social Work, Virginia Board

October 24

Local Government, Commission on

October 25

Gloucester Local Emergency Planning Committee
Nursing, Virginia State Board of

October 26

Indians, Council on

October 27

† Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board
- Virginia State Board of Land Surveyors
Education, State Board of

October 28

Education, State Board of

November 1

All-Terrain Vehicles, Joint Subcommittee Studying

November 2

Criminal Defense Systems for the Indigent, Joint
Subcommittee Studying

November 3

Chesterfield County, Local Emergency Planning
Committee of

November 4

Nursing, Virginia State Board of
- Informal Conference Committee

November 9

† World Trade Council, Virginia

November 15

Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying

November 16

† Treasury Board

November 17

Freedom of Information Act, Joint Subcommittee
Studying

December 1

All-Terrain Vehicles, Joint Subcommittee Studying

December 3

Medicine, Virginia State Board of
- Credentials Committee

December 7

† Real Estate Board, Virginia

December 8

† Real Estate Board, Virginia

December 9

Freedom of Information Act, Joint Subcommittee
Studying the

December 12

Water Control Board, State

December 13

Water Control Board, State

December 21

† Treasury Board

PUBLIC HEARINGS

September 26

Conservation and Historic Resources, Department of
Nursing, Virginia State Board of
Soil and Water Conservation Board, Virginia

September 27

Flood Control Policies of the Commonwealth, Joint
Subcommittee Studying the

September 29

Diesel Engines in Underground Coal Mines,

Calendar of Events

Subcommittee Studying

September 30

Medical Assistance Services, Department of
Voluntary Formulary Board, Virginia

October 3

Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying
Counties, Cities and Towns, and Senate Committee on
Local Government, Joint Meeting of House Committee
on
Water Control Board, State

October 4

Agriculture and Consumer Services, Department of
Water Control Board, State

October 5

All-Terrain Vehicles, Joint Subcommittee Studying

October 6

† Higher Education for Virginia, State Council of

October 11

Supply and Demand of Nurses in the Commonwealth,
Joint Subcommittee Studying

October 17

Housing and Community Development, Board of

October 18

Air Pollution Control, Department of
Corrections, Department of
† School Dropouts, Joint Subcommittee Studying

October 20

Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying
Corrections, Department of

October 24

Local Government, Commission on

November 1

Child Day-Care Council
Social Services and Child Day-Care Council, State
Board of
Transportation/Commonwealth Transportation Board,
Department of

November 2

Child Day-Care Council
Social Services and Child Day-Care Council, State
Board of
Transportation/Commonwealth Transportation Board,
Department of

November 3

Child Day-Care Council
Health, Department of

Social Services and Child Day-Care Council, State
Board of

November 4

Transportation/Commonwealth Transportation Board,
Department of

November 10

Transportation/Commonwealth Transportation Board,
Department of

November 15

Taxation, Department of
Transportation/Commonwealth Transportation Board,
Department of

November 29

† Aging, Department for the

November 30

† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
† Social Services, Department of

December 1

† Aging, Department for the

December 2

† Cosmetology, Virginia Board of

December 8

† Aging, Department for the